



**2018 Edition**

# Guardianship in Connecticut

A Guide to Resources in the Law Library

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Judge Support Services, Law Library Services Unit*

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- [Best Interest of the Child Standard in Connecticut](#)
- [Child Abuse And Neglect in Connecticut](#)
- [Child Custody Actions in Connecticut](#)
- [Representing Minors in Connecticut](#)
- [Rights of Minors in Connecticut](#)
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# Section 1: Introduction to Types of Guardianship

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- “There are two types of guardianship for minors: guardianship of the person of a minor and guardianship of the estate of a minor. A guardian of the person has the responsibility to care for the minor. A guardian of the estate manages the assets of the minor.”  
[User Guide - Guardians of Minors \(CT Probate Courts\)](#)
- “The provisions of sections 45a-603 to 45a-622, inclusive, shall be liberally construed in the best interests of any minor child affected by them, provided the requirements of such sections are otherwise satisfied.”  
Conn. Gen. Stat. § [45a-605](#)(a)(2017)
- “**Guardianship**’ means guardianship of the person of a minor, and includes: (A) The obligation of care and control; (B) the authority to make major decisions affecting the minor’s education and welfare, including, but not limited to, consent determinations regarding marriage, enlistment in the armed forces and major medical, psychiatric or surgical treatment; and (C) upon the death of the minor, the authority to make decisions concerning funeral arrangements and the disposition of the body of the minor;”  
Conn. Gen. Stat. § [45a-604](#)(5) (2017).
- **Father and mother joint guardians:** “The father and mother of every minor child are joint guardians of the person of the minor, and the powers, rights and duties of the father and the mother in regard to the minor shall be equal. If either father or mother dies or is removed as guardian, the other parent of the minor child shall become the sole guardian of the person of the minor.” Conn. Gen. Stat. § [45a-606](#) (2017).

**See -** [Section 2: Parents as Guardians](#) (page 6)

- **Temporary guardian:** “Any parent or guardian of the person of a minor may apply to the court of probate for the district in which the minor lives 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.”  
Conn. Gen. Stat. § [45a-622](#)(a) (2017).

**See -** [Section 3: Temporary Guardians](#) (page 14)

- **Standby guardian of minor:** “A parent or guardian, as principal, may designate a standby guardian of a minor in accordance with the provisions of sections 45a-624 to 45a-624g, inclusive. Such designation, in a form as provided in section 45a-624b, shall take effect upon the occurrence of a specified contingency, including, but not limited to, the mental incapacity, physical debilitation or death of the principal....” Conn. Gen. Stat. § [45a-624](#) (2017).

**See -** [Section 4: Standby Guardians](#) (page 17)

- **Coguardians:** "If any minor has no parent or guardian of his or her person, the court of probate for the district in which the minor resides may, on its own motion, appoint a guardian or coguardians of the person of the minor, taking into consideration the standards provided in section 45a-617." § [45a-616](#)(a) (2017). "If any minor has a parent or guardian, who is the sole guardian of the person of the child, the court of probate for the district in which the minor resides may, on the application of the parent or guardian of such child or of the Commissioner of Children and Families with the consent of such parent or guardian and with regard to a child within the care of the commissioner, appoint one or more persons to serve as coguardians of the child." Conn. Gen. Stat. § [45a-616](#)(b) (2017).
- **Permanent guardianship** "means a guardianship, as defined in subdivision (5) of this section, that is intended to endure until the minor reaches the age of majority without termination of the parental rights of the minor's parents;" § [45a-604](#)(8) (2017).

See - [Section 5: Guardians, Coguardians, and Permanent Guardians Appointed by the Courts](#) (page 19)

- **Guardian of the Estate of Minor - Limitation on receipt or use of minor's property by parent, guardian or spouse:** "A parent of a minor, guardian of the person of a minor or spouse of a minor shall not receive or use any property belonging to the minor in an amount exceeding ten thousand dollars in value unless appointed guardian of the estate of the minor, except that such parent, guardian or spouse may hold property as a custodian under the provisions of sections 45a-557 to 45a-560b, inclusive, without being so appointed." Conn. Gen. Stats. § [45a-631](#)(a) (2017).

See - [Section 6: Guardians of the Estate of a Minor](#) (page 31)

- **Testamentary guardian:** "The parent of an unmarried minor, except a parent who has been removed as guardian of the person of the minor, may by will or other writing signed by the parent and attested by at least two witnesses appoint a person or persons as guardian or coguardians of the person of such minor, as guardian or coguardians of the estate, or both, to serve if the parents who are guardians of the minor are dead." Conn. Gen. Stat. § [45a-596](#)(a) (2017).

See - [Section 7: Testamentary Guardians](#) (page 35)

- **Plenary guardian of a person with intellectual disability:** "means a person, legally authorized state official, corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital, nursing home facility, as defined in section 19a-521, or residential care home, as defined in section 19a-521, appointed by a Probate Court pursuant to the provisions of sections 45a-669 to 45a-683, inclusive, to supervise all aspects of the care of an adult person, as enumerated in subsection (d) of section 45a-677, for the benefit of such adult, who by reason of the severity of intellectual disability, has been determined to be totally unable to meet essential requirements for his or her physical health or safety and totally unable to make informed decisions about matters related to his or her care." Conn. Gen. Stat. § [45a-669](#) (a) (2017). (Check the [2018 Supplement](#) for changes.) (Effective January 1, 2018).

- **Limited guardian of a person with intellectual disability** “means a person, legally authorized state official, corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital or nursing home, as defined in section 19a-521, appointed by a Probate Court pursuant to the provisions of sections 45a-669 to 45a-683, inclusive, to supervise certain specified aspects of the care of an adult person, as enumerated in subsection (d) of section 45a-677, for the benefit of such adult, who by reason of the severity of intellectual disability, has been determined to be able to do some, but not all, of the tasks necessary to meet essential requirements for his or her physical health or safety or to make some, but not all, informed decisions about matters related to his or her care.” Conn. Gen.Stat. [§ 45a-669](#)(c)(2017). (Check the [2018 Supplement](#) for changes.) (Effective January 1, 2018).

**See - [Section 8: Guardians of Intellectually Disabled Adults](#)** (page 38)

## Section 2: Parents as Guardians

A Guide to Resources in the Law Library

### **SCOPE:**

- Bibliographic resources relating to parents as guardians of minors in Connecticut

### **DEFINITIONS:**

- **Parents as joint guardians:** "The plain purpose of the statute was to make the legal rights of the father and the mother equal as joint guardians. Though they live separate and apart, their legal rights as guardians remain equal." Pfeiffer v. Pfeiffer, 99 Conn. 154, 157, 121 A. 174 (1923).
- "Until a court determines otherwise, both parents are the **co-equal guardians of the person of their minor children.**" Treat v. Verderame, Superior Court, Judicial District of Ansonia-Milford at Milford (July 14, 2000) (27 Conn. L. Rptr. 483), 2000 WL 1058684.
- **Mother:** "means a woman who can show proof by means of a birth certificate or other sufficient evidence of having given birth to a child and an adoptive mother as shown by a decree of a court of competent jurisdiction or otherwise." **Conn. Gen. Stat. § [45a-604](#)(1)** (2017).
- **Father:** "means a man who is a father under the law of this state including a man who, in accordance with section 46b-172, executes a binding acknowledgment of paternity and a man determined to be a father under chapter 815y." **Conn. Gen. Stat. § [45a-604](#)(2)** (2017).
- **Parent:** "means a mother as defined in subdivision (1) of this section or a "father" as defined in subdivision (2) of this section." **Conn. Gen. Stat. § [45a-604](#)(3)** (2017).
- **Father and mother joint guardians:** "The father and mother of every minor child are joint guardians of the person of the minor, and the powers, rights and duties of the father and the mother in regard to the minor shall be equal. If either father or mother dies or is removed as guardian, the other parent of the minor child shall become the sole guardian of the person of the minor." **Conn. Gen. Stat. § [45a-606](#)** (2017).
- **Presumption re best interest of the child to be in custody of parent:** "In any dispute as to the custody of a minor child involving a parent and a nonparent, there shall be a presumption that it is in the best interest of the child to be in the custody of the parent, which presumption may be rebutted by showing that it would be detrimental to the child to permit the parent to have custody." **Conn. Gen. Stat. § [46b-56b](#)** (2017).

- **Claim for paternity by putative father:** "Failing perfection of parental rights as prescribed by this section, any person claiming to be the father of a child born out of wedlock (1) who has not been adjudicated the father of such child by a court of competent jurisdiction, or (2) who has not acknowledged in writing that he is the father of such child, or (3) who has not contributed regularly to the support of such child, or (4) whose name does not appear on the birth certificate, shall cease to be a legal party in interest in any proceeding concerning the custody or welfare of the child, including, but not limited to, guardianship and adoption, unless he has shown a reasonable degree of interest, concern or responsibility for the child's welfare." Conn. Gen. Stat. § [46b-172a](#)(g) (2017).

**USER GUIDES:**

- Probate Court User Guide: [Guardianships of Minors](#)  
URL: <http://www.ctprobate.gov/Pages/Probate-Court-User-Guides.aspx>

**STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
  - [Chapter 368i](#). Anatomical donations
    - § [19a-285](#). Consent by minor to medical, dental, health or hospital services for child
  - [Chapter 802h](#). Protected persons and their property
    - Part II. Guardians of the person of a minor
      - § 45a-605. Provisions construed in best interest of minor child
      - § 45a-606. Father and mother joint guardians
      - § 45a-608n Designation of minor child as having special immigrant juvenile status pursuant to pending petition for removal or appointment of guardian
      - § 45a-609. Application for removal of parent as guardian. Hearing. Notice. Examination (Check the [2018 Supplement](#) for changes.)
      - § 45a-610. Removal of parent as guardian
      - § 45a-611. Reinstatement of parent as guardian of the person of minor.
      - § 45a-612. Visitation rights of any person removed as guardian.
      - § 45a-623. Transfer of proceeding to Superior Court or Regional **Children's** Probate Court (Check the [2018 Supplement](#) for changes.)
      - § 45a-624a. Consent of parents required for designation of standby guardian.
  - [Chapter 815j](#). Dissolution of marriage, legal separation and annulment
    - § [46b-56b](#). Presumption re best interest of child to be in custody of parent

**COURT RULES:**

- [Connecticut Probate Court Rules of Procedure](#) (2017)  
**Rule 40. Children’s Matters: General Provisions**  
Section 40.3 Immediate temporary custody of a minor  
Section 40.4 Order for immediate temporary custody without notice and hearing  
Section 40.5 Appointment of temporary custodian on consent  
Section 40.6 Removal and appointment of guardian on consent  
Section 40.7 Reinstatement as guardian  
Section 40.8 Temporary guardianship

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal, and posted [online](#).

- [Connecticut Practice Book](#) (2018)  
[Chapter 35a](#)  
§ 35a-12A. Motions for Transfer of Guardianship  
§ 35a-19. Transfer from Probate Court of Petitions for Removal of Parent as Guardian or Termination of Parental Rights  
§ 35a-20. Motions for Reinstatement of Parent or Former Legal Guardian as Guardian or Modification of Guardianship Post-Disposition

**LEGISLATIVE:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report’s** publication. Current law may be different from what is discussed in the reports.

- Saul Spigel, Connecticut General Assembly Office of Legislative Research Report No. [2001-R-0274](#) *Guardians’ Consent to Use of Experimental Drugs by People with Mental Retardation* (2001).  
“You asked if any states allow guardians of people with mental retardation to consent to experimental drug treatment for their wards.”

**FORMS:**

Official Judicial Branch forms are frequently updated. Please visit the [Official Probate Court Webforms](#) page for the current forms.

- [Probate Court Forms](#)  
PC-500. Petition/Removal of Guardian  
PC-501. Petition/Immediate Temporary Custody  
PC-502. Petition/Temporary Custody  
PC-503. Application/Appointment of Guardian of the Estate  
PC-504. Application/Appointment of Temporary Guardian  
PC-505. Application/Appointment of Permanent Guardian  
PC-508. Petition/Appointment of Guardian Where Parents/Legal Guardians Are Deceased  
PC-509. Petition/Appointment of Coguardian of the Person of a Minor Child  
PC-510. Custodian's Affidavit/Immediate Temporary Custody  
PC-511. Affidavit Re: Occurrence of Contingency for Appointment of Coguardian(s) of the Person of a Minor Child



- PC-5012. Request for Review/Modification of Visitation
- PC-550. Physician's Certificate/Immediate Temporary Custody
- PC-570. Guardian's Report/Guardianship of the Person of a Minor
- PC-580. Receipt and Release of Guardian of Estate

**WEST KEY NUMBERS:**

- *Guardian and Ward*
  - # 4. Guardians by nature
  - # 25. Removal (of guardian)
  - # 26. Death of guardian

**DIGESTS:**

- [West's Connecticut Digest](#): *Guardian and Ward*  
§§ 8-27. Appointment, Qualification, and Tenure of Guardian
- [Connecticut Family Law Citations](#): *Guardian*

**COURT CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Martocchio v. Savoie et al.](#) , 153 Conn. App. 492, 499-500, 101 A.3d 953 (2014). "...the dispositive issue in this appeal is whether, in the absence of a proper *Roth* analysis, the defendants [grandparents and former guardians] have standing to proceed with their claim for visitation with the minor child....Our Supreme Court observed that '*Troxel* [*Troxel v. Granville*, 530 U.S. 57, 120 S. Ct. 2054, 147 L.Ed. 2d 49 (2000)] teaches that courts must presume that fit parents act in the best interests of their children, and that so long as a parent adequately cares for his or her children (i.e., is fit), there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children.... Moreover, *Troxel* that among those interests lying at the core of a parent's right to care for his or her own children is the right to control their associations.... Furthermore, *Troxel* confirms that the family integrity is the core element upon which modern civilization is founded and that the safeguarding of familial bonds is an innate concomitant of the protective status accorded the family as a societal institution.'" *Roth v. Weston*, 259 Conn. 202, 216-217.
- [In re Jaccari J.](#) , 153 Conn. App. 599, 604-605, 101 A.2d 961 (2014). "Ultimately, the court concluded that the children had 'a long-term continuous relationship with their biological parent, the father. [The grandmother] has been unable to provide for the boys' medical and therapy needs and follow through with the recommendations of the therapists on a consistent basis.'"

