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2011 Edition

Guardianship in Connecticut

A Guide to Resources in the Law Library

- "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).
- "The right to the custody of a minor child is one of the principal attributes of a guardianship of the person." *Boardman v. Boardman*, 135 Conn. 124, 129, 62 A.2d 521 (1948).
- "'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) (2011).

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Treated Elsewhere

- [Best Interest of the Child Standard in Connecticut](#)
- [Child Abuse And Neglect in Connecticut](#)
- [Child Custody in Connecticut](#)
- [Representing Minors in Connecticut](#)
- [Rights of Minors in Connecticut](#)
- [Rights of Parents Who Live Separately](#)
- [Termination of Parental Rights in Connecticut](#)

The above research guides are available at <http://www.jud.ct.gov/lawlib/selfguides.htm>.

Section 1: Grounds for Guardianship

A Guide to Resources in the Law Library

SCOPE & CURRENCY:

- Bibliographic resources relating to the grounds for guardianship

DEFINITION:

- **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) (2011).
- **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](#) (2011).
- **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. STAT. [§ 45a-631](#)(a) (2011).
- **Coguardians:** “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) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
[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 coguardian for minor; rights same as of sole surviving parent
§ 45a-617. Appointment of guardian or coguardian of the person of a minor
§ 45a-631. Limitation on receipt or use of minor's property by parent, guardian or spouse. Release.

WEST KEY NUMBERS:

- *Guardian and Ward*
 - # 1-4. Guardianship in general
 - # 1. The relation in general
 - # 2. Power to control guardianship
 - # 3. What law governs
 - # 4. Guardians by nature

COURT CASES:

- [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."
- [State v. Springmann](#), 69 Conn. App. 400, 408, 794 A.2d 1071 (2002). "In fact, the record is clear that the state of Connecticut maintained guardianship over the victim C at all times, even if she was in the foster care of the defendant It is the commissioner of children and families who is a designated guardian and not a foster parent."
- [Cookson v. Cookson](#), 201 Conn. 229, 235, 514 A.2d 323 (1986). "In this instance, prior to judicial intervention, neither parent had an exclusive right to the custody of the children; their rights were joint and equal."
- [Hao Thi Popp v. Lucas](#), 182 Conn. 545, 551-552, 438 A.2d 755 (1980). "Thus, the plaintiff has a constitutional right to preserve her parental rights in the absence of a powerful countervailing state interest This amounts to a presumption which the defendant must overcome. To the extent that the language in such cases as . . . *Antedomenico v. Antedomenico*, 142 Conn. 558, 562, 115 A.2d 659 (1955), which involved custody contests between biological parents, suggests a rule different from that which we articulate today for disputes involving a third party, those cases are hereby

overruled.”

- [Apthorp v. Backus](#), 1 Kirby 407, 410 (Conn. 1788). “It is, indeed, the duty of judges of probate to see that infants who need guardians have them . . .”

TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
Chapter 3. Guardianship
§ 3:7. Types of guardianships of minors
§ 3:9. Jurisdiction over the guardianship of minor’s person
§ 3:16. Probate court jurisdiction over guardianship of minor’s estate
- ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).
Chapter 11 Guardianship
§ 11.12. Grounds for guardianship

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* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 2: Types of Guardianships in Connecticut

A Guide to Resources in the Law Library

Guardians of the Person of a Minor

- “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 person of the minor. A guardian of the estate is required to manage the property of the minor.”
[GUIDELINES FOR GUARDIANSHIPS OF MINORS](#) (CT Probate Courts)
URL: <http://www.jud.ct.gov/probate/Guardian-KID.pdf>
- **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) (2011)
- “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.

“All proceedings held under said sections shall, in the best interests of the minor child, be held without unreasonable delay.”
CONN. GEN. STAT. [§ 45a-605](#) (2011)
- “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](#) (2011)
- **Guardianship of the estate of the minor:** “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. The court shall cause reasonable notice of hearing to be given to (1) the parents or guardian of the person of the minor, (2) the minor, if the minor is twelve years of age or older, and (3) such other persons as it determines. Any person entitled to notice of the hearing may waive such notice.” CONN. GEN. STAT. [§ 45a-629](#)(a) (2011)

Section 2a: Parents as Guardians

A Guide to Resources in the Law Library

SCOPE:

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

DEFINITION:

- **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) (2011).
- **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) (2011).
- **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) (2011).
- **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](#) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
[Chapter 368j](#). 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-609. Application for removal of parent as guardian. Notice. Examination
- § 45a-610. Removal of parent as guardian
- § 45a-611. Reinstatement of parent as guardian of the person of minor.
- § 45a-612. Visitation rights of parent removed as guardian.
- § 45a-623. Transfer of contested proceeding to Superior Court or another judge of probate
- § 45a-624a. Consent of parent 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 Practice Book (2011)
Chapter 35a
[§ 35a-20](#). Motions for Reinstatement of Parent as Guardian or Modification of Guardianship Post-Disposition

LEGISLATIVE:

- 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:

- [Probate Court Forms](#)
PC-500. Application/Removal of Guardian
PC-520. Order of notice, temporary custody or removal and appointment of guardian
PC-530. Notice/Receipt of application for removal of guardian
PC-560. Decree/Removal of guardian and appointment

WEST KEY NUMBERS:

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

DIGESTS:

- DOWLING'S DIGEST: *Guardian and Ward*
§ 1. In general; Appointment
- CONNECTICUT FAMILY LAW CITATIONS: *Guardian*

COURT CASES:

- [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 Joseph W., Jr.](#), 121 Conn.App. 605, 997 A. 2d 512 (2010), aff'd, In Re Joseph W., 301 Conn. 245 (2011). "General Statutes § 45a-606 provides in relevant part: '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. . . .' 'The right to the custody of a minor child is one of the principal attributes of a guardianship of the person.' *Boardman v. Boardman*, 135 Conn. 124, 129, 62 A.2d 521 (1948). 'Since 1901 the rights of both parents have been equal' *Dunham v. Dunham*, 97 Conn. 440, 442, 117 A. 504 (1922), overruled in part on other grounds by *Freund v. Burns*, 131 Conn. 380, 385, 40 A.2d 754 (1944). Parents are joint guardians and have equal and independent rights to their custody. See *Scott v. Furrow*, 141 Conn. 113, 119, 104 A.2d 224 (1954). 'In a custody dispute, parents stand on equal footing with respect to one another' *Doe v. Doe*, 244 Conn. 403, 476, 710 A.2d 1297 (1998) (Katz, J., concurring in part and dissenting in part)."
- [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 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."
- [Doe v. Doe](#), 244 Conn. 403, 455, 710 A.2d 1297 (1998). "As these authorities make clear, the presumption does not mean

COURT CASES
(Cont.)

that the nonparent must, in order to rebut it, prove that the parent is unfit. It means that the parent has an initial advantage, and that the nonparent must prove facts sufficient to put into issue the presumed fact that it is in the child's best interest to be in the parent's custody. Once those facts are established, however, the presumption disappears, and the sole touchstone of the child's best interests remains irrespective of the parental or third party status of the adults involved. In that instance, then, neither adult - the parent or the third party - enjoys any advantage or suffers any disadvantage as a result of his or her parental or third party status."

- [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."
- [McGaffin v. Roberts](#), 193 Conn. 393, 407, 479 A.2d 176 (1984), *cert. denied*, 470 U.S. 1050, 105 S.Ct. 1747, 84 L.Ed. 2d 813 (U.S. 1985). "Thus the factor of parenthood is to be properly considered in the aggregate of all those circumstances that a trial court is entitled to consider in exercising its broad discretion in deciding what is in the best interests of a minor child."
- [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* (2003).
 - § 3. Classes or kinds of guardians.

**TEXTS &
TREATISES:**

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
 - Chapter 3. Guardianship
 - § 3.2. Guardianship of minors. Parent and child—
statutory guardians of the person, custody and control, termination of parental rights, statutory parent

§ 3:3. —Right to services and earnings, effects of emancipation

§ 3:4. —Duty to support

§ 3:10. Removal of parents or other guardians of minor's person, temporary custody orders, visitation and reinstatement rights, appointment of guardian or co-guardian

- 1 DONALD T. KRAMER, [LEGAL RIGHTS OF CHILDREN](#) (Rev. 2d ed. 2005).
Chapter 2. Child custody
§ 2:18. 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
- LEWIS K. PARKER, ED., [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. 543-544.

