

Legislative History for Connecticut Act

PA 16-49

HB5255

Senate 2744-2747 4

Human Services 569-572, 706-707 6

House Transcripts have not been received. They are available on CGA website, but are not the Official copy. Contact House Clerk for assistance (860) 240-0400 **10**

**Transcripts from the Joint Standing Committee Public
Hearing(s) and/or Senate and House of Representatives
Proceedings**

**Connecticut State Library
Compiled 2017**

S - 698

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2016**

**VOL. 59
PART 8
2400 – 2750**

cf
Senate

300
May 3, 2016

THE CHAIR:

The Bill passes. Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. Madam President, I'd like to read off some items for our Consent Calendar, please.

THE CHAIR:

Please continue.

SENATOR DUFF (25TH):

Thank you, Madam President. On calendar page 6, Calendar 383, House Bill 5430, I'd like to place that item on our Consent Calendar. On calendar page 24, Calendar 534, House Bill 5621, I'd like to place that item on our Consent Calendar. On calendar page 15, Calendar 477, House Bill 5072, I'd like to place that item on our Consent Calendar. On calendar page 7, Calendar 385, House Bill 5254, I'd like to place that item on our Consent Calendar. On calendar page 8, Calendar 393, House Bill 5255, I'd like to place that item on our Consent Calendar. On calendar page 11, Calendar 440, House Bill 5252, I'd like to place that item on our Consent Calendar. On calendar page 19, Calendar 502, House Bill 5526, I'd like to place that item on our Consent Calendar. On calendar page 35, Calendar 586, House Bill 5521, I'd like to place that item on our Consent Calendar. On calendar page 41, Calendar 464, House Joint Resolution Number 38, I'd like to place that item on our Consent Calendar. On calendar page 41, Calendar 465, House Joint Resolution Number 43, I'd like to place that item on

cf
Senate

301
May 3, 2016

our Consent Calendar. On calendar page 42, Calendar 466, House Joint Resolution Number 99, I'd like to place that item on our Consent Calendar. On calendar page 42, Calendar 467, House Joint Resolution Number 121, I'd like to place that item on our Consent Calendar. On calendar page 42, Calendar 468, House Joint Resolution Number 133, I'd like to place that item on our Consent Calendar. And on calendar page 43, Calendar 470, House Joint Resolution Number 136, I'd like to place that on our Consent Calendar.

Madam President, if the clerk can now call -- hold on, can the Senate stand at ease, please?

THE CHAIR:

Will the Senate stand at ease, please.

Yes. Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. If the clerk can now call the items on the Consent Calendar for a vote of the Consent Calendar please.

THE CHAIR:

The Senate will stand at ease for one minute, please.

The Senate will come to order. Mr. Clerk, would you please call the items on the -- the Consent Calendar.

THE CLERK:

Senate Bill 351, on page 2, Calendar 157, Senate Bill 69. Page 4, Calendar 341, Senate Bill 328, page 5, Calendar 375, House Bill 5296, page 6, Calendar 384, House Bill 5393. Also on page 6, Calendar 383, House Bill 5430. On page 7, Calendar 385, House Bill 5254. Page 8, Calendar 393, House Bill 5255, page 11, Calendar 440, House Bill 5252. On page 14, Calendar 475, House Bill 5627, Page 15, Calendar 477, House Bill 5072. Page 18, Calendar 498, House Bill 5513, Page 19, Calendar 502, House Bill 5526. Page 20, Calendar 504, House Bill 5403. Page 22, Calendar 516, House Bill 3 -- I'm sorry -- 5358. Page 22, Calendar 519, House Bill 5053. On page 24, Calendar 533, House Bill 5605, Calendar 532, House Bill 5335, Calendar 530, House Bill 5498, and Calendar 534, House Bill 5621. On page 27, Calendar 549, House Bill 5416. Also on page 27, Calendar 546, House Bill 5571. Page 28, Calendar 552, House Bill 5180. On page 30, Calendar 563, House Bill 5412. Page 31, Calendar 567, House Bill 5537. Page 31, Calendar 569, House Bill 5620. On page 32, Calendar 571, House Bill 5435. Page 34, Calendar 583, House Bill 5400. On page 35, Calendar 586, House Bill 5521. Page 36, Calendar 169, Senate Bill 266. Page 37, Calendar 207, Senate Bill 327. Page 39, Calendar 361, Senate Bill 15. Page 41, Calendar 246, Senate Bill 88. Also on page 41, Calendar 464, House Joint Resolution Number 38. Calendar 465, House Joint Resolution 43. On page 42, Calendar 466, House Joint Resolution 99. Page 42, Calendar 467, House Joint Resolution 121. Also on page 42, Calendar 468, House Joint Resolution Number 133, and on page 43, Calendar 470, House Joint Resolution Number 136.

