



# Senate

General Assembly

**File No. 488**

January Session, 2021

Senate Bill No. 959

*Senate, April 15, 2021*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT CONCERNING PROBATE COURT OPERATIONS.**

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

1 Section 1. Subsection (b) of section 45a-106a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
3 *2021*):

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

6 (1) With respect to a minor child: (A) Appoint a temporary guardian,  
7 temporary custodian, guardian, coguardian, permanent guardian or  
8 statutory parent, (B) remove a guardian, including the appointment of  
9 another guardian, (C) reinstate a parent as guardian, (D) terminate  
10 parental rights, including the appointment of a guardian or statutory  
11 parent, (E) grant visitation, (F) make findings regarding special  
12 immigrant juvenile status, (G) approve placement of a child for  
13 adoption outside this state, (H) approve an adoption, (I) validate a  
14 foreign adoption, (J) review, modify or enforce a cooperative

15 postadoption agreement, (K) review an order concerning contact  
16 between an adopted child and his or her siblings, (L) resolve a dispute  
17 concerning a standby guardian, (M) approve a plan for voluntary  
18 services provided by the Department of Children and Families, (N)  
19 determine whether the termination of voluntary services provided by  
20 the Department of Children and Families is in accordance with  
21 applicable regulations, (O) conduct an in-court review to modify an  
22 order, (P) grant emancipation, (Q) grant approval to marry, (R) transfer  
23 funds to a custodian under sections 45a-557 to 45a-560b, inclusive, (S)  
24 appoint a successor custodian under section 45a-559c, (T) resolve a  
25 dispute concerning custodianship under sections 45a-557 to 45a-560b,  
26 inclusive, and (U) grant authority to purchase real estate;

27 (2) Determine paternity;

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

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

35 (5) Approve an adult adoption;

36 (6) With respect to a conservatorship: (A) Appoint a temporary  
37 conservator, conservator or special limited conservator, (B) change  
38 residence, terminate a tenancy or lease, sell or dispose household  
39 furnishings, or place in a long-term care facility, (C) determine  
40 competency to vote, (D) approve a support allowance for a spouse, (E)  
41 grant authority to elect the spousal share, (F) grant authority to purchase  
42 real estate, (G) give instructions regarding administration of a joint asset  
43 or liability, (H) distribute gifts, (I) grant authority to consent to  
44 involuntary medication, (J) determine whether informed consent has  
45 been given for voluntary admission to a hospital for psychiatric  
46 disabilities, (K) determine life-sustaining medical treatment, (L) transfer

47 to or from another state, (M) modify the conservatorship in connection  
48 with a periodic review, (N) excuse accounts under rules of procedure  
49 approved by the Supreme Court under section 45a-78, (O) terminate the  
50 conservatorship, and (P) grant a writ of habeas corpus;

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

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

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

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

70 (11) With respect to psychiatric disability: (A) Commit an individual  
71 for treatment, (B) issue a warrant for examination of an individual at a  
72 general hospital, (C) determine whether there is probable cause to  
73 continue an involuntary confinement, (D) review an involuntary  
74 confinement for possible release, (E) authorize shock therapy, (F)  
75 authorize medication for treatment of psychiatric disability, (G) review  
76 the status of an individual under the age of sixteen as a voluntary  
77 patient, and (H) recommit an individual under the age of sixteen for  
78 further treatment;

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

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

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

88 (15) With respect to a testamentary or inter vivos trust: (A) Construe,  
89 validate, divide, combine, reform, modify or terminate the trust, (B)  
90 enforce the provisions of a pet trust, [and] (C) excuse a final account  
91 under rules of procedure approved by the Supreme Court under section  
92 45a-78, and (D) assume jurisdiction of an out-of-state trust;

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

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

95 (18) Change a person's name;

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

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

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

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

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

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

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

106 and

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

117 Sec. 2. Subsection (c) of section 45a-106a of the general statutes is  
118 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
119 *2021*):

120 (c) The fee to file a petition for custody of the remains of a deceased  
121 person in a Probate Court is one hundred fifty dollars, except that the  
122 court shall waive the fee if the state is obligated to pay funeral and burial  
123 expenses under section 17b-84 or 17b-131.

124 Sec. 3. Subdivision (4) of subsection (b) of section 45a-107 of the  
125 general statutes is repealed and the following is substituted in lieu  
126 thereof (*Effective July 1, 2021*):

127 (4) In any matter in which the Commissioner of Administrative  
128 Services is the legal representative of the estate pursuant to section 4a-  
129 16, the fee shall be the lesser of (A) the amount calculated under  
130 subdivisions (1) and (2) of this subsection, or (B) the amount collected  
131 by the Commissioner of Administrative Services after paying the  
132 expense of funeral and burial in accordance with section 17b-84 or 17b-  
133 131.