PAMPHLETS: • [GUIDELINES FOR GUARDIANSHIPS OF MINORS](#) (CT Probate Courts)

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Table 1: Consent by Minor Parent

CONN. GEN. STATS. § 19a-285 (2011)	
Consent by minor to medical, dental, health or hospital services for child	
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 2b: Temporary Guardians

A Guide to Resources in the Law Library

- SCOPE:**
- Bibliographic resources relating to standby guardians in Connecticut
- TREATED ELSEWHERE:**
- [Parents as guardians § 2a](#)
 - [Standby guardians § 2c](#)
- 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\(a\)](#) (2011).
 - **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\(b\)](#) (2011).
 - **Liability** of the temporary guardian: "A temporary guardian is not liable as a guardian pursuant to section [52-572](#)." CONN. GEN. STAT. [§ 45a-622\(b\)](#) (2011).
- STATUTES:**
- CONN. GEN. STAT. (2011)
 - [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
- 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](#)
 - Form PC-504. Application, appointment of temporary guardian
 - Form PC-564. Decree, appointment of temporary guardian

CASES:

- In Re Savannah L., Superior Court, Judicial District of Waterbury, Juvenile Matters at Waterbury, Docket No. U06-CP09-006773 (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). 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."

TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM, [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
Chapter 3. Guardianship
§ 3:7. Types of guardians of minors
- 1 ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).
Chapter 11. Guardianship
§ 11:5. Temporary guardianship
- LEWIS K. PARKER, ED., [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.

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Section 2c: Standby Guardians

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to standby guardians in Connecticut

TREATED

ELSEWHERE:

DEFINITIONS:

- [Parents as guardians § 2a](#)
- **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](#) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
 - [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 of designation of standby guardian
 - § 45a-624c. Written affidavit 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. (2011)
 - [§ 45a-624b](#). Form of designation of standby guardian
 - [§ 45a-624c](#). Written affidavit that designation of standby guardian in full force and effect

**TEXTS &
TREATISES:**

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
Chapter 3. Guardianship
 - § 3:7. Types of guardians of minors
 - § 3:23. Standby guardians
- LEWIS K. PARKER, ED., [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. 543-544.

COMPILER:

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Section 2d: Guardians and Coguardians Appointed by the Courts

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to co-guardians in Connecticut

TREATED

ELSEWHERE:

- [Parents as guardians § 2a](#)
- [Temporary guardians § 2b](#)
- [Standby guardians § 2c](#)

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\(a\)](#) (2011).
 - 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\(b\)](#) (2011).
- **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) (2011).

- **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) (2003).
- **Factors** used in choosing: "When appointing a guardian or coguardians of the person of a minor, the court shall take into consideration the following factors: (1) The ability of the prospective guardian or coguardians 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 or coguardians; 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 is in the best interests of the minor child.**" CONN. GEN. STAT. [§ 45a-617](#) (2011). (Emphasis added.)
- **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) (2011).
- **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) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
[Chapter 802h](#). Protected persons and their property
[Part II. Guardians of the person of a minor](#)
§ 45a-616. Appointment of guardian or coguardian for minor; rights same as of sole surviving parent
§ 45a-617. Appointment of guardian or coguardian of the person of a minor

§ 45a-631. Minor's property to be received or used only by guardian of estate. Release

LEGISLATIVE:

- [Public Act No. 00-78](#) (Reg. Sess.). An act concerning the receipt or use of property belonging to a minor. House Bill No. 5880.
- [Public Act No. 09-185](#) (Reg. Sess.), sec. 5. An Act Concerning Proceedings and Operations of the Department of Children and Families and the Disclosure of Adoption Information.

COURT RULES:

- CONNECTICUT PROBATE RULES FOR PRACTICE AND PROCEDURE (2011)
 - Rule 5. Guardians
 - 5.2. Appointment of guardian of the person
 - 5.3. Bond for guardian of the person

FORMS:

- [Probate Court Forms](#)
 - PC-500. Application for removal of guardian
 - PC-501. Application for immediate temporary custody
 - PC-502. Application for temporary custody
 - PC-504. Application, appointment of temporary guardian
 - PC-510. Custodian's affidavit for immediate temporary custody
 - PC-520. Order of notice, temporary custody or removal and appointment of guardian
 - PC-530. Notice, receipt of application for removal and appointment of guardian
 - PC-531. Citation and return for custody/removal of guardian
 - PC-550. Physician's certificate, immediate temporary custody
 - PC-560. Decree, removal of guardian and appointment
 - PC-561. Decree, immediate temporary custody
 - PC-562. Decree, temporary custody
 - PC-564. Decree, appointment of temporary guardian
 - PC-610. Affidavit, temporary custody, removal, termination or adoption