THE CHAIR:

cf
Senate

303
May 3, 2016

Okay. The clerk shall announce pendency of a roll call vote on the Consent Calendar. The machine is open. Please cast your vote.

THE CLERK:

Immediate Roll Call has been ordered in the Senate. Immediate Roll Call on today's Consent Calendar has been ordered in the Senate.

THE CHAIR:

Have all members have voted? Have members have voted? Please check to see that your votes have been properly recorded. If so, the machine shall be closed and the clerk shall announce the tally.

THE CLERK:

On today's Consent Calendar.

Total number voting	36
Necessary for Adoption	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar is done. Senator Duff, for what reason do you rise?

SENATOR DUFF (25TH):

Many reasons, Madam President, thank you. Madam President, I move that all items that require action

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HUMAN SERVICES
PART 1
1 – 632**

**2016
INDEX**

people who are, all of a sudden, trying to get a couple hundred dollars of food stamps, a few hundred dollars of cash assistance. These are subsistence-level programs, and when people get to the point where they have to apply for them, they're already in pretty desperate straits.

REP. BUTLER (72ND): Okay. Thank you for your testimony. Thank you, Madam Chair.

SENATOR MOORE (22ND): Other questions? Thank you for your testimony.

KATHLEEN FLAHERTY: Thank you.

SENATOR MOORE (22ND): Representative Miner. Then, Judge Paul Knierim.

JUDGE PAUL KNIERIM: Good afternoon, Senator Moore, Representative Abercrombie, Senator Markley and honorable members of the committee. I'm Paul Knierim, Probate Court Administrator. I appreciate the opportunity to testify on raised bill 5255, AN ACT CONCERNING GUARDIANSHIP OF PERSONS WITH INTELLECTUAL DISABILITY. This is a proposal that you have raised for us. I appreciate it on behalf of the Probate Court system.

A little bit of background before I describe a bill that is, at this point, mostly technical in nature — a background to give you a framework for what guardianship from the probate courts is in this arena and distinguish it from guardianship. It's similar but there are some significant differences. Guardianship, in this context, is a very specific legal framework geared towards providing support and

assistance for adults with intellectual disability. It is very much tailored to the specific needs of the individual. Each guardianship has specified powers in areas such as housing, medical care, educational/vocational programs, other supports and services that an individual needs to live as independently as possible. But, each particular case has a custom-tailored guardianship with specific powers that reflect the needs of the individual. Conservatorship, by contrast, is broader. For one thing, it deals with financial matters, or at least, it can deal with financial matters. Guardianship, in this framework, does not, and conservatorship is more typically for seniors with dementia and individuals with mental illness. Sometimes, a person with intellectual disability who has financial considerations – they're employed or they've inherited funds – might have a guardianship and a conservatorship, the latter being to handle their financial affairs. So, that's just a little bit by way of context.

The role of the probate courts, when it comes to guardianship, is firstly to determine whether the individual has intellectual disability, according to the statutory definition, to find a suitable person to serve as guardian and then to customize it, to set up the right powers for that individual's situation. Probate courts have about 8,000 matters involving the initial appointment and the periodic review of guardianships on an annual base. And, just in case, if there's anybody in the room who doesn't know this, I always make a public service announcement if I can about probate courts. If, when you hear probate courts, you think decedents to States, please don't do that anymore because much more than half of our workload is in these types of

cases - mental health, children's matters, intellectual disability. More than half the cases and about two-thirds of our budget are dedicated to social service-type cases of this nature.

What the proposal before you is doing, primarily, is to update the language of the existing statute. The statute is some 30 years old, has been updated from time to time. There are two nomenclature changes that we are proposing in it. The first is to replace the term, "ward," which is somewhat antiquated, with the term, "protected person," and secondly, just to shorten up the references to the guardian. The legal term under the statute now is "a plenary guardian of a person with intellectual disability" or "a limited guardian of a person with intellectual disability," and we propose to just shorten that up to "plenary" or "limited guardian."