"The court went on to find, by a fair preponderance of the evidence, that "it is in the best interest of both [children] that guardianship and custody be transferred to their father...."

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

“The court finds that ... the biological father of [the children] is suitable and worthy.”

- [In re Brian W.](#), 124 Conn. App. 787, 6 A.3d 136 (2010). “General Statutes § 45a-611 (a) and (b) provide that, in order to reinstate the parent as guardian, the court must find that the factors that resulted in the removal of the parent have been resolved satisfactorily and that it is in the best interests of the children to do so. In this appeal, the respondents claim that the trial court improperly concluded that the petitioner had resolved those factors and that transferring custody to the petitioner was in the best interests of the children.”
- [In re Max V.](#), Superior Court, Judicial District of Middlesex at Middletown, No. M08CP09011047A (May 12, 2010) (2010 WL 2926045). **“Removal of a parent as guardian does not terminate the parent's right to see the child and to be involved in the child's life. In fact, General Statutes § 45a-612 specifically provides for the visitation rights of a parent removed as guardian. Moreover, General Statutes § 45a-611 provides for the reinstatement of a parent as guardian of the person of a minor child, if appropriate.”**
- [In re DeLeon J.](#), 290 Conn. 371, 963 A. 2d 53 (2009). “On appeal, the respondent claims that, pursuant to § 45a-611, she was entitled to a hearing on the merits of her petition for reinstatement of guardianship and that the court violated her right to due process by denying her petition without providing her with adequate notice of the time and date for that hearing. **We agree.”**
- [In re Tayquon H.](#), 76 Conn. App. 693, 710, 821 A.2d 796 (2003). **“Although the issues are clouded by the appointment of an attorney as well as a guardian ad litem to represent the interests of the child, S, the absence of an enumerated list of the duties of the guardian ad litem does not prevent us from resolving the issues presented by this case because we conclude that the guardian ad litem supersedes the role of the natural guardian to speak for the child's best interest in the present litigation. In contrast to a guardian of a person who has physical control of the minor or a guardian of an estate who has legal control over the minor's financial affairs, the guardian ad litem is appointed by a court and granted limited powers to represent the interest of the child in a particular court proceeding.”**
- [In Re Crystal H.](#), Superior Court, Juvenile Matters at Middletown (May 22, 2002) (32 Conn. L. Rptr. 127), 2002 WL 1336088. **“The Probate Court ordered removal of the child to a distant state and the placement of the child with a non-parental guardian without his knowledge or consent. The placement of the child in a different school was a direct and**

necessary consequence. All three of these decisions trample on father's basic guardianship rights and responsibilities. While the decision may have been in the best interest of the child, the father had no opportunity to consider that question or take a position on it before the Probate Court appointed the temporary guardian and the child was removed to Arizona."

- [In re Helen B.](#), 50 Conn. App. 818, 719 A.2d 907 (1998) **"The legislature has set the standard that governs a petition for the removal of a surviving parent as the guardian of his or her children.'** *Garrett's Appeal from Probate*, 237 Conn. 233, 235, 676 A.2d 394 (1996). **"The father and mother of every minor child are joint guardians of the person of the minor .... If either father or mother dies ... the other parent of the minor child shall become the sole guardian of the person of the minor.'** General Statutes § 45a-606. The court may remove a parent as guardian only if it finds by clear and convincing evidence that one or more of the grounds enumerated in General Statutes § 45a-610 have been proven **by clear and convincing evidence."** *Garrett's Appeal from Probate*, 44 Conn. Sup. 169, 171, 677 A.2d 1000 (1994) aff'd, 237 Conn. 233, 676 A.2d 394 (1996). We are aware, **however, that '[t]he provisions of sections 45a-603 to 45a-622, inclusive, shall be liberally construed in the best interests of any minor child affected by them, provided the requirements of such sections are otherwise satisfied."** General Statutes § 45a-605 (a)."
- [Bristol v. Brundage](#), 24 Conn. App. 402, 405, 589 A.2d 1 (1991). "This statute [§ 46b-56b] was enacted to counteract the holding of [McGaffin v. Roberts](#) [below] . . . which held that 45-43 (now 45a-606) did not create a presumption that a surviving parent is entitled to preference in a custody dispute."
- [Posey v. Yandell](#), 26 Conn. Supp. 320, 323, 222 A.2d 747 (1966). **"Upon the death of the mother, the plaintiff became the sole guardian of the child Carolyn. It follows that the plaintiff has a prior right to custody unless the circumstances are such that to give it to him would not be for the best interest of the child."**

**ENCYCLOPEDIAS:**

- 39 [Am Jur 2d](#) *Guardian and Ward* (2008).
  - § 5. Parents as joint guardians
  - § 6. Rights of father
  - § 7. Rights of mother
  - § 8. Rights of other relatives
  - § 9. Incidents of guardianship by nature
  - § 10. Transfer of guardianship or custody of child
- 39 [C.J.S.](#) *Guardian and Ward* (2014).
  - § 5. Classes or kinds of guardians

§ 6. Classes or kinds of guardians—Natural guardians

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).
  - Chapter 3. Guardianships
    - § 3.5. Parent and child—statutory guardians of the person, custody and control, termination of parental rights, statutory parent
    - § 3:6. —Right to services and earnings, effects of emancipation
    - § 3:7. —Duty of support
    - § 3:10. Types of guardianships of minors
    - § 3.13. Removal of parents or other guardians of **minor's person, temporary custody orders**, visitation and reinstatement rights, appointment of guardian or co-guardian
  
- 1 Thomas R. Young, [Legal Rights Of Children](#) (3d ed. 2017-18).
  - Chapter 2. Child custody
    - § 2:17. Preference of the natural parent(s) over others; generally
  
- 8 Arnold H. Rutkin et al., Connecticut Practice Series, [Family Law and Practice With Forms](#) (2010).
  - Chapter 42. Child Custody and Visitation
    - § 42.1. Parental custody rights—generally
    - § 42.2. Right of unmarried or non-cohabiting parents
  - Chapter 44.
    - § 44.19. Death of custodial parent
  
- 20 Kate McEvoy, Connecticut Practice Series, [Connecticut Elder Law](#) (2017-2018 ed.).
  - Chapter 12. Relative Caregivers
    - § 12:17. Guardianship of person – Removal of parent as guardian
    - § 12:18. Guardianship of person – Removal to Superior Court
  
- Lewis K. Parker, ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#) (3d ed. 2008).
  - Lynn B. Cochrane, *Child Protection*. "Basic Principles: Guardianship of the Person of the Minor in Probate Court," pp. 543-547.

Table 1: Consent by Minor Parent

Conn. Gen. Stat. § <a href="#">19a-285</a> (2017)	
<b>Consent by minor to medical, dental, health or hospital services for child</b>	
Treatments	(a) Any minor who has been married or who has borne a child may give effective consent to medical, dental, health and hospital services for his or her child.
Liability for costs	(b) Any such minor who has given effective consent as provided in subsection (a) of this section shall be legally liable for any fees, costs or expenses incurred as a result of the rendering of any such service.

# Section 3: Temporary Guardians

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to temporary guardians of minors in Connecticut

## **DEFINITIONS:**

- **Temporary guardian:** "Any parent or guardian of the person of a minor may apply to the court of probate for the district in which the minor lives 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." Conn. Gen. Stat. § [45a-622](#)(a) (2017).
- **Rights and obligations of the temporary guardian:** "The rights and obligations of the temporary guardian shall be those described in subdivisions (5) and (6) of section 45a-604." Conn. Gen. Stat. § [45a-622](#)(b) (2017).
- **Liability of the temporary guardian:** "A temporary guardian is not liable as a guardian pursuant to section 52-572." Conn. Gen. Stat. § [45a-622](#)(b) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017)
  - [Chapter 802h](#). Protected persons and their property
    - Part II. Guardians of the person of a minor
      - § 45a-605. Provisions construed in best interest of minor child
      - § 45a-622. Appointment of temporary guardian. Application. Rights and obligations

## **COURT RULES:**

- [Connecticut Probate Court Rules of Procedure](#) (2017)
  - Rule 40. Children's Matters: General Provisions
    - Section 40.8 Temporary guardianship

## **LEGISLATIVE:**

- [Public Act No. 99-84](#) § 9 (Reg. Sess.). "Any person appointed as guardian of the person of a minor pursuant to sections 45a-603 to 45a-624g, inclusive, of the general statutes shall report at least annually to the probate court which appointed the guardian regarding the condition of the minor." Substitute House Bill No. 6685.

## **FORMS:**

- [Probate Court Forms](#)
  - PC-504. Application/Appointment of Temporary Guardian
  - PC-510 Custodian's affidavit/Immediate Temporary Custody
  - PC-550 Physician's Certificate/Immediate Temporary Guardianship

## custody

### **COURT CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- *In Re Savannah L.*, Superior Court, Judicial District of Waterbury, Juvenile Matters at Waterbury, Docket No. U06-CP09-006773 (Mar. 2, 2010), 2010 Conn. Super. LEXIS 507. **“A court may remove a guardian only if it finds that one or more of the grounds set forth in General Statutes § 45a-610 have been established by clear and convincing evidence. *In Re Helen B.*, 50 Conn.App. 818, 827 (1998). The petitioner has not established any one of the grounds set forth in the governing statute . . . Determining the parent of a child . . . cannot be guided solely on the basis of ‘nature,’ but must also be premised on ‘nurture.’ *Seymour v. Seymour*, 180 Conn. 705, 712 (1980). Not only was Mr. L. the guardian at the time of the commencement of these proceedings, he has been a guardian/father to the child and he intends to continue to be a caring and providing guardian/father to the child. The minimum obligations of a parent or guardian are to demonstrate love and affection for the child; express concern for the child’s health, education and general welfare; supply food, clothing, shelter and medical care; and provide guidance in life’s activities and choices. *In Re Rayna M.*, 13 Conn.App. 23, 37 (1987). Mr. L. has the ability and the will to fulfill all of these responsibilities, and this court finds that it would be in the child’s best interests for his role as guardian to continue.**

### ORDERS

Ms. W.'s petition to remove guardianship is denied. Mr. L.'s motion to terminate Ms. W.'s temporary guardianship is **granted . . .”**

- *In Re Crystal H.*, 32 Conn. L. Rptr. 127, 2002 WL 1336088 (Conn.Super. 2002). **“Her [the mother’s] decision to temporarily relinquish both her custodial and guardianship rights temporarily should not adversely impact the father’s rights.”**
- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).
  - Chapter 3. Guardianships
    - § 3:10. Types of guardians of minors
    - § 3:13. Removal of parents or other guardians of **minor’s person, temporary custody orders, visitation and reinstatement rights, appointment of guardian or co-guardian**
- 20 Kate McEvoy, Connecticut Practice Series, [Connecticut Elder Law](#) (2017-2018 ed.).
  - Chapter 12. Relative Caregivers
    - § 12:13. Guardianship of person – Temporary guardianship

### **TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 2 Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2017).
  - Chapter 11. Guardianship
  - § 11:5. Temporary guardianship
- Lewis K. Parker, ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).
  - Lynn B. Cochrane, *Child Protection*. "Basic Principles: Guardianship of the Person of the Minor in Probate Court," p. 543-547.