CASES:

- [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
§§ 86-151. General powers and duties of guardians and conservators
§§ 152-163. Actions
§§ 185-204. Liability of guardian and sureties
- 39 [C.J.S.](#) *Guardian & Ward* (2003).
§§ 51-69. Custody and care of ward's person
§§ 252-270. Actions

TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM, [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
Chapter 3. Guardianship
§ 3:11. Powers and duties of guardian of minor's person

- LEWIS K. PARKER, ED., [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. 544.

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Table 2: Commitment of Child or Youth

<p>Statutes</p>	<p>(j) "Upon finding and adjudging that any child or youth is uncared-for, neglected or dependent, the court may commit such child or youth to the Commissioner of Children and Families. 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, or the court may 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 dependent 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. If the court determines that the commitment should be revoked and the child's or youth's 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 upon revocation to, or adoption upon termination of parental rights by, any relative who is licensed as a foster parent for such child or youth, 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 relative is a suitable and worthy person to assume 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 to, or an adoption by, such relative would not be in the child's or youth's best interests and such relative 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. The commissioner shall be the guardian of such child or youth for the duration of the commitment... "</p> <p>CONN. GEN. STAT. § 46b-129(j) (2011).</p>
<p>Cases</p>	<ul style="list-style-type: none"> • "Upon a judicial determination that the child is uncared for, neglected or dependent, the Superior Court has available to it three possible options regarding custody of that child: (1) to commit the child to the custody of the petitioner; (2) to vest such child's care and custody in a third party until the child reaches the age of eighteen; or (3) to permit the natural parent to retain custody and guardianship of the child with or without protective supervision by the department." In Re Stanley D., 45 Conn. App. 606, 610, 697 A.2d 370 (1997). • "Our review of the relevant statutes leads us to conclude that an adjudication of neglect relates to the status of the child and is not necessarily premised on parental fault. A finding that the child is neglected is different from finding who is responsible for the child's condition of neglect." In Re David L., 54 Conn. App. 185, 191, 733 A.2d 897 (1999).

Jurisdiction of the courts	<ul style="list-style-type: none"> • “(a) Application for commitment of a mentally ill child to a hospital for mental illness shall be made to the court of probate in the district in which such child resides, or when his or her place of residence is out of state or unknown, the district in which he or she may be at the time of filing the application, except in cases where it is otherwise expressly provided by law. In any case in which the child is hospitalized under sections 17a-75 to 17a-83, inclusive, and an application for the commitment of such child is filed in accordance with the provisions of sections 17a-75 to 17a-83, inclusive, the jurisdiction shall be vested in the court of probate for the district in which the hospital where such child is a patient is located.” CONN. GEN. STAT. § 17a-76(a) (2011). • “Any application for commitment of any child under sections 17a-75 to 17a-83, inclusive, shall be transferred from the court of probate where it has been filed to the superior court of appropriate venue upon motion of any legal party except the petitioner.” CONN. GEN. STAT. § 17a-76(b) (2011).
ALR Annotation	<ul style="list-style-type: none"> • Janet Boeth Joners, Annotation, <i>Truancy As Indicative Of Delinquency Or Incurability, Justifying Commitment Of Infant Or Juvenile</i>, 5 ALR4th 1211 (1981).
Text & Treatises	<ul style="list-style-type: none"> • RALPH H. FOLSOM & GAYLE B. WILHELM , INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D (2006). Chapter 1. Commitments and placements § 1:18. Commitment of mentally ill children § 1:21. Commitment in juvenile proceedings; termination of parental rights, statutory parent
Pamphlets	<ul style="list-style-type: none"> • CONNECTICUT NETWORK FOR LEGAL AID, IF DCF IS YOUR LEGAL GUARDIAN http://ctlawhelp.org/dcf-legal-guardian
DCF Information	<ul style="list-style-type: none"> • SUBSIDIZED GUARDIANSHIP (Office of Foster Care and Adoption Services) http://www.ct.gov/dcf/cwp/view.asp?A=2561&Q=314320

Table 3: Sovereign Immunity and State Officials

<u>Prigge v. Ragaglia</u> 265 Conn. 338, 828 A.2d 542 (2003)	
p. 340	"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. 349	"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 <u>chapter 53</u> 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 those claims."