134 Sec. 4. Subdivision (4) of subsection (c) of section 45a-107 of the  
135 general statutes is repealed and the following is substituted in lieu  
136 thereof (*Effective July 1, 2021*):

137 (4) In any matter in which the Commissioner of Administrative  
138 Services is the legal representative of the estate pursuant to section 4a-  
139 16, the fee shall be the lesser of (A) the amount calculated under  
140 subdivisions (1) and (2) of this subsection, or (B) the amount collected  
141 by the Commissioner of Administrative Services after paying the  
142 expense of funeral and burial in accordance with section 17b-84 or 17b-  
143 131.

144 Sec. 5. Section 45a-111 of the general statutes is repealed and the  
145 following is substituted in lieu thereof (*Effective July 1, 2021*):

146 (a) No fee or expense shall be charged for any proceedings in the  
147 settlement of the estate of any member of the armed forces who died  
148 while in service in time of war as defined in section 27-103.

149 (b) No fees or expenses shall be charged under sections [45a-107] 45a-  
150 106a to 45a-112, inclusive, as amended by this act, or under section 45a-  
151 727 for adoption proceedings involving special needs children.

152 (c) If a petitioner or applicant to a Probate Court claims that unless  
153 his or her obligation to pay the fees and the necessary expenses of the  
154 action, including the expense of service of process, is waived, such  
155 petitioner or applicant will be deprived by reason of his or her indigency  
156 of his or her right to bring a petition or application to such court or that  
157 he or she is otherwise unable to pay the fees and necessary expenses of  
158 the action, he or she may file with the clerk of such Probate Court an  
159 application for waiver of payment of such fees and necessary expenses.  
160 Such application shall be signed under penalty of false statement, shall  
161 state the applicant's financial circumstances, and shall identify the fees  
162 and expenses sought to be waived and the approximate amount of each.  
163 If the court finds that the applicant is unable to pay such fees and  
164 expenses, it shall order such fees and expenses waived. If such expenses  
165 include the expense of service of process, the court, in its order, shall  
166 indicate the method of service authorized and the expense of such  
167 service shall be paid from funds appropriated to the Judicial  
168 Department, except that, if funds have not been included in the budget  
169 of the Judicial Department for such expenses, such expenses shall be

170 paid from the Probate Court Administration Fund.

171 (d) The court may, in its discretion, postpone payment of any [entry]  
172 filing fee or other fee or expense due under sections [45a-107] 45a-106a  
173 to 45a-112, inclusive, as amended by this act, and enter any matter if it  
174 appears to the court that to require such [entry] filing fee or other fee or  
175 expense to accompany submission of the matter would cause undue  
176 delay or hardship, but in such case the applicant, petitioner or moving  
177 party shall be liable for the [entry] filing fee and all other fees and  
178 expenses upon receipt of an invoice therefor from the court.

179 (e) Any fee or expense charged under the provisions of sections [45a-  
180 107] 45a-106a to 45a-112, inclusive, as amended by this act, shall not be  
181 subject to the tax imposed under chapter 219.

182 Sec. 6. Section 45a-112 of the general statutes is repealed and the  
183 following is substituted in lieu thereof (*Effective July 1, 2021*):

184 When the state or any of its agencies is an applicant, petitioner or  
185 moving party commencing a matter in a Probate Court, or is otherwise  
186 liable for the fees or expenses under sections [45a-107] 45a-106a to 45a-  
187 112, inclusive, as amended by this act, the court shall accept such matter  
188 without the [entry] filing fee accompanying the filing thereof, and shall  
189 bill the [entry] filing fee or other fee or expense to the appropriate  
190 agency for subsequent payment, which payment shall be due and  
191 payable upon receipt of such bill.

192 Sec. 7. Section 45a-113a of the general statutes is repealed and the  
193 following is substituted in lieu thereof (*Effective July 1, 2021*):

194 Whenever a Probate Court determines that a refund is due an  
195 applicant, petitioner, moving party or other person for any  
196 overpayment of costs, fees, charges or expenses incurred under the  
197 provisions of sections [45a-107] 45a-106a to 45a-112, inclusive, as  
198 amended by this act, the Probate Court Administrator shall, upon  
199 receipt of certification of such overpayment by the Probate Court that  
200 issued the invoice for such costs, fees, charges or expenses, cause a

201 refund of such overpayment to be issued from the Probate Court  
202 Administration Fund.

203 Sec. 8. Section 45a-113b of the general statutes is repealed and the  
204 following is substituted in lieu thereof (*Effective July 1, 2021*):

205 Each court of probate may allow the payment of any fees charged by  
206 such court by means of a credit card, charge card, [or] debit card or an  
207 electronic funds transfer and may charge the person making such  
208 payment a service fee for any such payment made by any such card or  
209 electronic funds transfer. The fee shall not exceed any charge by the card  
210 issuer or processing fee for electronic funds transfer, including any  
211 discount rate.