# Section 4: Standby Guardians

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to standby guardians of minors in Connecticut

## **DEFINITIONS:**

- **Standby guardian of minor:** "A parent or guardian, as principal, may designate a standby guardian of a minor in accordance with the provisions of sections 45a-624 to 45a-624g, inclusive. Such designation, in a form as provided in section 45a-624b, shall take effect upon the occurrence of a specified contingency, including, but not limited to, the mental incapacity, physical debilitation or death of the principal, provided a written affidavit statement signed under penalty of false statement has been executed pursuant to section 45a-624c that such contingency has occurred. A designation of a standby guardian shall be in writing and signed and dated by the principal with at least two witnesses. The principal shall **provide a copy of such designation to the standby guardian.**" Conn. Gen. Stat. § [45a-624](#) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
  - [Chapter 802h](#). Protected persons and their property
    - Part II. Guardians of the person of a minor
      - § 45a-622. Appointment of temporary guardian. Application. Rights and obligations
      - § 45a-624. Designation of standby guardian of minor
        - § 45a-624a. Consent of parents required for designation of standby guardian
        - § 45a-624b. Form for designation of standby guardian
        - § 45a-624c. Written statement that designation of standby guardian in full force and effect
        - § 45a-624d. Authority of standby guardian
        - § 45a-624e. Authority of standby guardian after death of principal
        - § 45a-624f. Revocation of designation of standby guardian
        - § 45a-624g. Probate court to resolve disputes concerning designation of standby guardian

## **FORMS:**

- Conn. Gen. Stat. (2017)
  - § [45a-624b](#). Form for designation of standby guardian
  - § [45a-624c](#). Written statement that designation of standby guardian in full force and effect
- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).
  - Chapter 3. Guardianships
    - § 3:60. Nomination of standby guardian
    - § 3:61. Affidavit initiating standby guardianship

**TEXTS &  
TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).  
Chapter 3. Guardianships  
§ 3:26. Standby guardians
- 20 Kate McEvoy, Connecticut Practice Series, [Connecticut Elder Law](#) (2017-2018 ed.).  
Chapter 12. Relative Caregivers  
§ 12:14. Guardianship of Person – Standby guardianship
- Lewis K. Parker, ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).
  - Lynn B. Cochrane, *Child Protection*. "Basic Principles: Guardianship of the Person of the Minor in Probate Court," pp. 543-547.

# Section 5: Guardians, Coguardians, and Permanent Guardians Appointed by the Courts

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to co-guardians and permanent guardians of minors in Connecticut

## **DEFINITIONS:**

- "It is, indeed, the duty of judges of probate to see that infants who need guardians have them . . ." [Apthorp v. Backus](#), 1 Kirby 407, 410 (Conn. 1788).
- "Indeed the law places the guardian *in loco parentis*, and means that he shall foster the ward with parental anxiety." [Adams' Appeal from Probate](#), 38 Conn. 304, [306](#) (1871).
- **Guardian and Coguardians:**
  - Without parent:** "If any minor has no parent or guardian of his or her person, the court of probate for the district in which the minor resides may, on its own motion, appoint a guardian or coguardians of the person of the minor, taking into consideration the standards provided in section 45a-617. 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." **Conn. Gen. Stat.** § [45a-616](#)(a) (2017).
  - With only one parent:** "If any minor has a parent or guardian, who is the sole guardian of the person of the child, the court of probate for the district in which the minor resides may, on the application of the parent or guardian of such child or of the Commissioner of Children and Families with the consent of such parent or guardian and with regard to a child within the care of the commissioner, appoint one or more persons to serve as coguardians of the child . . . . 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." **Conn. Gen. Stat.** § [45a-616](#)(b) (2017).

**Appointment of permanent guardian for minor.** "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 may establish a permanent guardianship if the court provides notice to each 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. . ." **Conn. Gen. Stat. § 45a-616a** (2017). (See Table 2 below.) (Check the [2018 Supplement](#) for changes effective from passage.)

- **Rights and obligations** of the guardian or coguardian: "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." **Conn. Gen. Stat. § 45a-616**(d) (2017).
- **Powers:** "A parent of a minor, guardian of the person of a minor or spouse of a minor shall not receive or use any property belonging to the minor in an amount exceeding ten thousand dollars in value unless appointed guardian of the estate of the minor, except that such parent, guardian or spouse may hold property as a custodian under the provisions of sections 45a-557 to 45a-560b, inclusive, without being so appointed." **Conn. Gen. Stat. § 45a-631**(a) (2017).
- **Factors used in choosing:** "When appointing a guardian, coguardians or permanent guardian of the person of a minor, the court shall take into consideration the following factors: (1) The ability of the prospective guardian, coguardians or permanent guardian to meet, on a continuing day to day basis, the physical, emotional, moral and educational needs **of the minor;** (2) **the minor's wishes, if he or she is over the** age of twelve or is of sufficient maturity and capable of forming an intelligent preference; (3) the existence or nonexistence of an established relationship between the minor and the prospective guardian, coguardians or permanent guardian; and (4) the best interests of the child. There shall be a rebuttable presumption that appointment of a grandparent or other relative related by blood or marriage as a guardian, coguardian or permanent guardian is in the best interests of the minor child." **Conn. Gen. Stat. § 45a-617** (2017).
- **Disputes:** "In the event of a dispute between guardians or between a coguardian and a parent, the matter may be submitted to the court of probate which appointed the guardian or coguardian." **Conn. Gen. Stat. § 45a-616**(d) (2017).
- **Death:** "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." **Conn. Gen. Stat. § 45a-616**(e) (2017).

**STATUTES:**

- Conn. Gen. Stat. (2017)  
[Chapter 802h](#). Protected persons and their property

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Part II. Guardians of the person of a minor

§ 45a-608n. Designation of minor child as having special immigrant juvenile status pursuant to pending petition for removal or appointment of guardian

§ 45a-616. Appointment of guardian or coguardians for minor; rights same as of sole surviving parent

§ 45a-616a. Appointment of permanent guardian for minor. Reinstatement of parent as guardian or appointment of successor guardian or permanent guardian. (Check the [2018 Supplement](#) for changes effective from passage.)

§ 45a-617. Appointment of guardian, coguardians or permanent guardian of the person of a minor.

§ 45a-631. Limitation on receipt or use of minor's property by parent, guardian or spouse. Release.

**LEGISLATIVE:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- Nicole Dube, Connecticut General Assembly Office of Legislative Research Report No. [2012-R-0391](#) *Grandparents Raising Grandchildren* (2012).  
"You asked for information on state financial assistance programs for grandparents raising grandchildren."
- [Public Act No. 12-1](#) (June 12 Special Session), Secs. 272-279. An Act Implementing Provisions of the State Budget for the Fiscal Year Beginning July 1, 2012. House Bill No. 6001.
- [Public Act No. 00-78](#) (Reg. Sess.). An Act Concerning the Receipt or Use of Property Belonging to a Minor. House Bill No. 5880.

**COURT RULES:**

- [Connecticut Probate Court Rules of Procedure](#) (2017)  
**Rule 40. Children's Matters: General Provisions**

**FORMS:**

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) and the [Official Probate Webforms page](#) for the current forms.

- [Juvenile Court Forms](#) (Superior Court)  
JD-JM-203. Motion, Permanent Legal Guardianship
- [Probate Court Forms](#)  
PC-500. Petition/removal of guardian  
PC-501. Petition/immediate temporary custody  
PC-502. Petition/temporary custody  
PC-504. Application, appointment of temporary guardian  
PC-505. Petition/Appointment of permanent guardian  
PC-508. Petition/Appointment of guardian of person where parents/legal guardians are deceased  
PC-509. Petition/Appointment of coguardian of the person of a minor child  
PC-510. **Custodian's affidavit** / immediate temporary custody  
PC-511. Affidavit RE: Occurrence of contingency for appointment of coguardian(s) of the person of a minor child

PC-550. Physician's certificate/immediate temporary custody  
PC-610. Affidavit/temporary custody, removal, termination or adoption

### **CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Jacquelyn W.](#), 169 Conn. App. 233, 240, 150 A.3d 692 (2016). **"Although a parent's rights are affected by a permanent transfer of guardianship, the consequences of a permanent transfer are not as severe as a complete termination of a parent's rights. In this case, for example, it was expected that the respondent mother would continue to have regular visits and contact with her daughter, even after the transfer of guardianship. Jacquelyn resides with a relative, but she has expressed the desire to continue her relationship with the respondent. Although the transfer of guardianship is by no means insignificant, it is not as drastic a deprivation as a termination of parental rights, and we decline to exercise our supervisory authority to require a pretrial canvass beyond that which [In re Yasiel R.](#) requires."**
- [In Re Haydee W.](#), 2015 WL 6437229. **"The mother believes Mr. and Mrs. T. are suitable and worthy guardians and that awarding guardianship to them is in Haydee's best interest as set forth in her motion to transfer guardianship to Mrs. T. The father also has filed a motion to transfer guardianship to Mrs. T. as an alternative to his motion to revoke. Based upon the foregoing, this court finds by a preponderance of the evidence that Mr. and Mrs. T. are worthy and suitable people to assume legal guardianship of Haydee and having them as her guardians is in Haydee's best interest."**
- [In Re Mindy E.](#), 153 Conn. App. 786, 803, 105 A. 3d 351 (2014). **" In this case, the court determined that Mindy's best interests would not be served by the transfer of guardianship to the paternal great aunt because the child 'ha[d] a safe, secure bond and attachment to her current caregivers, and that her removal from their care would [have been] traumatic...' Once this finding was made by the court, the father could not prevail on his motion. We conclude that, once it was determined that the transfer was not in Mindy's best interests, the court was not required to make any further findings, as the denial of the motion to transfer guardianship was required by law."**
- [In Re Averiella P.](#), 146 Conn. App. 800, 804-805, 81 A. 3d 272 (2013). **"In this case, the court also very clearly stated that 'while the interests of all others may be considered in making a decision about the child, it is the best interest of the child that controls the decision.'** The court found that Averiella had lived with her grandparents since shortly after she was born, that she 'has thrived in that environment' and that the grandparents were 'open to visits with the parents.' ...It concluded by finding that 'the transfer of guardianship to

[the grandparents] is in the best interest of Averiels...[and that the grandparents] are suitable and worthy caretakers.”

- [Holcomb v. Holcomb](#), No. FA02-0124703S, Judicial District of New London at Norwich (Mar. 31, 2003), 2003 WL 1908228, **2003 Conn. Super. LEXIS 961**. “The parties are commended for assuming guardianship responsibilities for Stephen. As they implicitly acknowledge, the court cannot consider the guardianship in formulating its orders since the parties have **no legal duty to support Stephen.**”
- [Favrow v. Vargas](#), 231 Conn. 1, 18, 647 A.2d 731 (1994). “A guardian of a minor child has no legal obligation of support for that child. This conclusion is compelled by our statutes regarding guardianship, by the common law background of those statutes, and by the policy undergirding those statutes and that **common law.**”
- [Bristol v. Brundage](#), 24 Conn. App. 402, 408, 589 A.2d 1 (1991). “We therefore remand this case to the trial court for further proceedings in light of our determination that the defendant should not have been appointed as coguardian.”
- [Miller v. Miller](#), 158 Conn. 217, 220, 258 A.2d 89 (1969), cert. den. 396 U.S. 940, 90 S.Ct. 374, 24 L.Ed. **2d 241**. “A guardian of the person is entitled to the custody of his ward . . . .”
- [Holbrook v. Brooks](#), **33 Conn. 347, 351 (1866)**. “A guardian is bound to use reasonable and prudent care in the **management of his ward’s property; and the law justly** requires the utmost fairness in all his dealings with the ward. He shall under no circumstances be permitted to reap any **personal advantage from the use of the ward’s money or** other property, but all the income and profits thereof shall be faithfully accounted for. And when land is sold at private sale, as in this case, he sells at his peril, if he sells for less than a **fair price.**”

**WEST KEY NUMBERS:**

- *Guardian and Ward*  
# 28-74. Custody and care of ward’s person and estate  
# 116-136. Actions

**DIGESTS:**

- [ALR Index](#): Guardian and Ward

**ENCYCLOPEDIAS:**

- 39 [Am Jur 2d](#) *Guardian and Ward* (2008).  
§§ 19, 20. Guardianship by judicial appointment  
§§ 31-37. Judicial appointment of guardian - Jurisdiction  
§§ 86-151. General powers and duties of guardians and conservators  
§§ 152-163. Actions  
§§ 185-204. Liability of guardian and sureties

**TEXTS &  
TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 39 [C.J.S. Guardian & Ward](#) (2014).  
§§ 56-74. Custody and care of ward's person  
§§ 255-273. Actions
- Thomas D. Begley & Angela E. Canellos, [Special Needs Trusts Handbook](#) (2016).  
Chapter 8. Guardianship of a Minor or a Person with Disabilities  
§ 8.03. Guardianship of Minors
- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).  
Chapter 3. Guardianships  
§ 3:10. Types of guardianships of minors  
§ 3:14. **Powers and duties of guardian of minor's person**
- 20 Kate McEvoy, Connecticut Practice Series, [Connecticut Elder Law](#) (2017-2018 ed.).  
Chapter 12. Relative Caregivers  
§ 12:10. Guardianship of Person – In General  
§ 12:12. Guardianship of Person – Coguardianship  
§ 12:16. Guardianship of Person – Permanent guardianship  
§ 12:17. Guardianship of Person – Removal of parents as guardian  
§ 12:18. Guardianship of Person – Removal to Superior Court
- Lewis K. Parker, ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).
  - Lynn B. Cochrane, *Child Protection*. "Basic Principles: Guardianship of the Person of the Minor in Probate Court," p. 543.