Section 2e: Guardian of the Estate of a Minor

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to guardianships of minors in Connecticut

TREATED ELSEWHERE:

- Guardian of the person of a minor, [sections 2 – 2d](#), *supra*.

DEFINITION:

- “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) (2011).
- “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) (2011).
- “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) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
 - [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. Minor’s property to be received or used only by guardian of estate. Release
 - § 45a-632. Appointment of guardian of estate of non-resident minor
 - § 45a-633. Lease of minor’s real estate by guardian or coguardian 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

LEGISLATIVE:

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

COURT RULES:

- CONNECTICUT PROBATE RULES FOR PRACTICE AND PROCEDURE (2011)
 - Rule 5.4. Appointment and qualifications of guardian of the estate
 - Rule 5.5. Bond of guardian of the estate
 - Rule 5.6. Notice of hearing on appointment of guardian of the estate
 - Rule 5.7. Inventory and accounting by guardian of the estate

FORMS:

- [Probate Court Forms](#)
 - PC-503. Application for appointment of guardian of estate
 - PC-563. Decree for appointing guardian of 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:

- [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, generally
 - §§ 129-135. Investment and deposit of funds
 - §§ 136-151. Sales and purchase of property
 - §§ 205-220. Trust relation between guardian and ward

TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
 - Chapter 3. Guardianship
 - § 3:7. Types of guardianship of minors
 - § 3:15. Necessity for guardianship of minor's estate
 - § 3:16. Probate court jurisdiction over guardianship of minor's estate
 - § 3:17. Appointment of guardian of the minor's estate
- LEWIS K. PARKER, ED., [LAWYERS' DESKBOOK: A REFERENCE MANUAL](#), (3d ed. 2008).
 - o Lynn B. Cochrane, *Child Protection*. "Basic Principles: Guardianship of the Person of the Minor in Probate Court," pp. 544-545.

LAW REVIEWS:

- 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).

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Section 2f: 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

TREATED ELSEWHERE:

- Guardians of the person of a minor, [sections 2 – 2d](#), *supra*
- Guardian of the estate of a minor, [section 2e](#)

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) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
Chapter 802h. Protected persons and their property
Part II. Guardians of the person of a minor
[§ 45a-596](#). Testamentary guardian or coguardian

LEGISLATIVE:

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

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
- Annotation, *Function, Power, And Discretion Of Court Where There Is Testamentary Appointment Of Guardian Of Minor*, 67 ALR2d 803 (1959).

TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
Chapter 3. Guardianship
§ 3:5. Parent and child—designation of guardian by parent in event of parent's death
§ 3:7. Types of guardianships of minors
§ 3:8. Testamentary guardians
- ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).
Chapter 11 Guardianship
§ 11.10. Testamentary guardianship
- LEWIS K. PARKER, ED., [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.

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Table 4: Parental appointment of guardian in event of parent's death

CONN. GEN. STAT. § 45a-596 (2011)	
(a)	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.
(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)	A parental appointment becomes effective when the guardian's written 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 parent's decease. If the court deems it necessary for the protection of the 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 2g: Guardians of Mentally Retarded Adults

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to guardians of mentally retarded adults

DEFINITIONS:

- **Plenary guardian of a mentally retarded person:**
“means a person, legally authorized state official, or private nonprofit corporation, except a hospital or nursing home as defined in section 19a-521, appointed by a court of probate pursuant to the provisions of sections 45a-668 to 45a-684, 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 his mental retardation, has been determined to be totally unable to meet essential requirements for his physical health or safety and totally unable to make informed decisions about matters related to his care.” CONN. GEN. STAT. [§ 45a-669\(a\)](#) (2011)
- **Limited guardian of a mentally retarded person:**
“means a person, legally authorized state official, or a private nonprofit corporation, except a hospital or nursing home as defined in section 19a-521, appointed by a court of probate pursuant to the provisions of sections 45a-668 to 45a-684, 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 his mental retardation, has been determined to be able to do some, but not all, of the tasks necessary to meet essential requirements for his physical health or safety or to make some, but not all, informed decisions about matters related to his care.” CONN. GEN. STAT. [§ 45a-669\(c\)](#) (2011)

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.