212 Sec. 9. Subsections (d) to (l), inclusive, of section 45a-186 of the  
213 general statutes are repealed and the following is substituted in lieu  
214 thereof (*Effective July 1, 2021*):

215 (d) An appeal from a decision rendered in any case after a recording  
216 of the proceedings is made under section 17a-498, 17a-543, 17a-543a, [or]  
217 17a-685, or 19a-131b, sections 45a-644 to 45a-667v, inclusive, or section  
218 51-72 or 51-73, shall be on the record and shall not be a trial de novo.

219 (e) Each person who files an appeal pursuant to this section shall  
220 serve a copy of the complaint on each interested party. The failure of  
221 any person to make such service shall not deprive the Superior Court of  
222 jurisdiction over the appeal. Notwithstanding the provisions of section  
223 52-50, service of the copy of the complaint shall be by state marshal,  
224 constable or an indifferent person. Service shall be in hand or by leaving  
225 a copy at the place of residence of the interested party being served or  
226 at the address for the interested party on file with the Probate Court,  
227 except that service on a respondent or conserved person in an appeal  
228 from an action under part IV of chapter 802h shall be in hand by a state  
229 marshal, constable or an indifferent person.

230 (f) In addition to the notice given under subsection (e) of this section,  
231 each person who files an appeal pursuant to this section shall mail a



232 copy of the complaint to the Probate Court that rendered the order,  
233 denial or decree appealed from. The Probate Court and the probate  
234 judge that rendered the order, denial or decree appealed from shall not  
235 be made parties to the appeal and shall not be named in the complaint  
236 as parties.

237 (g) Not later than fifteen days after a person files an appeal under this  
238 section, the person who filed the appeal shall file or cause to be filed  
239 with the clerk of the Superior Court a document containing (1) the name,  
240 address and signature of the person making service, and (2) a statement  
241 of the date and manner in which a copy of the complaint was served on  
242 each interested party and mailed to the Probate Court that rendered the  
243 order, denial or decree appealed from.

244 (h) If service has not been made on an interested party, the Superior  
245 Court, on motion, shall make such orders of notice of the appeal as are  
246 reasonably calculated to notify any necessary party not yet served.

247 (i) A hearing in an appeal from probate proceedings under section  
248 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685, 19a-  
249 131b, 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-  
250 699, 45a-703 or 45a-717 shall commence, unless a stay has been issued  
251 pursuant to subsection (j) of this section, not later than ninety days after  
252 the appeal has been filed.

253 (j) The filing of an appeal under this section shall not, of itself, stay  
254 enforcement of the order, denial or decree from which the appeal is  
255 taken. A motion for a stay may be made to the Probate Court or the  
256 Superior Court. The filing of a motion with the Probate Court shall not  
257 preclude action by the Superior Court.

258 (k) Nothing in this section shall prevent any person aggrieved by any  
259 order, denial or decree of a Probate Court in any matter, unless  
260 otherwise specially provided by law, from filing a petition for a writ of  
261 habeas corpus, a petition for termination of involuntary representation  
262 or a petition for any other available remedy.

263 (l) (1) Except for matters described in subdivision (3) of this  
264 subsection, in any appeal filed under this section, the appeal may be  
265 referred by the Superior Court to a special assignment probate judge  
266 appointed in accordance with section 45a-79b, who is assigned by the  
267 Probate Court Administrator for the purposes of such appeal, except  
268 that such appeal shall be heard by the Superior Court if any party files  
269 a demand for such hearing in writing with the Superior Court not later  
270 than twenty days after service of the appeal.

271 (2) An appeal referred to a special assignment probate judge  
272 pursuant to this subsection shall proceed in accordance with the rules  
273 for references set forth in the rules of the judges of the Superior Court.

274 (3) The following matters shall not be referred to a special assignment  
275 probate judge pursuant to this subsection: Appeals under sections 17a-  
276 75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to 17a-528,  
277 inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688, inclusive, 19a-  
278 131b, children's matters as defined in subsection (a) of section 45a-8a,  
279 sections 45a-644 to 45a-663, inclusive, 45a-668 to 45a-683, inclusive, and  
280 45a-690 to 45a-700, inclusive, and any matter in a Probate Court heard  
281 on the record in accordance with sections 51-72 and 51-73.

282 Sec. 10. Section 45a-186a of the general statutes is repealed and the  
283 following is substituted in lieu thereof (*Effective July 1, 2021*):

284 (a) In an appeal from an order, denial or decree of a Probate Court  
285 made after a hearing that is on the record under section 17a-498, 17a-  
286 543, 17a-543a, [or] 17a-685 or 19a-131b, sections 45a-644 to 45a-667v,  
287 inclusive, or section 51-72 or 51-73, not later than thirty days after service  
288 is made of such appeal under section 45a-186, or within such further  
289 time as may be allowed by the Superior Court, the Probate Court shall  
290 transcribe any portion of the recording of the proceedings that has not  
291 been transcribed. The expense for such transcript shall be charged  
292 against the person who filed the appeal, except that if the person who  
293 filed the appeal is unable to pay such expense and files an affidavit with  
294 the court demonstrating the inability to pay, the expense of the  
295 transcript shall be paid by the Probate Court Administrator and paid

296 from the Probate Court Administration Fund.