Table 2: Permanent Guardianship Statutes

<b>Permanent Guardianship Statutes</b>	
<p>Conn. Gen. Stat. § <a href="#">45a-604</a> (2017)</p> <p><b>Definitions.</b></p> <p>(8) "Permanent guardianship" means a guardianship, as defined in subdivision (5) of this section, that is intended to endure until the minor reaches the age of majority without termination of the parental rights of the minor's parents; and</p> <p>(9) "Permanent guardian" means a person who has the authority and obligations of a permanent guardianship, as defined in subdivision (8) of this section.</p>	
<p>Conn. Gen. Stat. § <a href="#">45a-611</a> (2017)</p> <p><b>Reinstatement of parent as guardian of the person of minor.</b></p> <p>(d) Notwithstanding the provisions of this section, and subject to the provisions of subsection (b) of section 45a-616a, 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.</p>	
<p>Conn. Gen. Stat. § <a href="#">45a-613</a> (2017)</p> <p><b>Removal of guardian, coguardian or permanent guardian of the person of a minor.</b></p> <p>(a) Any guardian, coguardians or permanent guardian of the person of a minor appointed under section 45a-616 or section 45a-616a, or appointed by a court of comparable jurisdiction in another state, may be removed by the court of probate which made the appointment, and another guardian, coguardian or permanent guardian appointed, in the same manner as that provided in sections 45a-603 to 45a-622, inclusive, for removal of a parent as guardian.</p> <p>(b) Any removal of a guardian, coguardian or permanent guardian under subsection (a) of this section shall be preceded by notice to the guardian, coguardians or permanent guardian, the parent or parents and the minor if over twelve years of age, as provided by section 45a-609.</p> <p>(c) If a new guardian, coguardian or permanent guardian is appointed, the court shall send a copy of that order to the parent or parents of the minor.</p>	
<p>Conn. Gen. Stat. § <a href="#">45a-614</a> (2017)</p> <p><b>Removal of parent as guardian of minor. Parent may not petition for removal of permanent guardian.</b></p> <p>(a) Except as provided in subsection (b) of this section, the following persons may apply to the Probate Court for the district in which the minor resides for the removal as guardian of one or both parents of the minor: (1) Any adult relative of the minor, including those by blood or marriage; (2) a person with actual physical custody of the minor at the time the petition is filed; or (3) counsel for the minor.</p> <p>(b) A parent may not petition for the removal of a permanent guardian appointed pursuant to section 45a-616a.</p>	

Conn. Gen. Stat. § [45a-616a](#) (2018 Supplement)

**Appointment of permanent guardian for minor. Reinstatement of parent as guardian or appointment of successor guardian or permanent guardian.**

(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 may establish a permanent guardianship if the court provides notice to each 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 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, 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.

Conn. Gen. Stat. § [45a-617](#) (2017)

**Appointment of guardian, coguardians or permanent guardian of the person of a minor.**

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

Conn. Gen. Stat. § [46b-129\(j\)](#) (2018 Supplement)

**Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianships and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children.**

(j) (1) For the purposes of this subsection and subsection (k) of this section, (A) "permanent legal guardianship" means a permanent guardianship, as defined in section 45a-604, and (B) "caregiver" means (i) a fictive kin caregiver, as defined in section 17a-114, who is caring for a child, (ii) a relative caregiver, as defined in section 17a-126, or (iii) a person who is licensed or approved to provide foster care pursuant to section 17a-114.

(2) Upon finding and adjudging that any child or youth is uncared for, neglected or abused the court may (A) commit such child or youth to the Commissioner of Children and Families, and such commitment shall remain in effect until further order of the court, except that such commitment may be revoked or parental rights **terminated at any time by the court;** (B) **vest such child's or youth's legal guardianship** in any private or public agency that is permitted by law to care for neglected, uncared for or abused children or youths or with any other person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or **marriage;** (C) **vest such child's or youth's permanent legal guardianship in any** person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage in accordance with the requirements set forth in subdivision (5) of this subsection; or (D) place the child or youth in the custody of the parent or guardian with protective supervision by the Commissioner of Children and Families subject to conditions established by the court.

(3) **If the court determines that the commitment should be revoked and the child's or youth's legal guardianship or permanent legal guardianship should vest in** someone other than the respondent parent, parents or former guardian, or if parental rights are terminated at any time, there shall be a rebuttable presumption that an award of legal guardianship or permanent legal guardianship upon revocation to, or adoption upon termination of parental rights by, any caregiver or person or who is, pursuant to an order of the court, the temporary custodian of the child or youth at the time of the revocation or termination, shall be in the best interests of the child or youth and that such caregiver is a suitable and worthy person to assume legal guardianship or permanent legal guardianship upon revocation or to adopt such child or youth upon termination of parental rights. The presumption may be rebutted by a preponderance of the evidence that an award of legal guardianship or permanent legal guardianship to, or an adoption by, such caregiver would not be in **the child's or youth's best interests and such** caregiver is not a suitable and worthy person. The court shall order specific steps that the parent must take to facilitate the return of the child or youth to the custody of such parent.

(4) The commissioner shall be the guardian of such child or youth for the duration of the commitment, provided the child or youth has not reached the age of eighteen years, or until another guardian has been legally appointed, and in like manner,

upon such vesting of the care of such child or youth, such other public or private agency or individual shall be the guardian of such child or youth until such child or youth has reached the age of eighteen years or, in the case of a child or youth in full-time attendance in a secondary school, a technical education and career school, a college or a state-accredited job training program, until such child or youth has reached the age of twenty-one years or until another guardian has been legally appointed. The commissioner may place any child or youth so committed to the commissioner in a suitable foster home or in the home of a fictive kin caregiver, relative caregiver, or in a licensed child-caring institution or in the care and custody of any accredited, licensed or approved child-caring agency, within or without the state, provided a child shall not be placed outside the state except for good cause and unless the parents or guardian of such child are notified in advance of such placement and given an opportunity to be heard, or in a receiving home maintained and operated by the Commissioner of Children and Families. In placing such child or youth, the commissioner shall, if possible, select a home, agency, institution or person of like religious faith to that of a parent of such child or youth, if such faith is known or may be ascertained by reasonable inquiry, provided such home conforms to the standards of said commissioner and the commissioner shall, when placing siblings, if possible, place such children together. Upon the issuance of an order committing the child or youth to the Commissioner of Children and Families, or not later than sixty days after the issuance of such order, the court shall determine whether the Department of Children and Families made reasonable efforts to keep the child or youth with his or her parents or guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not **possible, taking into consideration the child's or youth's best interests, including the child's or youth's health and safety.**

(5) A youth who is committed to the commissioner pursuant to this subsection and has reached eighteen years of age may remain in the care of the commissioner, by consent of the youth and provided the youth has not reached the age of twenty-one years of age, if the youth is (A) enrolled in a full-time approved secondary education program or an approved program leading to an equivalent credential; (B) enrolled full time in an institution which provides postsecondary or vocational education; or (C) participating full time in a program or activity approved by said commissioner that is designed to promote or remove barriers to employment. The commissioner, in his or her discretion, may waive the provision of full-time enrollment or participation based on compelling circumstances. Not more than one hundred twenty days after **the youth's eighteenth birthday, the department shall file a motion in the superior court for juvenile matters that had jurisdiction over the youth's case prior to the youth's eighteenth birthday for a** determination as to whether continuation in care is **in the youth's best interest and, if so, whether there is an appropriate permanency plan.** The court, in its discretion, may hold a hearing on said motion.

(6) Prior to issuing an order for permanent legal guardianship, the court shall provide notice to each parent that the parent may not file a motion to terminate the permanent legal guardianship, or the court shall indicate on the record why such notice could not be provided, and the court shall find by clear and convincing evidence that the permanent legal guardianship is in the best interests of the child or youth and that the following have been proven by clear and convincing evidence:

(A) One of the statutory grounds for termination of parental rights exists, as set forth in subsection (j) of section 17a-112, or the parents have voluntarily consented to the establishment of the permanent legal guardianship;

(B) Adoption of the child or youth is not possible or appropriate;

(C) (i) If the child or youth is at least twelve years of age, such child or youth consents to the proposed permanent legal guardianship, or (ii) if the child is under twelve years of age, the proposed permanent legal guardian is: (I) A relative, (II) a caregiver, or (III) already serving as the permanent legal guardian of at least one of **the child's siblings, if any;**

(D) The child or youth has resided with the proposed permanent legal guardian for at least a year; and

(E) The proposed permanent legal guardian is (i) a suitable and worthy person, and (ii) committed to remaining the permanent legal guardian and assuming the right and responsibilities for the child or youth until the child or youth attains the age of majority.

(7) An order of permanent legal guardianship may be reopened and modified and the permanent legal guardian removed upon the filing of a motion with the court, provided it is proven by a fair preponderance of the evidence that the permanent legal guardian is no longer suitable and worthy. A parent may not file a motion to terminate a permanent legal guardianship. If, after a hearing, the court terminates a permanent legal guardianship, the court, in appointing a successor legal guardian or permanent legal guardian for the child or youth shall do so in accordance with this subsection.

Conn. Gen. Stat. § [46b-129\(n\)](#) (2018 Supplement)

**Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianships and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children.**

(n) If the court has ordered legal guardianship of a child or youth to be vested in a suitable and worthy person pursuant to subsection (j) of this section, the child's or youth's parent or former legal guardian may file a motion to reinstate guardianship of the child or youth in such parent or former legal guardian. Upon the filing of such a motion, the court may order the Commissioner of Children and Families to investigate the home conditions and needs of the child or youth and the home conditions of the person seeking reinstatement of guardianship, and to make a recommendation to the court. A party to a motion for reinstatement of guardianship shall not be entitled to court-appointed counsel or representation by Division of Public Defender Services assigned counsel, except as provided in section 46b-136. Upon finding that the cause for the removal of guardianship no longer exists, and that reinstatement is in the best interests of the child or youth, the court may reinstate the guardianship of the parent or the former legal guardian. No such motion may be filed more often than once every six months.

Table 3: Sovereign Immunity and State Officials

<b>Prigge v. Ragaglia, 265 Conn. 338, 828 A.2d 542 (2003)</b>	
p. 340	<p>“The plaintiffs brought this action, seeking monetary damages against the defendants both in their official and individual capacities, and also seeking injunctive relief, alleging that the defendants had discriminated against them in certain underlying child custody proceedings.”</p>
p. 349	<p>“As to the plaintiffs' claims for money damages, this issue is controlled by our decision today in <i>Miller v. Egan</i>, 265 Conn. 301, 828 A.2d 549 (2003), in which we held that the exception to the doctrine of sovereign immunity for actions by state officers in excess of their statutory authority applies only to actions seeking declaratory or injunctive relief, not to actions for money damages. When a plaintiff brings an action for money damages against the state, he must proceed through the office of the claims commissioner pursuant to chapter 53 of the General Statutes, §§ 4-141 through 4-165. Otherwise, the action must be dismissed for lack of subject matter jurisdiction under the doctrine of sovereign immunity. In the present case, the plaintiffs have not received permission from the office of the claims commissioner to bring their claims for money damages against the state. Therefore, the doctrine of sovereign immunity bars <b>those claims.</b>”</p>

# Section 6: Guardian of the Estate of a Minor

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to guardians of estates of minors in Connecticut

## **DEFINITIONS:**

- "A parent of a minor, guardian of the person of a minor or spouse of a minor shall not receive or use any property belonging to the minor in an amount exceeding ten thousand dollars in value unless appointed guardian of the estate of the minor. Such parent, guardian or spouse may hold property as a custodian under the provisions of sections 45a-557 to 45a-560b, inclusive, without being so appointed." Conn. Gen. Stats. § [45a-631](#)(a) (2017).
- "When a minor is entitled to property, the court of probate for the district in which the minor resides may assign a time and place for a hearing on the appointment of a guardian of the estate of the minor." Conn. Gen. Stats. § [45a-629](#)(a) (2017).
- "If the court finds that there is no guardian of the estate of the minor, it may appoint one or both of the parents or any guardian of the person of the minor to be guardian of his or her estate." Conn. Gen. Stats. § [45a-629](#)(b) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
  - [Chapter 802h](#). Protected persons and their property
  - Part III. Guardians of the estate of a minor
    - § 45a-629. **Appointment of guardian for minor's estate**
    - § 45a-630. Application for appointment of guardian of the estate of a minor
    - § 45a-631. **Limitation on receipt or use of minor's property by parent, guardian or spouse.** Release.
    - § 45a-632. Appointment of guardian of estate of non-resident minor
    - § 45a-633. **Lease of minor's real estate by guardian or coguardians of estate**
    - § 45a-634. **Inventory of ward's property by guardian of estate**
    - § 45a-635. **Removal by foreign guardian of ward's personal property**
    - § 45a-636. **Removal by foreign guardian of proceeds of sale of ward's real estate**
    - § 45a-637. Guardians of estate of minors may make partition
    - § 45a-638. Court may order guardian to convey real property

**COURT RULES:**

- [Connecticut Probate Court Rules of Procedure](#) (2017)  
Rule 34. Guardians of Estates of Minors

**LEGISLATIVE:**

- [Public Act No. 99-84](#), (Reg. Sess.), effective October 1, 1999. An act concerning probate.
- [Public Act No. 00-78](#) (Reg. Sess.), effective October 1, 2000. An act concerning the receipt or use of property belonging to a minor. House Bill No. 5880.

**FORMS:**

Official Judicial Branch forms are frequently updated. Please visit the [Official Probate Court Webforms page](#) for the current forms.