STATUTES:

- CONN. GEN. STAT. (2011)
[Chapter 802h](#). Protected persons and their property
[Part V. Guardians of mentally retarded persons](#)
§ 45a-668. Continuation of service of persons appointed as guardians or limited guardians of mentally retarded persons

prior to October 1, 1982.

- § 45a-669. Definitions
- § 45a-670. Application for guardianship
- § 45a-671. Hearing. Notice requirements
- § 45a-672. Notice of hearing
- § 45a-673. Appointment of counsel. Payment of cost for indigent person
- § 45a-674. Hearing for appointment of guardian. Evidence. Report by mental retardation 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 by court. Written acceptance of guardianship. Probate bond. Findings of court. Appointment of employee of Department of Mental Retardation as plenary guardian or limited guardian
- § 45a-677. Powers and duties of plenary or limited guardian. Report. Transfer of file
- § 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 of guardianship or limited guardianship of mentally retarded person by court
- § 45a-682. Application for temporary limited guardian. Notice and hearing. Appointment
- § 45a-683. Immunity from civil liability of plenary guardian, temporary limited guardian or limited guardian of a mentally retarded person
- § 45a-684. Payment of expenses and fees of proceeding for appointment of guardian of mentally retarded person

FORMS:

- [Probate Court Forms](#)
 - PC-700. Application for guardianship of the mentally retarded
 - PC-720. Order of notice, guardianship of the mentally retarded

PC-722. Order of notice of hearing and return, appointment of guardian of the mentally retarded

PC-730. Citation and return, guardianship of the mentally retarded

PC-760. Decree, appointment of guardian of mentally retarded

PC-763. Decree, review proceeding, appointment of guardian of the mentally retarded

PC-763A. Order, review, proceeding, appointment of guardian of the mentally retarded

PC-770. Assessment team evaluation, guardianship of the mentally retarded

PC-771. Guardian's report of guardianship of the mentally retarded

PC-772. Psychologist's report, placement of mentally retarded

PC-773. Notice of hearing, appointment of guardian of mentally retarded, review hearing

CASES:

- [Carney v. Federal Express Corp.](#), Judicial District of New Haven at New Haven, Docket No. CV02 0467894 (Mar. 3, 2003), 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*
101-196. Guardianship in general
#138. Hearing and determination. Presence of disordered person

ENCYCLOPEDIAS:

- Peter G. Guthrie, Annotation, *Priority And Preference In Appointment Of Conservator Or Guardian For An Incompetent*, 65 ALR3d 911 (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:

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
Chapter 3. Guardianship
§3: 1. Plenary and limited guardians for mentally retarded adults

LAW REVIEWS:

- Michael Dolan, Note, *Do Connecticut's Conservator Statutes Possess The Necessary Due Process Guarantees?* 9 CONNECTICUT PROBATE LAW JOURNAL 297 (1995).

PAMPHLETS:

- [PROBATE COURT PROCEDURES INVOLVING PERSONS WITH MENTAL RETARDATION](#) (CT Probate Courts)

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* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 3: 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

DEFINITION:

- **Transfer to Superior Court from Probate:** "In any proceeding under sections 45a-603 to 45a-622, inclusive, that is contested, the Court of Probate shall, upon motion of any party other than a party who made application for the removal of a parent as a guardian, under rules adopted by the judges of the Supreme Court, transfer the case to the Superior Court . . . If the case is transferred and venue altered, the clerk of the Court of Probate shall transmit to the clerk of the Superior Court, or the probate court to which the case was transferred, the original files and papers in the case." CONN. GEN. STAT. [§ 45a-623](#) (2011).
- **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](#) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
 - [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.
 - § 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 another judge of probate.

**WEST KEY
NUMBERS:**

- *Courts # 198-201. 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:

- 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."