297 (b) The Probate Court shall transmit to the Superior Court the original  
298 or a certified copy of the entire record of the proceeding from which the  
299 appeal was taken. The record shall include, but not be limited to, the  
300 findings of fact and conclusions of law, separately stated, of the Probate  
301 Court.

302 (c) An appeal from an order, denial or decree made after a hearing on  
303 the record under section 17a-498, 17a-543, 17a-543a, [or] 17a-685 or 19a-  
304 131b, sections 45a-644 to 45a-667v, inclusive, or section 51-72 or 51-73,  
305 shall be heard by the Superior Court without a jury, and may be referred  
306 to a state referee appointed under section 51-50l. The appeal shall be  
307 confined to the record. If alleged irregularities in procedure before the  
308 Probate Court are not shown in the record or if facts necessary to  
309 establish such alleged irregularities in procedure are not shown in the  
310 record, proof limited to such alleged irregularities may be taken in the  
311 Superior Court. The Superior Court, on request of any party, shall hear  
312 oral argument and receive written briefs.

313 Sec. 11. Section 45a-186b of the general statutes is repealed and the  
314 following is substituted in lieu thereof (*Effective July 1, 2021*):

315 In an appeal taken under section 45a-186 from a matter heard on the  
316 record in the Probate Court under section 17a-498, 17a-543, 17a-543a,  
317 [or] 17a-685, or 19a-131b, sections 45a-644 to 45a-667v, inclusive, or  
318 section 51-72 or 51-73, the Superior Court shall not substitute its  
319 judgment for that of the Probate Court as to the weight of the evidence  
320 on questions of fact. The Superior Court shall affirm the decision of the  
321 Probate Court unless the Superior Court finds that substantial rights of  
322 the person appealing have been prejudiced because the findings,  
323 inferences, conclusions or decisions are: (1) In violation of the federal or  
324 state constitution or the general statutes, (2) in excess of the statutory  
325 authority of the Probate Court, (3) made on unlawful procedure, (4)  
326 affected by other error of law, (5) clearly erroneous in view of the  
327 reliable, probative and substantial evidence on the whole record, or (6)  
328 arbitrary or capricious or characterized by abuse of discretion or clearly

329 unwarranted exercise of discretion. If the Superior Court finds such  
330 prejudice, the Superior Court shall sustain the appeal and, if  
331 appropriate, may render a judgment that modifies the Probate Court's  
332 order, denial or decree or remand the case to the Probate Court for  
333 further proceedings. For the purposes of this section, a remand is a final  
334 judgment.

335 Sec. 12. Section 45a-597 of the general statutes is repealed and the  
336 following is substituted in lieu thereof (*Effective July 1, 2021*):

337 (a) Upon the death of a [minor] person with respect to whose estate a  
338 guardian or conservator has been duly appointed by a [court of probate]  
339 Probate Court, has qualified and is acting as such, [and upon the death  
340 of a person with respect to whose estate a conservator has been duly  
341 appointed, has qualified and is acting as such,] if (1) the estate consists  
342 entirely of personalty, and (2) the estate remaining in the hands of the  
343 guardian or conservator at the time of the death of the [protected]  
344 person is not more than sufficient to pay expenses incurred during the  
345 lifetime of the [protected] person and not paid as of the date of death,  
346 administration expenses necessary to the settlement of the fiduciary's  
347 final account and the funeral expenses, including the cost of a suitable  
348 monument and cemetery plot, then such guardian or conservator may  
349 pay such expenses and take credit therefor on his final account. The  
350 payments shall be subject to the limitations set forth in sections 17b-95  
351 and 17b-300.

352 (b) If the estate is less than sufficient to pay all such expenses in full,  
353 the provisions of section 45a-365 as to order of payment shall govern.

354 Sec. 13. Subsection (c) of section 46b-172a of the general statutes is  
355 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
356 *2021*):

357 (c) The child shall be made a party to the action. [and] If the child is a  
358 minor at the time of the proceedings, the minor child shall be  
359 represented by a guardian ad litem appointed by the court in  
360 accordance with section 45a-708. Payment for the guardian ad litem

361 shall be made in accordance with such section from funds appropriated  
362 to the Judicial Department, except that, if funds have not been included  
363 in the budget of the Judicial Department for such purposes, such  
364 payment shall be made from the Probate Court Administration Fund.