- [Probate Court Forms](#)  
PC-503. Application/appointment of guardian of estate  
PC 503A. Petition/appointment of guardian of the estate/compromise of new claim  
PC-571. Agreement of Fiduciary(ies) Guardianship of a Minor's Estate  
PC-580. Receipt and release of guardian of estate

**WEST KEY NUMBERS:**

- *Guardian and Ward*  
# 28-74. Custody and care of ward's person and estate  
# 116-136. Actions

**DIGESTS:**

- [ALR Index](#): Guardian and Ward

**COURT CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In the Matter of S and I](#), 29 Quinnipiac Prob. L.J. 97 (2016). "Joan's Will, dated December of 2014, was admitted to probate in June of 2015. At issue before the Court is the appointment of a guardian of the person of S and I." ... "Characterizing the phrase "it is my wish" as "precatory" would essentially nullify Article VIII of the subject Will. This hyper-technical reading of that Article would be contrary to the clearly expressed intent of the testatrix. It would also be at odds with our strong public policy in favor of encouraging parents to make a testamentary selection of guardians for their children."
- [Caron v. Adams](#), 33 Conn. App. 673, 694, 638 A.2d 1073 (1994). "General Statutes 45a-629 provides that if a minor does not have a guardian of his estate and is entitled to property, the court may appoint the parents or guardian to be guardian of the estate. If any of these are not proper persons, the court may appoint any proper person chosen by the minor, if the minor is over the age of twelve. If the minor does not or cannot choose, or makes an improper choice, 'the court of probate shall appoint some proper person or persons, who, as guardian of the estate of the minor, shall have charge of all the minor's property, whether acquired before or after the guardian's appointment, but shall have no control over his person.' General Statutes 45a-629(b)."



- [Fitzgerald v. Fitzgerald](#), 169 Conn. 147, 152, 362 A.2d 889 (1975). “The primary duty of the parent to support his minor children, if he is able to do so, is not relieved by the fact that they may have income from a trust created in their favor.”
- [Lametta v. Connecticut Light & Power Co.](#), 139 Conn. 218, 220, 92 A.2d 731 (1952). “Under our common law an infant may sue either by next friend or by guardian, if one has been appointed. The powers and responsibilities of each in prosecuting a suit for the infant are the same.”
- [Rutkowski v. Connecticut Light & Power Co.](#), 100 Conn. 49, 55, 123 A. 25 (1923). “This claim is based on the assertion that this plaintiff, only five years old, will not be entitled to the sum awarded to her until she shall come of age. There is no legal ground for this assertion. In fact this plaintiff was entitled from the date of the judgment to the immediate possession and enjoyment of the full amount of damages allowed to her, although her rights must be exercised by a guardian of her estate.”
- [Williams v. Cleaveland](#), 76 Conn. 426, 430, [56 A. 850](#) (1904). “As natural guardian he was entitled to neither the possession nor control of his son’s property, either at common law . . . or by statute . . . .”

**ENCYCLOPEDIAS:**

- 39 [Am Jur 2d](#) *Guardian and Ward* (2008).
  - §§ 99-128. Custody and control of ward’s property, in general
  - §§ 129-135. Investment and deposit of funds
  - §§ 136-151. Sales and purchases of property
  - §§ 205-220. Trust relation between guardian and ward
- 39 [C.J.S.](#) *Guardian and Ward* (2014).
  - §§ 75-139. Custody and care of ward’s estate

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 1 Thomas R. Young, [Legal Rights Of Children](#) (3d ed. 2017-18).
  - Chapter 8. Children and Property Laws
    - § 8:9. Guardianship as a form of protection of the property of a child
- Thomas D. Begley & Angela E. Canellos, [Special Needs Trusts Handbook](#) (2016).
  - Chapter 8. Guardianship of a Minor or a Person with Disabilities
    - § 8.05. Protection of Property
- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).
  - Chapter 3. Guardianships
    - § 3:10. Types of guardianships of minors
    - § 3:18. Necessity for guardianship of minor’s estate

§ 3:19. Probate court jurisdiction over guardianship of  
minor's estate

§ 3:20. Appointment of guardian of the minor's estate

§ 3:24. Probate court rule of procedure for guardians

- 20 Kate McEvoy, Connecticut Practice Series, [Connecticut Elder Law](#) (2017-2018 ed.).  
Chapter 12. Relative Caregivers  
§ 12:19. Guardianship of the estate of a minor
- Lewis K. Parker, ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).
  - Lynn B. Cochrane, *Child Protection*. "Basic Principles: Guardianship of the Person of the Minor in Probate Court," pp. 544.
- Kyle A. Orsini, Note, *Guardian Of A Minor's Estate: How Far Can The Guardian Go In Expending The Minor's Money*, 8 [Connecticut Probate Law Journal](#) 275 (1994).

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

# Section 7: Testamentary Guardian or Guardian Designated by Parent in Event of Parent's Death

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to guardianships of minors in Connecticut

## **DEFINITION:**

- **Testamentary guardian:** "The parent of an unmarried minor, except a parent who has been removed as guardian of the person of the minor, may by will or other writing signed by the parent and attested by at least two witnesses appoint a person or persons as guardian or coguardians of the person of such minor, as guardian or coguardians of the estate, or both, to serve if the parents who are guardians of the minor are dead. If two or more instruments, whether by will or other writing, contain an appointment, the latest effective appointment made by the last surviving parent has priority. Such appointment shall not supersede the previous appointment of a guardian made by the court of probate having jurisdiction." Conn. Gen. Stat. § [45a-596](#)(a) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017)  
Chapter 802h. Protected persons and their property  
Part I. Protected persons in general  
§ [45a-596](#). Parental appointment of guardian or coguardian of minor upon death of parents

## **LEGISLATIVE:**

- [Public Act No. 00-76](#), § 1 (Reg. Sess.). An act concerning probate matters. Substitute House Bill 5782.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Joshua S.](#), 260 Conn. 182, 205, 794 A.2d 996 (2002). "All of the foregoing cases speak to a liberty right that has its basis in an ongoing relationship between parent and child. In this case, however, this special relationship no longer exists; what remains is a predeath statement by the parents of strong preference for the future regarding who should be guardians for their children. The Ps do not cite and, indeed, we have not discovered, any authority to support the proposition that this fundamental liberty interest of parents survives the death of the parents, much less that it may be passed to testamentary guardians who have had no previous relationship with the child, other than as neighbors. In the case before us, because this special parent-child relationship no longer exists, this constitutionally protected interest, likewise, no longer exists. Therefore, we are not required to give the same deference to a predeath statement of preference as we would were this

a decision concerning a child made by a living parent."

- [Bristol v. Brundage](#), 24 Conn. App. 402, 406, 589 A2d 1 (1991). "We hold that 45a-596 (a) should be interpreted as mandating the appointment of the sole surviving parent's testamentary choice of a guardian because it should be presumed that the best interests of the child are served by that appointment. This presumption, like that of 46b-56b, may be rebutted only by a showing that it would be detrimental to the child to permit the named testamentary guardian to serve as such."

#### **ENCYCLOPEDIAS:**

- 39 [Am Jur 2d Guardian and Ward](#) (2008).  
§§ 11-18. Testamentary guardianship
- 39 [C.J.S. Guardian and Ward](#) (2014).  
§ 21. Appointment by deed or will  
§ 22. Appointment by deed or will—who may appoint
- Annotation, *Function, Power, And Discretion Of Court Where There Is Testamentary Appointment Of Guardian Of Minor*, 67 ALR2d 803 (1959).

#### **TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).  
Chapter 3. Guardianships  
§ 3:8. Parent and child—designation of guardian by parent in event of parent's death  
§ 3:10. Types of guardianships of minors  
§ 3:11. Testamentary guardians
- 20 Kate McEvoy, Connecticut Practice Series, [Connecticut Elder Law](#) (2017-2018 ed.).  
Chapter 12. Relative Caregivers  
§ 12:11. Guardianship of person – Advance appointment
- 2 Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2011).  
Chapter 11 Guardianship  
§ 11.10. Testamentary guardianship
- Lewis K. Parker, ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).
  - Lynn B. Cochrane, *Child Protection*. "Basic Principles: Guardianship of the Person of the Minor in Probate Court," p. 545.

#### **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

- Alyssa A. DiRusso and S. Kristen Peters, *Parental Testamentary Appointments of Guardians for Children*, 25 [Quinnipiac Probate Law Journal](#) 369 (2012).

Table 4: Parental Appointment of Guardian in Event of Parent’s Death

<b>Conn. Gen. Stat. <a href="#">45a-596</a> (2017)</b>	
(a)	parent of an unmarried minor, except a parent who has been removed as guardian of the person of the minor, may by will or other writing signed by the parent and attested by at least two witnesses appoint a person or persons as guardian or coguardians of the person of such minor, as guardian or coguardians of the estate, or both, to serve if the parents who are guardians of the minor are dead. If two or more instruments, whether by will or other writing, contain an appointment, the latest effective appointment made by the last surviving parent has priority. Such appointment shall not supersede the previous appointment of a guardian made by the court of probate having jurisdiction.
(b)	The ward of such a guardian may, when he or she is over the age of twelve, apply to the court of probate in which such ward resides, for the substitution of a guardian or coguardians of the person to supersede the appointed guardian. The court of probate may, upon such application and hearing, substitute the guardian or coguardians chosen by the ward to be the guardian or coguardians of the person of the ward after consideration of the standards set forth in section 45a-617.
(c)	<b>A parental appointment becomes effective when the guardian’s written</b> acceptance is filed in the court in which the nominating instrument is probated, or, in the case of a nontestamentary nominating instrument, in the court for the probate district where the minor resides. Any guardian or coguardians appointed pursuant to this section shall receive the appointment subject to the control of the court of probate and subject to the provisions and restrictions to which the last surviving parent, as guardian, was subject at the time of such <b>parent’s decease. If the court deems it necessary for the protection of the</b> minor, a guardian or coguardians of the person shall furnish a probate bond. A guardian or coguardians of the estate shall furnish a probate bond. Upon such acceptance of guardianship or furnishing such bond, the guardian or coguardians shall have the same power over the person and estate of such minor as guardians appointed by the court of probate.

# Section 8: Guardianship of Intellectually Disabled Adults

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to guardianship of intellectually disabled adults

## **DEFINITIONS:**

- **Plenary guardian of a person with intellectual disability:** “means a person, legally authorized state official, corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital, nursing home facility, as defined in section 19a-521, or residential care home, as defined in section 19a-521, appointed by a Probate Court pursuant to the provisions of sections 45a-669 to 45a-683, inclusive, to supervise all aspects of the care of an adult person, as enumerated in subsection (d) of section 45a-677, for the benefit of such adult, who by reason of the severity of intellectual disability, has been determined to be totally unable to meet essential requirements for his or her physical health or safety and totally unable to make informed decisions about matters related to his or her care.”  
Conn. Gen. Stat. [§ 45a-669](#) (a) (2017). (Check the [2018 Supplement](#) for changes.) (Effective January 1, 2018.)
- **Limited guardian of a person with intellectual disability:** “means a person, legally authorized state official, corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital or nursing home, as defined in section 19a-521, appointed by a Probate Court pursuant to the provisions of sections 45a-669 to 45a-683, inclusive, to supervise certain specified aspects of the care of an adult person, as enumerated in subsection (d) of section 45a-677, for the benefit of such adult, who by reason of the severity of intellectual disability, has been determined to be able to do some, but not all, of the tasks necessary to meet essential requirements for his or her physical health or safety or to make some, but not all, informed decisions about matters related to his or her care.”  
Gen.Stat. [§ 45a-669](#)(c)(2017). (Check the [2018 Supplement](#) for changes.) (Effective January 1, 2018.)

## **USER GUIDES:**

- Probate Court User Guide:  
[Guardianships of Minors](#)

URL: <http://www.ctprobate.gov/Pages/Probate-Court-User-Guides.aspx>

## **LEGISLATIVE:**

- [Public Act No. 11-129](#), (Reg. Sess.). An Act Concerning Applications for Guardianship of an Adult with Intellectual

Disability and Certain Statutory Changes Related to Intellectual Disability.

- [Public Act No. 16-49](#), (Reg. Sess.). An Act Concerning Guardianship of Persons with Intellectual Disability.
- Conn. Gen. Stat. (2017, 2018 Supplement)
  - [Chapter 802h](#). Protected persons and their property
    - Part V. Guardians of persons with intellectual disability
      - § 45a-669. Definitions (Check the [2018 Supplement](#) for changes.) (Effective July 1, 2017.)
      - § 45a-670. Application for guardianship
      - § 45a-671. Hearing on application for guardianship. Notice.
      - § 45a-672. Notice of hearing
      - § 45a-673. Appointment of counsel. Payment of cost for indigent persons.
      - § 45a-674. Hearing for appointment of guardian. Evidence. Report by assessment team. Cross-examination of witnesses. Payment of fees for assessment team.
      - § 45a-675. Right of respondent to be at hearing
      - § 45a-676. Appointment of plenary guardian or limited guardian
      - § 45a-677. Powers and duties of plenary or limited guardian. Report. Transfer of file. (Effective January 1, 2018).
      - § 45a-678. Removal of plenary or limited guardian
      - § 45a-679. Conflicts between plenary guardian, limited guardian, conservator of the estate or person and temporary conservator to be resolved by Probate Court
      - § 45a-680. Appointment of standby plenary guardian or standby limited guardian. Probate bond. Duties. Confirmation by court.
      - § 45a-681. Review by court of guardianship or limited guardianship of person with intellectual disability
      - § 45a-682. Petition for temporary limited guardian. Notice and hearing. Appointment. (Check the [2018 Supplement](#) for changes.) (Effective July 1, 2017.)
      - § 45a-683. Immunity from civil liability of plenary guardian, temporary limited guardian or limited guardian of a person with intellectual disability
      - § 45a-684. Payment of expenses and fees of proceeding for appointment of guardian of person with intellectual disability

**STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

**COURT RULES:**

- [Connecticut Probate Court Rules of Procedure](#) (2017)

## Rule 43. Guardians of Adults with Intellectual Disability

### **FORMS:**

Official Judicial Branch forms are frequently updated. Please visit the [Official Probate Court Webforms page](#) for the current forms.