**TEXTS &
TREATISES:**

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
 - Chapter 3. Guardianship
 - § 3:9. Jurisdiction over guardianship of minor's person

- ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).
Chapter 11 Guardianship

§ 11.4. Jurisdiction

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* Originally compiled by Lawrence Cheeseman, retired
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Table 5: Jurisdiction of Connecticut Courts

<p>Superior Court, Juvenile Matters (Civil) CONN. GEN. STAT. § 46b-121(a) (2011)</p>
<ul style="list-style-type: none"> • Adoption—appeals from probate • Emancipation of minors • Family with Special Service Needs—matters concerning • Parent as guardian, removal of contested matters transferred from the Probate Court appeals from Probate Court • Termination of parental rights of children committed to a state agency • Termination of parental rights contested matters transferred from the Probate Court appeals from Probate Court • Uncared-for, neglected or dependent children and youths within the state
<p>Superior Court, Juvenile Matters (Criminal) CONN. GEN. STAT. § 46b-121(a) (2011)</p>
<ul style="list-style-type: none"> • Juvenile matters in the criminal session include all proceedings concerning delinquent children within this state and persons seventeen 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.
<p>Probate Courts CONN. GEN. STAT. § 46b-121(a) (2011)</p>
<ul style="list-style-type: none"> • Adoption • Guardianship • Property rights of any child or youth

Section 4: 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 in Connecticut

SEE ALSO:

- PROBATE COURT FREQUENTLY ASKED QUESTIONS:
<http://www.jud.ct.gov/probate/faq.html>
"Guidelines for Guardianship of Minors"

DEFINITION:

- **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) (2011).
- **Guardian:** "means one who has the authority and obligations of 'guardianship' as defined in subsection (5) of this section [above]. CONN. GEN. STAT. [§ 45a-604](#)(6) (2011).
- "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).

STATUTES:

- CONN. GEN. STAT. (2011)
[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-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. Guardians of mentally retarded persons. Powers and duties of plenary or limited

guardian. Report. Transfer of title

LEGISLATIVE:

- 2000 CONN. ACTS 78 (Reg. Sess.). An act concerning the receipt or use of property belonging to a minor. House Bill No. 5880.

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:

- [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"
- [Ehrsam 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). "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 the care of ward
- For ALR Annotations see:
 - [Table 6: ALR Annotations on the rights of guardians of minors](#)
 - [Table 7: ALR annotations on rights of guardians of adult incompetent](#)

TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
 - Chapter 3. Guardianship
 - § 3:11. Powers and duties of guardian of minor's person
 - § 3:15. Necessity for guardianship of minor's estate
- ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).
 - Chapter 11 Guardianship
 - § 11.3. Rights and duties of the guardian

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Table 6: ALR annotations on rights of Guardians of Minors

Subject	ALR Annotations
Actions	Russell G. Donaldson, Annotation, <i>Judgment In Guardian's Final Accounting Proceedings As Res Judicata In Ward's Subsequent Action Against Guardian</i> , 34 ALR4th 1121 (1984).
Brainwashing	Gregory G. Sarno, Annotation, <i>Validity Of Guardianship Proceeding Based On Brainwashing Or Subject By Religious, Political, Or Social Organizations</i> , 44 ALR4th 1207 (1986).
Compensation	Annotation, <i>Fiduciary's Compensation On Estate Assets Distributed In Kind</i> , 32 ALR2d 778 (1953).
Gifts	James T. Watson, Annotation, <i>Validity Of Inter Vivos Gift By Ward To Guardian Or Conservator</i> , 70 ALR4th 499 (1989). Wanda Ellen Wakefield, Annotation, <i>Effect of Testamentary Gift to Child Conditioned Upon Specified Arrangements for Parental Control</i> , 11 ALR4th 940 (1982).
Guaranty	Daniel E. Feld, Annotation, <i>Termination Of Continuing Guaranty By Appointment Of Guardian Or Conservator For Guarantor</i> , 55 ALR3d 344 (1974).
Interest	Annotation, <i>Guardian's Liability For Interest On Ward's Funds</i> , 72 ALR2d 757 (1960).
Lease	Annotation, <i>Guardian's Power To Make Lease For Infant Ward Beyond Majority Or Term Of Guardianship</i> , 6 ALR3d 370 (1966).
Medical Treatment	Lisa K. Gregory, Annotation, <i>Propriety Of Surgically Invading Incompetent Or Minor For Benefit Of Third Party</i> , 4 ALR5th 1000 (1992).
Punishment	Annotation, <i>Criminal Liability For Excessive Or Improper Punishment Inflicted On Child By Parent, Teacher, Or One In Loco Parentis</i> , 89 ALR2d 396 (1963).
Statute of Limitations	Annotation, <i>Appointment Of Guardian For Incompetent Or For Infant As Affecting Running Of Statute Of Limitation Against Ward</i> , 86 ALR2d 965 (1962).
Sue or be Sued	Annotation, <i>Capacity Of Guardian To Sue Or Be Sued Outside State Where Appointed</i> , 94 ALR2d 162 (1964).
Trusts	John D. Hodson, Annotation, <i>Guardian's Authority, Without Seeking Court Approval, To Exercise Ward's Right To Revoke Trust</i> , 53 ALR4th 1297 (1987). [Continued]
Will Contest	Annotation, <i>Validity And Enforceability Of Agreement To Drop Or Compromise Will Contest Or Withdraw Objections To Probate, Or Of Agreement To Induce Others To Do So</i> , 42 ALR2d 1319 (1955).