365 Sec. 14. Subsection (k) of section 17a-11 of the general statutes is  
366 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
367 *2021*):

368 (k) Upon motion of any interested party in a Probate Court  
369 proceeding under this section, the Probate Court of record may transfer  
370 the file for cause shown to a Probate Court for a district other than the  
371 district in which the initial or permanency hearing was held. [The file  
372 shall be transferred by the Probate Court of record making copies of all  
373 recorded documents in the court file, certifying each of them, and  
374 delivering the certified copies to the Probate Court to which the matter  
375 is transferred.] Upon issuance of an order to transfer a file under this  
376 subsection, the transferring court shall transmit a digital image of each  
377 document in the court file to the transferee court using the document  
378 management system maintained by the Office of the Probate Court  
379 Administrator. The transferee court shall thereupon assume jurisdiction  
380 over the voluntary admission in accordance with the provisions of this  
381 section.

382 Sec. 15. Subsection (b) of section 17a-274 of the general statutes is  
383 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
384 *2021*):

385 (b) A petition to the Probate Court for placement under this section  
386 may be filed by any interested party. The petition and all records of  
387 Probate Court proceedings held as a result of the filing of such petition  
388 shall be confidential and shall not be open to public inspection by or  
389 disclosed to any person, except that (1) such records shall be available  
390 to (A) the parties in any such case and their counsel, (B) the Department  
391 of Developmental Services, and (C) the [office] Office of the Probate  
392 Court Administrator; (2) if the court appoints a legal representative, the  
393 names of the legal representative and the protected person shall be

394 public; and (3) the court may, after hearing with notice to the  
395 respondent, the respondent's counsel, the legal representative and the  
396 Department of Developmental Services, permit records to be disclosed  
397 for cause shown. The petition shall allege that the respondent is a person  
398 with intellectual disability and (A) is unable to provide for himself or  
399 herself at least one of the following: Education, habilitation, care for  
400 personal health and mental health needs, meals, clothing, safe shelter or  
401 protection from harm; (B) has no family or legal representative or other  
402 person to care for the respondent or the respondent's family or the legal  
403 representative or other person can no longer provide adequate care for  
404 the respondent; (C) is unable to obtain adequate, appropriate services  
405 which would enable the respondent to receive care, treatment and  
406 education or habilitation without placement by a Probate Court; and (D)  
407 is not willing to be placed under the custody and control of the  
408 Department of Developmental Services or its agents or voluntary  
409 admission has been sought by the legal representative of the respondent  
410 and such voluntary admission has been opposed by the protected  
411 person or the protected person's next of kin.

412 Sec. 16. Section 45a-9a of the general statutes is repealed and the  
413 following is substituted in lieu thereof (*Effective July 1, 2021*):

414 Any person seeking on-line access to any data processing system  
415 operated by the [office] Office of the Probate Court Administrator, or  
416 seeking, in any other medium, information stored in such data  
417 processing system, may be required to pay to the [office] Office of the  
418 Probate Court Administrator an amount, as established in a fee schedule  
419 determined by the Probate Court Administrator, for deposit in the  
420 Probate Court Administration Fund established in section 45a-82. Such  
421 fee schedule may include reasonable charges for personal services,  
422 fringe benefits, supplies and any other expenses related to maintaining,  
423 improving and providing such data processing services including, but  
424 not limited to, program modifications, training expenses, central  
425 processor user time and the rental and maintenance of equipment.

426 Sec. 17. Subsection (c) of section 45a-27 of the general statutes is

427 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
428 *2021*):

429 (c) The curriculum for the courses required by subsection (b) of this  
430 section shall be established by the Probate Court Administrator and  
431 shall be designed to establish a minimum level of proficiency by judges  
432 of probate. The courses shall be given by qualified instructors approved  
433 by the Probate Court Administrator. The Probate Court Administrator  
434 may waive completion of a course required by subdivision (2) of  
435 subsection (b) on demonstration by a probate judge of proficiency in the  
436 subject matter. The Probate Court Administrator may, for good cause,  
437 allow a probate judge to satisfy a requirement of subsection (b) of this  
438 section by auditing, at the [office] Office of the Probate Court  
439 Administrator or at such other place as the Probate Court Administrator  
440 may designate, instructional tapes approved by the Probate Court  
441 Administrator. The Probate Court Administrator shall adopt  
442 appropriate time requirements for training of a probate judge elected in  
443 a special election and may modify other requirements of this section as  
444 circumstances may require.

445 Sec. 18. Subsection (e) of section 45a-65 of the general statutes is  
446 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
447 *2021*):

448 (e) Except as provided in subsections (g) and (h) of section 45a-63, all  
449 decisions of the council shall be public record and shall be available for  
450 inspection at the [office] Office of the Probate Court Administrator.