- [Probate Court Forms](#)
  - PC-700. Petition/Guardianship of person with intellectual disability
  - PC-7006. Petition/Appointment of temporary limited guardian for person with intellectual disability
  - PC-701. Application/Placement of person with intellectual disability
  - PC-702. Application/Sterilization of adult
  - PC-705. Petition/Determination of competency to vote  
RE: Person with intellectual disability
  - PC-770. Assessment Team Evaluation/Guardianship of person with intellectual disability
  - PC-770A. DDS Professional or Assessment Team Evaluation/Guardianship of person with intellectual disability/Review
  - PC-771. Guardian's report/Guardianship of person with intellectual disability
  - PC-772. Psychologist's report/Placement of person with intellectual disability
  - PC-773. Panel evaluation/Sterilization of adult

### **CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- In re: B, Conserved Person, 29 Quinnipiac Prob. L.J. 383, 408 (2016). **"In the consideration of conflicts** between co-guardians or co-conservators, the standard of review is the same, although there are two statutes which arguably apply. Conn. Gen. Stat. § 45a-679 (2016) authorizes the Court to resolve conflicts between a plenary guardian or limited guardian of the person with an intellectual disability and a conservator of the estate or person for the same individual. Conn. Gen. Stat. § 45a-657 (2016) similarly empowers the Court to resolve conflicts between conservators. In each case the Court is directed to make its determination on the basis of the best interests of the ward or conserved person.

In this case, the Westport-Weston Probate Court is the proper court for jurisdiction of this dispute because the guardians and conservators, each being the same set of **parents, were appointed in this Court."**

- In re: The Guardianship of Z., 29 Quinnipiac Prob. L.J. 18 (2015). **"Our statutes provide no explicit guidelines to aid the** Court in determining what is in the best interest of an intellectually disabled adult when plenary guardianship is contested. Neither party in this matter nor this Court has been able to find a case precisely on point. This category of adults is unique; while they are entitled to the vast majority of civil rights conferred on adults, the reality of their condition requires them to be treated like children in terms of their daily care. Although no one can predict the future with certainty, it is likely that the vast majority of these adults will not change so much as to no longer need a plenary guardian.



However, as they age, they may well mature in certain aspects of their life so as to be able to express a preference with respect to what they want to do and with whom they would like to spend **their time.**"

- [In re Cindy Marie Garcia](#), 26 Quinnipiac Probate Law Journal **219 (2013)**. "The first issue presented is the standard to be applied in a case appointing a guardian for an adult. The **statute and the case law delineate a simple 'best interests'** standard. See Conn. Gen. Stat. § 45a-676(f) (2011) [now 2013]. The Connecticut Supreme Court has held that a **respondent's preference is one factor the court must consider** when determining the best interests of the respondent, and **the court 'may also** give weight to other factors that bear on **the respondent's 'best interests'" *Oller v. Oller-Chiang*, 230 Conn. 828, 849, 646 A.2d 822, 833 (1994) (emphasis in original). The court in *Oller* also acknowledged that, in some cases, it may be difficult to determine a **respondent's** preference. As the court explained, "[t]his may be the case, for example, if a respondent cannot understand that he or she may express a preference or cannot effectively communicate that preference." *Oller v. Oller-Chiang*, 230 Conn. 828, 851, 646 A.2d 822, 834 (1994).**
- [Carney v. Federal Express Corp.](#), Judicial District of New Haven at New Haven, Docket No. CV02 0467894 (Mar. 3, 2003), 34 Conn. L. Rptr. 270, 2003 WL 1228080, 2003 Conn. Super. LEXIS 619. "**Because of the special affinity existing** between parent and child, a parent of a mentally retarded adult should enjoy the same legally protected rights and status as the parent of a minor. Thus, a father has sufficient standing as a parent to appeal from a decision of a Probate Court denying him the appointment of the guardianship of his adult daughter who is **determined to be incompetent.**"

**"While the court acknowledges that there is some appeal in** recognizing a claim for damages by a parent of a mentally handicapped adult, the court concludes that the wiser judicial policy is not to recognize this type of claim. The cause of action asserted is a form of third-party liability of the defendants. That is, the parent seeks to recover from the defendants, not for tortious harms that the defendants inflicted directly on her, but for financial and emotional harms she alleges to have suffered as a result of the defendants' tortious conduct committed against another with whom she has close relationship, **namely, her son.**"

- [Oller v. Oller-Chiang](#), 230 Conn. 828, 831-832, 646 A.2d 822 (1994). "**More specifically, we address the following principal** issues: (1) whether the act requires that the respondent be present at any court hearing concerning the appointment of a guardian; (2) whether the respondent may waive his or her presence and, if so, the necessary requirements for such a

waiver; and (3) whether, in determining what is in the best interests of the respondent, the judge must ascertain the respondent's preference as to who should be his or her guardian."

- [Buchholz's Appeal from Probate](#), 9 Conn. App. 413, 420, 519 A.2d 615 (1987). "Because of the special affinity existing between parent and child, a parent of a mentally retarded adult should enjoy the same legally protected rights and status as the parent of a minor."

**WEST KEY NUMBERS:**

- *Mental Health*
  - # 101-210. Guardianship in general
  - # 137-142. Hearing and determination
  - # 148-157. Review (of guardianship)
  - # 174-177. Removal of guardian

**ENCYCLOPEDIAS:**

- Peter G. Guthrie, Annotation, *Priority And Preference In Appointment Of Conservator Or Guardian For An Incompetent*, 65 ALR3d 991 (1975).
- Annotation, *Mental Condition Which Will Justify The Appointment Of Guardian, Committee, Or Conservator Of The Estate For An Incompetent Or Spendthrift*, 9 ALR3d 774 (1966).

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- National Guardianship Association, [Fundamentals of Guardianship: What Every Guardian Should Know](#) (2017).
  - Chapter 3. Rights of Individuals Under Guardianship
  - Chapter 4. Roles of the Guardian
- Thomas D. Begley & Angela E. Canellos, [Special Needs Trusts Handbook](#) (2016).
  - Chapter 8. Guardianship of a Minor or a Person with Disabilities
    - § 8.04. Guardianships for incapacitated persons
    - § 8.06. Uniform Adult Guardianship and Protective Proceedings Jurisdictional Act
- Margaret S. Price, [The Special Needs Child and Divorce](#), (2009).
  - Chapter 10. Guardianships, Special Needs Trusts, and Other Estate Planning Issues
- Sally Balch Hurme, [Steps to Enhance Guardianship Monitoring](#), (1991).
- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).
  - Chapter 3. Guardianships
    - § 3:2. Plenary and limited guardians for intellectually disabled persons
    - § 3:3. Connecticut Uniform Adult Protective

Proceedings Jurisdiction Act  
§ 3.4.50. Challenging legality of involuntary  
guardianship

- 20 Kate McEvoy, Connecticut Practice Series, [Connecticut Elder Law](#) (2017-2018 ed.).  
Chapter 13. Interventions for Individuals with Diminished Capacity  
§ 13:32. Guardianship of persons with intellectual disabilities  
§ 13:33. Guardians – Compensation  
§ 13:34. Guardianship for individuals with intellectual disabilities – Resources

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

- Michael Dolan, Note, *Do Connecticut's Conservator Statutes Possess the Necessary Due Process Guarantees?* 9 [Connecticut Probate Law Journal](#) 297 (1995).

# Section 9: Jurisdiction of the Courts Over Guardianship

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to the Connecticut court's jurisdiction over **guardianships of minor's person in Connecticut**

## **DEFINITIONS:**

- **Transfer of proceeding to Superior Court or Regional Children's Probate Court:** "Before a hearing on the merits in any case under sections 45a-603 to 45a-622, inclusive, that is contested, the Probate Court shall, on the motion of any party other than a party who applied for the removal of a parent as a guardian, or may, on the court's own motion or motion of the party who applied for the removal of a parent as a guardian, transfer the case to the Superior Court in accordance with rules adopted by the judges of the Supreme Court. In addition to the provisions of this section, the Probate Court may, on the court's own motion or motion of any interested party, transfer any proceeding under sections 45a-603 to 45a-622, inclusive, to a Regional Children's Probate Court established pursuant to section 45a-8a. If the case is transferred and venue altered, the clerk of the Probate Court shall transmit to the clerk of the Superior Court or the Regional Children's Probate Court to which the case was transferred, the original files and papers in the case." Conn. Gen. Stat. § [45a-623](#) (2017). (Check the [2018 Supplement](#) for changes.) (Effective October 1, 2017.)
- **Age of minor:** "The Supreme Court issued its opinion in In re Henry P. B.-P., supra, 327 Conn. at 316, 173 A.3d 928, ... holding that the Probate Court does not lose its authority to make special immigrant juvenile status findings pursuant to § 45a-608n(b) when the child who is the subject of the petition reaches the age of eighteen during the pendency of the petition. We agree with the petitioner that In re Henry P. B.-P. controls the resolution of this appeal." In re Sandy J. M.-M., 179 Conn. App. 772, ---A.3d---- (2018).
- **Probate Court:** "In Connecticut since the earliest colonial days, 'a benign yet arbitrary power, which every sovereignty exercises, to take care of the persons and estates of infants,' has been conferred by statute upon the Courts of Probate . . . . From any decree of the Court of Probate, any person aggrieved may appeal to the Superior Court . . . . The appellate court will take the place of the Court of Probate and try the case *de nova*, but it has no greater power." Dunham v. Dunham, 97 Conn. 440, 442-443, [117 A. 504](#) (1922).
- **Residence of minor:** "the residence of a minor means his or her actual residence and not that imputed to the minor by the residence of his or her parents or guardian." Conn. Gen. Stat. § [45a-603](#) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly

- Conn. Gen. Stat. (2017, 2018 Supplement)  
[Chapter 802h](#). Protected persons and their property  
Part II. Guardians of the person of a minor  
§ 45a-599. Transfer of guardianship file to other probate district when minor becomes resident of town in other probate district ). (Check the [2018 Supplement](#) for changes.) (Effective January 1, 2018.)  
§ 45a-608n. Designation of minor child as having special immigrant juvenile status pursuant to pending petition for removal or appointment of guardian  
§ 45a-606. Father and mother joint guardians  
§ 45a-616. Appointment of guardian or coguardians for minor; rights same as of sole surviving parent  
§ 45a-623. Transfer of proceeding to Superior Court or **regional children's probate court** (Check the [2018 Supplement](#) for changes.) (Effective October 1, 2017.)

## **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- [Connecticut Probate Court Rules of Procedure](#) (2017)  
**Rule 42. Children's Matters: Overlapping Jurisdiction in Superior and Probate Courts**
- [Connecticut Practice Book](#) (2018)  
[Chapter 35a](#)  
§ 35a-19. Transfer from Probate Court of Petitions for Removal of Parent as Guardian or Termination of Parental Rights

## **FORMS**

- [Probate Court Forms](#)  
PC-507. Motion to transfer file/guardianship of person/estate of a minor  
PC-600. Petition/Termination of parental rights

## **WEST KEY NUMBERS:**

- *Courts* # 198-202. Courts of Probate Jurisdiction  
198. Nature and scope of jurisdiction in general  
199. Constitutional and statutory provisions  
200. Courts invested with probate jurisdiction  
200.5. Equitable powers in general  
201. Ancillary and incidental jurisdiction

## **COURT CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Stowell v. Prater](#), Superior Court, Judicial District of Waterbury at Waterbury, Docket No. CV02-0174420S (May 19, 2004). **"However, as this court interprets the statute [§ 45a-623], once a party has moved to transfer the matter to the Superior Court, the Probate Court lacks discretion in not granting the transfer. The party having so moved, has elected its remedy."**
- [Potter v. Alcorn](#), 140 Conn. 96, 100, 99 A.2d 97 (1953). **"It is, of course, elementary that courts of probate are strictly statutory tribunals . . . . As such, they have only such powers as are either expressly or impliedly conferred upon them by statute."**

- Lewis v. Klingberg, 100 Conn. 201, 204-205, 123 A. 4 (1923).  
"In acting under statutes conferring jurisdiction, the probate courts have no powers except those which are expressly granted and such other powers as are necessary to the exercise of the jurisdiction expressly conferred."
- Dunham v. Dunham, 97 Conn. 440, 443, 117 A. 504 (1922).  
"The jurisdiction and power of the Court of Probate has been long established, has been expressed from time to time in terms adapted to conditions which experience has revealed, is general and ample, and evidently intended to cover the requirements of all circumstances."
- White v. Strong, 75 Conn. 308, 312, 53 A. 654 (1902). "The question raised by the complaint, whether the defendant, who was chosen guardian by a minor of lawful age to select his own guardian, was a proper person to be appointed, is one which is by statute exclusively within the original jurisdiction of the probate court and the appellate jurisdiction of the Superior Court. The decree of the Court of Probate, upon the question clearly within its jurisdiction, is conclusive upon the plaintiff, who was a party to the proceeding in that court."
- Ralph H. Folsom & Gayle B. Wilhelm, Incapacity, Powers Of Attorney and Adoption in Connecticut 3d (2018).  
Chapter 3. Guardianships  
§ 3:9. Jurisdiction over guardianship of minor's person
- 2 Ann M. Haralambie, Handling Child Custody, Abuse and Adoption Cases (2017).  
Chapter 11 Guardianship  
§ 11.4. Jurisdiction