There are two other changes of a slightly more substantive nature. The confidentiality provisions of this statute have a proposed revision. These cases are confidential and always have been since the statute was established. What we are aiming to do here is to add greater specificity to the confidentiality provisions, make it clear that all parties to the proceeding are entitled to have access - if you're an interested party, you should be able to see exactly what the judge is seeing - as well as providing authorization for the Department of Developmental Services to have access.

And, the second piece of it is to expand the category of eligible guardians to include forms of entities such as limited liability companies and partnerships. The statute presently permits the appointment of an individual or a corporation. It

is not caught up with the fact that Connecticut law provides for other forms of entity. So, thank you very much for allowing me to testify. I'd be happy to address any questions.

SENATOR MOORE (22ND): Are there any questions?
Thank you for your comments.

JUDGE PAUL KNIERIM: Thank you very much.

SENATOR MOORE (22ND): Thank you. Next is Matthew Dillon.

[DEAD SPACE - NO AUDIO FROM 1:48:07.1 TO 1:51:32.6]

REP. ABERCROMBIE (83RD): Thank you for your testimony. Questions from community members? No?

Thank you very much. We appreciate it. Have a great day.

Nancy Shaffer, followed by Suzi Craig.

Good afternoon, Nance.

NANCY SHAFFER: Senator Moore, Senator Markley, Representative Wood and esteemed members of the Human Services Committee. My name is Nancy Shaffer, and I'm the state long-term care ombudsman. It's my honor to serve the 30,000+ residents of the State of Connecticut who reside in nursing homes, residential care homes and assisted living facilities. It's my responsibility as a state ombudsman to come before

SB 278
SB 280

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HUMAN SERVICES
PART 2
633 - 1141**

2016



STATE OF CONNECTICUT

OFFICE OF THE
PROBATE COURT ADMINISTRATOR

*TP
page 8*

PAUL J. KNIERIM
Probate Court Administrator

THOMAS E. GAFFEY
Chief Counsel

HELEN B. BENNET
Attorney

HEATHER L. DOSTALER
Attorney

188 NEWINGTON ROAD
WEST HARTFORD, CT 06110

TEL (860) 231-2442
FAX (860) 231-1055

TO: Senate Co-Chair Marilyn Moore
House Co-Chair Catherine Abercrombie
Senate Ranking Member Joe Markley
House Ranking Member Terrie Wood
Honorable Members of the Human Services Committee

FROM: Paul J. Knierim
Probate Court Administrator

RE: RB 5255, An Act Concerning Guardianship of Persons with
Intellectual Disability

DATE: March 3, 2016

Thank you for the opportunity to offer testimony in support of Raised Bill 5255,
An Act Concerning Guardianship of Persons with Intellectual Disability. The
Connecticut Probate Assembly and the Office of the Probate Court Administrator
jointly support this bill.

Probate Courts have jurisdiction over cases involving guardianship for adults with
intellectual disability. Guardianship cases involve the determination whether an
individual has intellectual disability and, if so, whether he or she needs a
guardian to assist in making decisions in some or all of the following areas: (1)
medical and dental care; (2) housing; (3) educational, vocational and behavioral
programs; (4) release of clinical records and photographs; and (5) services to
enable the individual to live as independently as possible. After a guardian is
appointed, the Probate Courts oversee the guardian's work through regular
reporting and review requirements.

Section 2 of the bill refines the provisions governing the confidentiality of
guardianship matters. Under the revised language, both the court's file and
hearings continue to be closed to the public, but the amendment adds greater
specificity to the exceptions. In particular, the bill provides that parties to the
specific case and their attorneys, the Department of Developmental Services and
the Office of the Probate Court Administrator may have access to the court file.

If a guardian is appointed, the name of the guardian and protected person become a matter of public record. This provision is necessary so that third parties can verify the guardian's authority with the court. Finally, the bill authorizes the judge to permit disclosure of records for good cause after a hearing with notice to the protected person, the protected person's attorney and the guardian.

All other sections of the bill are technical changes. Throughout the guardianship statutes, the bill replaces the obsolete term "ward" with "protected person" and shortens the cumbersome terminology "plenary guardian of a person with intellectual disability" to "plenary guardian."

The bill expands the categories of entity that are eligible to serve as guardian to include limited liability companies and partnerships. The statute currently refers only to corporations.

Lastly, section 19 repeals C.G.S. section 45a-684, which refers to obsolete statutes concerning payment of fees in guardianship matters. The cross reference is no longer needed in light of revisions to the probate fee statutes adopted in 2015.

We respectfully request that the committee act favorably on the bill. Thank you.