451 Sec. 19. Subsection (d) of section 45a-68 of the general statutes is  
452 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
453 *2021*):

454 (d) The financial statement and disclosure, except as otherwise  
455 provided in this section, shall be open to inspection at the [office] Office  
456 of the Probate Court Administrator.

457 Sec. 20. Section 45a-76 of the general statutes is repealed and the

458 following is substituted in lieu thereof (*Effective July 1, 2021*):

459 The Probate Court Administrator shall file with the Chief Court  
460 Administrator, on or before the first day of April of each even-numbered  
461 year, a report of the business of the [office] Office of the Probate Court  
462 Administrator during the biennium ending on the preceding June  
463 thirtieth, together with any information that the Chief Court  
464 Administrator may request.

465 Sec. 21. Subsection (a) of section 45a-80 of the general statutes is  
466 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
467 *2021*):

468 (a) The Commissioner of Administrative Services shall provide such  
469 office space for the conduct of the duties of the [office] Office of the  
470 Probate Court Administrator as the Probate Court Administrator  
471 approves. The expenses of the office space shall be paid from the fund  
472 established under section 45a-82.

473 Sec. 22. Subdivision (1) of subsection (a) of section 45a-84 of the  
474 general statutes is repealed and the following is substituted in lieu  
475 thereof (*Effective July 1, 2021*):

476 (a) (1) On or before April first of each year, the Probate Court  
477 Administrator shall prepare a proposed budget for the next succeeding  
478 fiscal year beginning July first, for the appropriate expenditures of funds  
479 from the Probate Court Administration Fund to carry out the statutory  
480 duties of the Probate Court Administrator. The proposed budget shall  
481 reflect all costs related to the [office] Office of the Probate Court  
482 Administrator and the operation of the [courts of probate] Probate  
483 Courts, including, but not limited to, compensation, group  
484 hospitalization and medical and surgical insurance plans and  
485 retirement benefits for probate judges and employees. Expenditures in  
486 the proposed budget shall not exceed anticipated available funds.

487 Sec. 23. Subsection (e) of section 45a-649a of the general statutes is  
488 repealed and the following is substituted in lieu thereof (*Effective July 1,*



489 2021):

490 (e) If the respondent or conserved person is indigent, an attorney  
491 appointed under this section shall be paid a reasonable rate of  
492 compensation. Rates of compensation for such appointed attorneys  
493 shall be established by the [office] Office of the Probate Court  
494 Administrator. Such compensation shall be paid from funds  
495 appropriated to the Judicial Department. If funds have not been  
496 included in the budget of the Judicial Department for such purposes,  
497 such compensation shall be paid from the Probate Court Administration  
498 Fund.

499 Sec. 24. Subsection (c) of section 45a-670 of the general statutes is  
500 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
501 *2021*):

502 (c) All records of cases related to guardianship under sections 45a-  
503 669 to 45a-683, inclusive, shall be confidential and shall not be open to  
504 public inspection by or disclosed to any person, except that (1) such  
505 records shall be available to (A) the parties in any such case and their  
506 counsel, (B) the Department of Developmental Services, and (C) the  
507 [office] Office of the Probate Court Administrator; (2) if the court  
508 appoints a guardian, the names of the guardian and the protected  
509 person shall be public; and (3) the court may, after hearing with notice  
510 to the respondent, the respondent's counsel, the guardian and the  
511 Department of Developmental Services, permit records to be disclosed  
512 for cause shown.

513 Sec. 25. Subsection (a) of section 45a-674 of the general statutes is  
514 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
515 *2021*):

516 (a) At any hearing for appointment of a plenary guardian or limited  
517 guardian, the court shall receive evidence as to the condition of the  
518 respondent, including a written report or testimony by a Department of  
519 Developmental Services assessment team appointed by the  
520 Commissioner of Developmental Services or his or her designee, no

521 member of which is related by blood, marriage or adoption to either the  
522 petitioner or the respondent and each member of which has personally  
523 observed or examined the respondent within forty-five days next  
524 preceding such hearing. The assessment team shall be comprised of at  
525 least two representatives from among appropriate disciplines having  
526 expertise in the evaluation of persons alleged to have intellectual  
527 disability. The assessment team members shall make their report on a  
528 form provided for that purpose by the [office] Office of the Probate  
529 Court Administrator and shall answer questions on such form as fully  
530 and completely as possible. The report shall contain specific information  
531 regarding the severity of the intellectual disability of the respondent and  
532 those specific areas, if any, in which the respondent needs the  
533 supervision and protection of a guardian, and shall state upon the form  
534 the reasons for such opinions. The petitioner, respondent or the  
535 respondent's counsel shall have the right to present evidence and cross-  
536 examine witnesses who testify at any hearing on the petition. If the  
537 respondent or the respondent's counsel notifies the court not less than  
538 three days before the hearing that he or she wishes to cross-examine the  
539 witnesses, the court shall order such witnesses to appear. The fees for  
540 such assessment team shall be paid from funds appropriated to the  
541 Department of Developmental Services.