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

Table 5: Jurisdiction of Connecticut Courts

<p><b>Superior Court, Juvenile Matters (Civil)</b>            Conn. Gen. Stat. § <a href="#">46b-121</a>(a)(1) (2017)</p>
<ul style="list-style-type: none"> <li>Juvenile matters in the civil session include all proceedings concerning uncared-for, neglected or abused children and youths within this state, termination of parental rights of children committed to a state agency, adoption proceedings pursuant to section 46b-129b, matters concerning families with service needs, contested matters involving termination of parental rights or removal of guardian transferred from the Probate Court and the emancipation of minors, but does not include matters of guardianship and adoption or matters affecting property rights of any child or youth over which the Probate Court has jurisdiction, except that appeals from probate concerning adoption, termination of parental rights and removal of a parent as guardian shall be included.</li> </ul>
<p><b>Superior Court, Juvenile Matters (Criminal)</b>            Conn. Gen. Stat. § <a href="#">46b-121</a>(a)(2) (2017)</p>
<ul style="list-style-type: none"> <li>Juvenile matters in the criminal session include all proceedings concerning delinquent children within this state and persons eighteen years of age and older who are under the supervision of a juvenile probation officer while on probation or a suspended commitment to the Department of Children and Families, for purposes of enforcing any court orders entered as part of such probation or suspended commitment.</li> </ul>
<p><b>Probate Courts</b>            Conn. Gen. Stat. <a href="#">Chapter 801a - Probate Court: Jurisdiction, Powers</a></p>
<p><a href="#">Title 45a – Probate Courts and Procedure</a>            See also: <a href="#">2018 Supplement to the Statutes Title 45a.</a></p>

# Section 10: Rights and Duties of a Guardian

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to the rights and duties of a guardian of a minor in Connecticut

## **DEFINITIONS:**

- **Guardianship:** "means guardianship of the person of a minor, and includes: (A) The obligation of care and control; (B) the authority to make major decisions affecting the **minor's education and welfare, including, but not limited to,** consent determinations regarding marriage, enlistment in the armed forces and major medical, psychiatric or surgical treatment; and (C) upon the death of the minor, the authority to make decisions concerning funeral arrangements and the disposition of the body of the minor;" **Conn. Gen. Stat. § [45a-604](#)(5)** (2017).
- **Guardian:** "means a person who has the authority and obligations of "guardianship", as defined in subdivision (5) of this section." Conn. Gen. Stat. § [45a-604](#)(6) (2017).
- "A guardian of a minor child has no legal obligation of support for that child. This conclusion is compelled by our statutes regarding guardianship, by the common law background of those statutes, and by the policy undergirding those statutes and that common law." [Favrow v. Vargas](#), 231 Conn. 1, 18, 647 A.2d 731 (1994).

## **USER GUIDES:**

- Probate Court User Guide:  
[Guardianships of Minors](#)

URL: <http://www.ctprobate.gov/Pages/Probate-Court-User-Guides.aspx>

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)  
[Chapter 802h](#). Protected persons and their property  
Part II. Guardians of the person of a minor  
§ 45a-604. Definitions  
§ 45a-606. Father and mother joint guardians  
§ 45a-616. Appointment of guardian or coguardians for minor; rights same as of sole surviving parent  
§ 45a-616a. Appointment of permanent guardian for minor. Reinstatement of parent as guardian or appointment of successor guardian or permanent guardian ). (Check the [2018 Supplement](#) for changes.) (Effective from passage).  
§ 45a-617. Appointment of guardian, coguardians or permanent guardian of the person of a minor  
§ 45a-622. Appointment of temporary guardian.  
Application. Rights and obligations  
§ 45a-631. **Limitation on receipt or use of minor's property by parent, guardian or spouse.** Release  
§ 45a-677. Powers and duties of plenary or limited guardian. Report. Transfer of title. (Check the [2018](#)



[Supplement](#) for changes.) (Effective January 1, 2018.)

**LEGISLATIVE:**

- Nicole Dube, Connecticut General Assembly Office of Legislative Research Report No. [2012-R-0391](#) *Grandparents Raising Grandchildren* (2012).  
"You asked for information on state financial assistance programs for grandparents raising grandchildren."
- Katherine Dwyer, Connecticut General Assembly Office of Legislative Research Report No. [2017-R-0208](#) *Subsidized Guardianship Program* (2017).  
"Describe the (1) circumstances in which child caregivers may receive subsidies through the Department of Children and families' (DCF) subsidized guardianship program and (2) amount of such subsidies."

**WEST KEY NUMBERS:**

- *Guardian & Ward*  
Custody and care of ward's person and estate  
# 28. Representation of ward by guardian  
# 29. Custody and control of person  
# 30. Support and education

**COURT CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Miller v. Miller](#), 158 Conn. 217, 220, 258 A.2d 89 (1969), *cert. denied*, 396 U.S. 940, 90 S.Ct. 374, 24 L.Ed. 241. "A guardian of the person is entitled to the custody of his ward...."
- [Ehram v. Lee](#), 101 Conn. 349, 354, 125 A. 621 (1924). "The guardian's expenditures should in all cases be limited to those reasonably necessary for the ward."
- [Holbrook v. Brooks](#), 33 Conn. 347, 351, 1866 WL 899 (1866). "A guardian is bound to use reasonable and prudent care in the management of his ward's property; and the law justly requires the utmost fairness in all his dealings with the ward."

**ENCYCLOPEDIAS:**

- 39 [Am Jur 2d](#) *Guardian and Ward* (2008).  
§§ 92-94. Care and control  
§§ 95-98. Financing care of ward

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 8 Arnold H. Rutkin et al., Connecticut Practice Series, [Family Law and Practice With Forms](#) (2010).  
Chapter 38. Child Support  
§ 38.11. Support claim not based on birth or adoption  
§ 38.38. Payment to spouse, custodian or guardian
- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).  
Chapter 3. Guardianships  
§ 3:7. Parent and child – Duty of support  
§ 3:14. **Powers and duties of guardian of minor’s person**  
§ 3:18. Necessity for **guardianship of minor’s estate**
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2017).  
Chapter 11 Guardianship  
§ 11.3. Rights and duties of the guardian

# Section 11: Appointment of Guardians

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to the appointment of guardians of minors

## **DEFINITION:**

- **Appointment of guardian of the person of a minor:** "When appointing a guardian, coguardians or permanent guardian of the person of a minor, the court shall take into consideration the following factors: (1) The ability of the prospective guardian, coguardians or permanent guardian to meet, on a continuing day to day basis, the physical, emotional, moral and educational needs of the minor; (2) the minor's wishes, if he or she is over the age of twelve or is of sufficient maturity and capable of forming an intelligent preference; (3) the existence or nonexistence of an established relationship between the minor and the prospective guardian, coguardians or permanent guardian; and (4) the best interests of the child. There shall be a rebuttable presumption that appointment of a grandparent or other relative related by blood or marriage as a guardian, coguardian or permanent guardian is in the best interests of the minor child." § [45a-617](#).
- **Appointment of guardian of the estate of a minor:** "If the court finds that there is no guardian of the estate of the minor, it may appoint one or both of the parents or any guardian of the person of the minor to be guardian of his or her estate. If neither parent nor the guardian of the person of the minor will accept the appointment, or if the parents or guardian of the person of the minor are not proper persons to act as guardian of his or her estate, the court may appoint any proper person or persons chosen by the minor if the minor is twelve years of age or over. If the minor neglects to make choice or fails to choose a proper person or persons or is not of sufficient age, the court of probate shall appoint some proper person or persons, who, as guardian of the estate of the minor, shall have charge of all the minor's property, whether acquired before or after the guardian's appointment, but shall have no control over such minor's person. If any minor who has a guardian marries and owns or thereafter acquires property, the guardianship of such property shall continue during such person's minority. Any guardian so appointed shall give a probate bond." § [45a-629\(b\)](#).

## **USER GUIDES:**

- Probate Court User Guide:  
[Guardianships of Minors](#)  
URL: <http://www.ctprobate.gov/Pages/Probate-Court-User-Guides.aspx>

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
  - [Chapter 802h](#). Protected persons and their property
  - Part II. Guardians of the person of a minor
    - § 45a-616. Appointment of guardian or coguardians for minor; rights same as of sole surviving parent.
    - § 45a-616a. Appointment of permanent guardian for minor. Reinstatement of parent as guardian or appointment of successor guardian or permanent guardian. (Check the [2018 Supplement](#) for changes.) (Effective from passage.)
    - § 45a-617. Appointment of guardian, coguardians or permanent guardian of the person of a minor.
    - § 45a-621. Appointment of guardian ad litem.
    - § 45a-622. Appointment of temporary guardian. Application. Rights and obligations
    - § 45a-629. **Appointment of guardian for minor's estate.**
    - § 45a-630. Application for appointment of guardian of the estate of a minor.
    - § 45a-632. Appointment of guardian of estate of non-resident minor.
    - § 45a-676. Appointment of plenary guardian or limited guardian. (Intellectually disabled adults)

## **COURT RULES:**

- [Connecticut Probate Court Rules of Procedure](#) (2017)
  - **Rule 40. Children's Matters: General Provisions**
    - Section 40.2 Appointment of attorney and guardian ad litem for minor
    - Section 40.3 Immediate temporary custody of a minor
    - Section 40.4 Order for immediate temporary custody without notice and hearing
    - Section 40.5 Appointment of temporary custodian on consent
    - Section 40.6 Removal and appointment of guardian on consent
    - Section 40.7 Reinstatement as guardian
    - Section 40.8 Temporary guardianship
- [Connecticut Practice Book](#) (2018)
  - [Chapter 35a](#)
    - § 35a-12A. Motions for Transfer of Guardianship
    - § 35a-19. Transfer from Probate Court of Petitions for Removal of Parent as Guardian or Termination of Parental Rights
    - § 35a-20. Motions for Reinstatement of Parent or Former Legal Guardian as Guardian or Modification of Guardianship Post-Disposition

## **COURT CASES:**

- [In re Joshua S.](#), 260 Conn. 182, 205, 794 A.2d 996 (2002). "All of the foregoing cases speak to a liberty right that has its basis in an ongoing relationship between parent and child. In this case, however, this special relationship no longer exists;

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

what remains is a predeath statement by the parents of strong preference for the future regarding who should be guardians for their children. The Ps do not cite and, indeed, we have not discovered, any authority to support the proposition that this fundamental liberty interest of parents survives the death of the parents, much less that it may be passed to testamentary guardians who have had no previous relationship with the child, other than as neighbors. In the case before us, because this special parent-child relationship no longer exists, this constitutionally protected interest, likewise, no longer exists. Therefore, we are not required to give the same deference to a predeath statement of preference as we would were this a decision concerning a child made by a living parent."

- [In Re Avirex R.](#), 151 Conn. App. 820, 835, 96 A. 3d 662 (2014). "Unlike subsection (m) of § 46b-129, neither subsection (j) of § 46b-129 nor Practice Book § 35a-12A provides a presumption of fitness for a parent or former guardian (who may be opposing the motion). See footnote 8 of this opinion. This is because a motion to transfer guardianship is simply dispositional in nature, and does not require the court to review the underlying cause for commitment, which has already been judicially determined during an earlier phase of the proceeding. Compare Practice Book § 35a-12A (a) ("**[m]otions to transfer guardianship are dispositional in nature, based on the prior adjudication**") with § 46b-129 (m) (requiring court to review cause for commitment and conclude that it no longer exists before revoking commitment of child)."
- [Garrett's Appeal from Probate](#), 44 Conn. Supp. 169, 184, 677 A.2d 1000 (1994), affirmed [237 Conn. 233](#), 676 A.2d 394. "**The intent of that body is that a parent may be removed for failure to meet any one of the specified needs of the child, and that in appointing a subsequent guardian, the court must take into consideration the ability of the prospective guardian to meet *all of the needs of a child.***"

**ENCYCLOPEDIAS:**

- 39 [Am Jur 2d Guardian and Ward](#) (2008).
  - §§ 38-51. Selection of guardian
  - § 39. Best interests of ward or conservatee as paramount
  - § 40. Preferences in appointment of guardian of minor
  - § 44. Right of minor ward to select guardian
  - § 46. Fitness or competency, generally
  - § 47. Neglect; failure to support minor ward
  - § 48. Moral character
  - § 49. Religious beliefs
  - § 50. Residence of appointee
  - § 51. Corporation as guardian
  - §§ 70-73. Effect of appointment or denial thereof

**TEXTS &**

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of](#)

## **TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

[Attorney and Adoption in Connecticut 3d](#) (2018).

Chapter 3. Guardianships

§ 3:10. Types of guardianship of minors

§ 3:11. Testamentary guardians

§ 3:13. Removal of parents or other guardians of  
**minor's person, temporary custody orders,**  
visitation and reinstatement rights,  
appointment of guardian or coguardian

§ 3:20. **Appointment of guardian of the minor's estate**

- 2 Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2017).

Chapter 11 Guardianship

§ 11.7. Persons who may be appointed guardian

## **FORMS:**

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) and the [Official Probate Court Webforms page](#) for the current forms.

- [Juvenile Court Forms](#) (Superior Court)

JD-JM-203. Motion, Permanent Legal Guardianship

- [Probate Court Forms](#)

PC-500. Petition/Removal of Guardian

PC-501. Petition/Immediate Temporary Custody

PC-502. Petition/Temporary Custody

PC-503. Application/Appointment of Guardian of the Estate

PC-504. Application/Appointment of Temporary Guardian

PC-505. Application/Appointment of Permanent Guardian

PC-506. Petition/Reinstatement of Parent as Guardian of Minor

PC-508. Petition/Appointment of guardian of person where parents/legal guardians are deceased

PC-509. Petition/Appointment of coguardian of the person of a minor child

PC-510. Custodian's Affidavit/Immediate Temporary Custody

PC-550. Physician's Certificate/Immediate Temporary Custody

PC-570. Guardian's Report/Guardianship of the Person of a Minor

PC-571. Acceptance of appointment and agreement of guardian of estate of minor

PC-580. Receipt and Release of Guardian of Estate

## **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

- Margaret "Pegi" S. Price, Article, *Best Practices in Handling Family Law Cases Involving Children with Special Needs*, 28 Journal of the American Academy of Matrimonial Lawyers 163 (2015).

Table 6: Factors Used in Choosing a Guardian

<p><b>Conn. Gen. Stat. § <a href="#">45a-617</a> (2017).</b></p>
<p>When appointing a guardian, coguardians or permanent guardian of the person of a minor, the court shall take into consideration the following factors:</p>
<p>(1) The ability of the prospective guardian, coguardians or permanent guardian to meet, on a continuing day to day basis, the physical, emotional, moral and educational needs of the minor;</p>
<p>(2) <b>the minor’s wishes, if he or she is over the age of twelve or is of sufficient maturity and capable of forming an intelligent preference;</b></p>
<p>(3) the existence or nonexistence of an established relationship between the minor and the prospective guardian, coguardians or permanent guardian; and</p>
<p>(4) the best interests of the child. There shall be a rebuttable presumption that appointment of a grandparent or other relative related by blood or marriage as a guardian, coguardian or permanent guardian is in the best interests of the minor child.</p>
<p><b>Connecticut Appellate Court Case</b></p>
<p><a href="#">In re Valerie G.</a>, 132 Conn.App. 652, 661, 34 A. 3d 398 (2011). <b>“Both the mother and the grandmother have appealed from the judgment of the court denying the grandmother’s motion to transfer guardianship. In support of its judgment denying the motion, the court found that, despite her great love for Valerie, the grandmother lacked a fundamental understanding of, and ability to care properly for, Valerie’s substantial special needs. The grandmother challenges this finding, claiming that the court’s denial of her motion for transfer of guardianship constituted an abuse of discretion.”</b></p>

## Section 12: Child's or Respondent's Wishes

A Guide to Resources in the Law Library

### **SCOPE:**

- Bibliographic resources relating to the child's or intellectually disabled adult's preference in the appointment of guardian

### **DEFINITION:**

- **Guardian of the person of a minor:** "When appointing a guardian, coguardians or permanent guardian of the person of a minor, the court shall take into consideration the following factors. . . (2) the minor's wishes, if he or she is over the age of twelve or is of sufficient maturity and capable of forming an intelligent preference . . . ." Conn. Gen. Stat. § [45a-617](#) (2017).
- **Guardian for minor's estate:** "If neither parent nor the guardian of the person of the minor will accept the appointment, or if the parents or guardian of the person of the minor are not proper persons to act as guardian of his or her estate, the court may appoint any proper person or persons chosen by the minor if the minor is twelve years of age or over." Conn. Gen. Stat. § [45a-629](#)(b) (2017).
- **Guardian of person with intellectual disability:** "In selecting a plenary guardian or limited guardian of the person with intellectual disability, the court shall be guided by the best interests of the respondent, including, but not limited to, the preference of the respondent as to who should be appointed as plenary guardian or limited guardian." Conn. Gen. Stat. § [45a-676](#)(f) (2017).

### **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2015 and 2018 Supplement)  
[Chapter 802h](#). Protected persons and their property  
Part II. Guardians of the person of a minor  
§ 45a-616. Appointment of guardian or coguardians for minor; rights same as of sole surviving parent  
§ 45a-616a. Appointment of permanent guardian for minor. Reinstatement of parent as guardian or appointment of successor guardian or permanent guardian.  
§ 45a-617. Appointment of guardian, coguardians or permanent guardian of the person of a minor  
§ 45a-629(b). Appointment of guardian for minor's estate  
§ 45a-676(f). Appointment of plenary guardian or limited guardian (Intellectually disabled adult)

### **LEGISLATIVE:**

- [Public Act No. 99-84](#), (Reg. Sess.), effective October 1, 1999. An act concerning probate.

### **COURT CASES:**

- *In re C: A Minor*, 30 [Quinnipiac Prob. L.J.](#) 305, 312 (Probate Court, Stratford Probate District) (2017). "The Court further finds that Petitioner, the prospective guardian, has the ability



to meet on a day-to-day basis the physical, emotional , moral and educational needs of C. He has been doing so for fifteen years. C expressed his clear desire to have Petitioner appointed his guardian. The Court finds that there exists an established relationship between C and Petitioner; this relationship has existed for fifteen years. The Court finally **finds that it is in C’s best interests that Petitioner be appointed his Guardian, under Conn. Gen. Stat. § 45a-617 and Conn. Gen. Stat. § 45a-605(a).”**

- Dunham v. Dunham, 97 Conn. 440, 117 A. 504 (1922).
- Kelsey v. Green, 69 Conn. 291, 37 A. 679 (1897).

**ENCYCLOPEDIAS:**

- 39 Am Jur 2d *Guardian and Ward* (2008).  
§ 44. Right of minor ward to select guardian
- Annotation, *Right Of Infant To Select His Own Guardian*, 85 ALR2d 921 (1962).

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).  
Chapter 3. Guardianships  
§ 3:4:50. Challenging legality of involuntary guardianship  
§ 3:5. Parent and child—statutory guardians of the person, custody and control, termination of parental rights, statutory parent  
§ 3:6. Parent and child – Right to services and earnings, effects of emancipation  
§ 3:12. Jurisdiction over the guardianship of minor’s person  
§ 3:16. Affirmance or disaffirmance of minor’s contracts  
§ 3:17. Minor’s liability for necessities  
§ 3:18. Necessity for guardianship of minor’s estate
- 2 Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2017).  
Chapter 11 Guardianship  
§ 11.8. Child’s preference

**LAW REVIEWS**

Public access to law review databases is available on-site at each of our [law libraries](#).

- American Bar Association Child Custody and Adoption Pro Bono Project, *Hearing Children’s Voices and Interests in Adoption and Guardianship Proceedings*, 41 [Family Law Quarterly](#) 365 (2007).

# Section 13: Termination of Guardianship

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to the termination of guardianship including removal, resignation or death of guardian of a minor

## **DEFINITION:**

- Removal of parent as guardian. Conn. Gen. Stat. § [45a-610](#) (2017).
- Removal of guardian, coguardian or permanent guardian of the person of a minor. Conn. Gen. Stat. § [45a-613](#) (2017).
- **Age of majority:** "Except as otherwise provided by statute, on and after October 1, 1972, the terms "minor", "infant" and "infancy" shall be deemed to refer to a person under the age of eighteen years and any person eighteen years of age or over shall be an adult for all purposes whatsoever and have the same legal capacity, rights, powers, privileges, duties, liabilities and responsibilities as persons heretofore had at twenty-one years of age, and "age of majority" shall be deemed to be eighteen years." Conn. Gen. Stat. § [1-1d](#) (2017).
- **Minor:** "means a person under the age of eighteen;" Conn. Gen. Stat. § [45a-604](#)(4) (2017).
- **Final accounting:** "Probate Courts shall have jurisdiction of the interim and final accounts of. . . guardians . . . ." Conn. Gen. Stat. § [45a-175](#)(a).
- **Marriage:** "If any minor who has a guardian marries and owns or thereafter acquires property, the guardianship of such property shall continue during such person's minority." Conn. Gen. Stat. § [45a-629](#)(b) (2017).
- **Reinstatement of parent or former legal guardian:** "If the court has ordered legal guardianship of a child or youth to be vested in a suitable and worthy person pursuant to subsection (j) of this section, the child's or youth's parent or former legal guardian may file a motion to reinstate guardianship of the child or youth in such parent or former legal guardian. Upon the filing of such a motion, the court may order the Commissioner of Children and Families to investigate the home conditions and needs of the child or youth and the home conditions of the person seeking reinstatement of guardianship, and to make a recommendation to the court. A party to a motion for reinstatement of guardianship shall not be entitled to court-appointed counsel or representation by Division of Public Defender Services assigned counsel, except as provided in section 46b-136. Upon finding that the cause for the removal of guardianship no longer exists, and that reinstatement is in the best interests of the child or youth, the court may reinstate

the guardianship of the parent or the former legal guardian. No such motion may be filed more often than once every six months.” Conn. Gen. Stat. § [46b-129\(n\)](#).

### **FORMS:**

Official Judicial Branch forms are frequently updated. Please visit [the Official Probate Court Webforms page](#) for the current forms.

- [Probate Court Forms](#)
  - PC-500. Petition/Removal of Guardian
  - PC-506. Petition/Reinstatement of Parent as Guardian of Minor
  - PC-580. Receipt and Release of Guardian of Estate
  - PC-583. Resignation of Guardian or Temporary Custodian

### **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
  - [Chapter 802h](#). Protected persons and their property
  - Part II. Guardians of the person of a minor
    - § 45a-242. Replacement of fiduciary.
    - § 45a-605. Provisions construed in best interest of minor child.
    - § 45a-610. Removal of parent as guardian.
    - § 45a-611. Reinstatement of parent as guardian of the person of minor.
    - § 45a-613. Removal of guardian, coguardian or permanent guardian of the person of a minor.
    - § 45a-614. Removal of parent as guardian of minor.
    - § 45a-615. False or malicious application for removal of guardian. Penalty.

### **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal, and posted [online](#).

- [Connecticut Probate Court Rules of Procedure](#) (2017)
  - Rule 40. Children’s Matters: General Provisions**
    - Section 40.3 Immediate temporary custody of a minor
    - Section 40.4 Order for immediate temporary custody without notice and hearing
    - Section 40.5 Appointment of temporary custodian on consent
    - Section 40.6 Removal and appointment of guardian on consent
    - Section 40.7 Reinstatement as guardian
    - Section 40.8 Temporary guardianship
- [Connecticut Practice Book](#) (2018)
  - [Chapter 35a](#)
    - § 35a-12A. Motions for Transfer of Guardianship
    - § 35a-19. Transfer from Probate Court of Petitions for Removal of Parent as Guardian or Termination of Parental Rights
    - § 35a-20. Motions for Reinstatement of Parent or Former Legal Guardian as Guardian or Modification of Guardianship Post-Disposition

### **COURT CASES:**

- [In Re Avirex R.](#), 151 Conn. App. 820, 835, 96 A. 3d 662 (2014). “..., [I]t is important to note that a transfer of

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

guardianship pursuant to subsection (j) of § 46b-129 does not terminate the respondent parent's or former guardian's relationship with the child. If a court orders, as it did here, legal guardianship of a child or youth to be vested in a suitable and worthy person pursuant to subsection (j) of § 46b-129, the respondent parents or former guardians of the child or youth are not left without recourse. Pursuant to § 46b-129 (n), the respondent parents or former guardian may file a petition to reinstate guardianship of the child or youth in such parent or **legal guardian.**"

- In Re Savannah L., Superior Court, Judicial District of Waterbury, Juvenile Matters at Waterbury, Docket No. U06-CP09-006773, 2010 WL 1224871 (Mar. 2, 2010). "A court may remove a guardian only if it finds that one or more of the grounds set forth in General Statutes § 45a-610 have been established by clear and convincing evidence. *In Re Helen B.*, 50 Conn.App. 818, 827 (1998)."
- Potter v. Hiscox, 30 Conn. 508, 520, 1862 WL 708 (1862). "The rendering a correct account to a judge of probate, and having it approved by him, is not all that is required of a guardian. The court of probate does not necessarily find or record the fact that the guardian has delivered the property over to the ward. He adjusts the account, and ascertains the balance or amount of the property left in the guardian's hands. The guardian then delivers this over and takes a discharge from his ward, who being then of full age is competent to give it."

#### **ENCYCLOPEDIA:**

- 39 Am Jur 2d *Guardian and Ward* (2008).  
§§ 79-85. Resignation and removal; selection of successor  
§ 81. Grounds

#### **TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers Of Attorney and Adoption in Connecticut 3d](#) (2018).  
Chapter 3. Guardianships  
§ 3:4.50. Challenging legality of involuntary guardianship  
§ 3:13. Removal of parents or other guardians of minor's person, temporary custody orders, visitation and reinstatement rights, appointment of guardian or co-guardian  
§ 3:22. Removal, resignation, or death of guardian  
§ 3:23. Termination of guardianships of minors
- 2 Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2017).  
Chapter 11 Guardianship  
§ 11.13. Change of guardian  
§ 11.14. Termination of guardianship