542 Sec. 26. Subsection (g) of section 45a-677 of the general statutes is  
543 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
544 *2021*):

545 (g) Such reports shall be submitted on a form provided by the [office]  
546 Office of the Probate Court Administrator and shall contain the  
547 following information: (1) Significant changes in the capacity of the  
548 protected person to meet the essential requirements for the protected  
549 person's physical health or safety; (2) the services being provided to the  
550 protected person and the relationship of those services to the individual  
551 guardianship plan; (3) the significant actions taken by the limited  
552 guardian or plenary guardian during the reporting period; (4) any  
553 significant problems relating to the guardianship which have arisen  
554 during the reporting period; and (5) whether such guardianship, in the

555 opinion of the guardian, should continue, be modified, or be terminated,  
 556 and the reasons therefor.

557 Sec. 27. Subsection (a) of section 45a-754 of the general statutes is  
 558 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
 559 *2021*):

560 (a) All records of cases related to termination of parental rights,  
 561 removal of a parent as guardian, appointment of a statutory parent,  
 562 adoption matters, temporary guardianship and emancipation of a minor  
 563 shall be confidential and shall not be open to inspection by or disclosed  
 564 to any third party, except that (1) such records shall be available to (A)  
 565 the parties in any such case and their counsel; (B) the Department of  
 566 Children and Families; (C) any licensed child-placing agency involved  
 567 in any such case; (D) any judge or employee of a court of this state who,  
 568 in the performance of his or her duties, requires access to such records;  
 569 (E) the [office] Office of the Probate Court Administrator; and (F) courts  
 570 of other states under the provisions of sections 46b-115a to 46b-115gg,  
 571 inclusive; and (2) access to and disclosure of adoption records shall be  
 572 in accordance with subsection (b) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	45a-106a(b)
Sec. 2	July 1, 2021	45a-106a(c)
Sec. 3	July 1, 2021	45a-107(b)(4)
Sec. 4	July 1, 2021	45a-107(c)(4)
Sec. 5	July 1, 2021	45a-111
Sec. 6	July 1, 2021	45a-112
Sec. 7	July 1, 2021	45a-113a
Sec. 8	July 1, 2021	45a-113b
Sec. 9	July 1, 2021	45a-186(d) to (l)
Sec. 10	July 1, 2021	45a-186a
Sec. 11	July 1, 2021	45a-186b
Sec. 12	July 1, 2021	45a-597
Sec. 13	July 1, 2021	46b-172a(c)
Sec. 14	July 1, 2021	17a-11(k)
Sec. 15	July 1, 2021	17a-274(b)

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Sec. 16	<i>July 1, 2021</i>	45a-9a
Sec. 17	<i>July 1, 2021</i>	45a-27(c)
Sec. 18	<i>July 1, 2021</i>	45a-65(e)
Sec. 19	<i>July 1, 2021</i>	45a-68(d)
Sec. 20	<i>July 1, 2021</i>	45a-76
Sec. 21	<i>July 1, 2021</i>	45a-80(a)
Sec. 22	<i>July 1, 2021</i>	45a-84(a)(1)
Sec. 23	<i>July 1, 2021</i>	45a-649a(e)
Sec. 24	<i>July 1, 2021</i>	45a-670(c)
Sec. 25	<i>July 1, 2021</i>	45a-674(a)
Sec. 26	<i>July 1, 2021</i>	45a-677(g)
Sec. 27	<i>July 1, 2021</i>	45a-754(a)

**JUD**      *Joint Favorable*

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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill conforms statute with current practice for various probate court fees and does not result in a fiscal impact.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****SB 959*****AN ACT CONCERNING PROBATE COURT OPERATIONS.*****SUMMARY**

This bill makes changes to various laws governing probate court operations and related matters.

The bill makes the following changes related to probate court filing fees:

1. expands the list of trust-related motions, petitions, and applications that are subject to a filing fee, in conformity with 2019 changes to the state's trust law;
2. waives or reduces certain probate fees when the state is obligated to pay funeral and burial expenses for State Administered General Assistance (SAGA) beneficiaries or certain indigent persons; and
3. extends the scope of certain other probate fee-related provisions to apply to filing fees for various matters.

The bill specifically allows probate courts to (1) accept fee payment by electronic funds transfer and (2) charge related service fees (which cannot exceed the processing fee, including the discount rate) (§ 8). Under existing law, similar provisions apply to fees paid by credit, charge, or debit cards.

The bill adds appeals of a quarantine or isolation order to the list of appeals that are subject to specified procedures.

It specifies that certain estate settlement procedures apply following the death of an adult with intellectual disability for whom a guardian

has been appointed.

The bill adds certain reviews of Department of Children and Families (DCF) voluntary admissions and related matters to the types of probate court transfers that must occur through electronic means.

It also makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2021

### **§ 1 — TRUST-RELATED FILING FEES**

Existing law establishes a \$250 filing fee for several trust-related matters in probate court (among other matters). For example, this includes motions, petitions, or applications to construe, divide, reform, or terminate a trust. The bill additionally requires this filing fee for motions, petitions, or applications to (1) validate, combine, or modify a trust or (2) assume jurisdiction over an out-of-state trust.

These changes align with changes to the state's probate laws under PA 19-137.

### **§§ 2-4 — FEE WAIVERS RELATED TO SAGA BENEFICIARIES OR INDIGENT PERSONS**

Existing law waives the \$150 filing fee for petitions for custody of a deceased person's remains in cases where the state, by law, must pay funeral and burial expenses for Temporary Family Assistance (TFA) or State Supplement Program (SSP) beneficiaries.

Existing law also provides that in cases where the Department of Administrative Services (DAS) represents an estate, the estate settlement fee is the lesser of (1) the standard fee (which is based on the estate's value) or (2) the amount that DAS collected after paying the funeral and burial expenses because the person was a TFA or SSP beneficiary.

The bill extends these provisions to cases where the state pays the funeral and burial expenses for (1) SAGA beneficiaries or (2) individuals who die without a sufficient estate and with no legally liable relative

able to pay for a proper funeral and burial.

### **§§ 5-7 — EXTENSION OF OTHER FEE-RELATED PROVISIONS**

Under existing law, certain fee waivers or other rules apply to estate settlement, fiduciary accounting, and miscellaneous probate fees (e.g., certain copy fees), but they do not apply to other fees to file various motions, petitions, or applications in probate court. These other fees encompass filings in a range of matters, such as guardianship, termination of parental rights, adoption, conservatorship, and powers of attorney. They also apply to matters such as requests for court continuances and mediation.

The bill specifically extends the following fee waivers and rules to all such probate fees, as applicable:

1. the required fee waiver for adoption proceedings involving special needs children;
2. court authority to postpone fees, if the court determines that to require the fee with the filing would cause undue delay or hardship;
3. the exemption of probate fees from the sales tax;
4. the requirement for probate courts, if a state agency is an applicant or otherwise liable for probate fees, to accept the matter without the filing fee and bill the agency for payment; and
5. the requirement for the Probate Court Administrator to cause a refund of overpayments to be paid out of the Probate Court Administration Fund.

### **§§ 9-11 — APPEALS OF QUARANTINE AND ISOLATION ORDERS**

Under existing law, if the Department of Public Health commissioner orders someone into quarantine or isolation during a public health emergency, the person may file a probate court appeal of that order. Anyone aggrieved by the probate court's decision can appeal to Superior Court (CGS § 19a-131b).



As is already the case for certain other appeals of probate court decisions, the bill:

1. requires hearings on these appeals within 90 days after the appeal is filed, unless the probate court or Superior Court has granted a stay;
2. prohibits the Superior Court from referring the appeal to a special assignment probate judge;
3. requires the probate court, within specified deadlines, to transcribe any portion of the proceeding's recording that has not been transcribed;
4. requires the appeal to be heard by the court without a jury (the appeal may also be referred to a state referee);
5. prohibits the Superior Court from substituting its judgment for the probate court's on the weight of evidence on a question of fact; and
6. requires the Superior Court to affirm the probate court's decision unless it finds that the person's substantial rights were prejudiced because the probate judge's findings, inferences, or decisions met certain criteria (e.g., exceeded statutory authority, were based on illegal procedures, or were arbitrary or capricious).

## **§ 12 — ESTATES OF ADULTS WITH GUARDIANS**

The bill expands certain procedures for guardians or conservators when closing out small estates to also apply to guardians of adults with intellectual disability.

Generally, under these procedures, the guardian or conservator may pay for the protected person's unpaid lifetime expenses, funeral and burial expenses, and administration expenses for closing the account if all these expenses equal or exceed the protected person's estate. The guardian or conservator may then take credit for these payments in the

final accounting.

**§ 14 — TRANSFER OF DCF VOLUNTARY ADMISSION CASES**

By law, the probate court must review cases of children voluntarily placed with DCF for services. In some cases, the probate court also must review their permanency plans. Additionally, a party aggrieved by a termination of voluntary admission may request a probate court hearing.

In these cases, if a probate court grants a party’s motion to transfer the matter to another district, the bill requires the electronic transfer of the case from one probate court to another. Specifically, when a court issues an order to transfer a file, it must transmit a digital image of each document, using the document management system maintained by the Office of the Probate Court Administrator. Upon receipt of the electronic documents, the receiving court assumes jurisdiction over the matter. Similar provisions already apply to various other probate matters.

The bill replaces current provisions which require the transferring court to copy, certify, and deliver all documents to the receiving court.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 36    Nay 0    (03/29/2021)