Table 7: ALR Annotations on rights of guardians of adult incompetent

Subject	ALR Annotations
Attorney-Client Privilege	Annotation, <i>Waiver Of Attorney-Client Privilege By Personal Representative Or Heir Of Deceased Client Or Guardian Of Incompetent</i> , 67 ALR2d 1268 (1959).
Beneficiary	Annotation, <i>Power Of Guardian Of Incompetent To Change Beneficiary In Ward's Life Insurance Policy</i> , 21 ALR2d 1191 (1952).
Compensation	Annotation, <i>Fiduciary's Compensation On Estate Assets Distributed In Kind</i> , 32 ALR2d 778 (1953).
Debts and obligations	Annotation, <i>Power Of Guardian, Committee, Or Trustee Of Mental Incompetent, After Latter's Death, To Pay Debts And Obligations</i> , 60 ALR2d 963 (1958).
Divorce or annulment	David E. Rigney, Annotation, <i>Power Of Incompetent Spouse's Guardian Or Representative To Sue For Granting Or Vacation Of Divorce Or Annulment Of Marriage, Or To Make A Compromise Or Settlement In Such Suit</i> , 32 ALR5th 673 (1995).
Gifts	Annotation, <i>Power To Make Charitable Gifts From Estate Of Incompetent</i> , 99 ALR2d 946 (1965). Annotation, <i>Power Of Court Or Guardian To Make Noncharitable Gifts Or Allowances Out Of Funds Of Incompetent Ward</i> , 24 ALR3d 863 (1969).
Interest	Annotation, <i>Guardian's Liability For Interest On Ward's Funds</i> , 72 ALR2d 757 (1960).
Joint Depositor	Annotation, <i>Effect Of Incompetency Of Joint Depositor Upon Status And Ownership Of Bank Account</i> , 62 ALR2d 1091 (1958).
Make expenditures or obligations	Peter G. Gutherie, <i>Right Of Guardian Or Committee Of Incompetent To Incur Obligations So As To Bind Incompetent Or His Estate, Or To Make Expenditures, Without Prior Approval By Court</i> , 63 ALR3d 780 (1975).
Medical Treatment	Lisa K. Gregory, Annotation, <i>Propriety Of Surgically Invading Incompetent Or Minor For Benefit Of Third Party</i> , 4 ALR5th 1000 (1992).
Sale of property	H.D. Warren, Annotation, <i>Power Of Court To Confirm Sale Of Ward's Property Over Objection Of Guardian</i> , 43 ALR2d 1445 (1955).
Statute of Limitations	John H. Derrick, Annotation, <i>Tolling Of Statute Of Limitations, On Account Of Minority Of Injured Child, As Applicable To Parent's Or Guardian's Right Of Action Arising Out Of Injury</i> , 49 ALR4th 216 (1986). Annotation, <i>Appointment Of Guardian For Incompetent Or For Infant As Affecting Running Of Statute Of Limitation Against Ward</i> , 86 ALR2d 965 (1962).
Stock	Annotation, <i>Right Of Foreign Personal Representative Or Guardian To Vote Stock Owned By Estate Or Ward</i> , 41 ALR2d 1082 (1955).
Sue or be Sued	Annotation, <i>Capacity Of Guardian To Sue Or Be Sued Outside State Where Appointed</i> , 94 ALR2d 162 (1964).
Torts	Annotation, <i>Liability Of Incompetent's Estate For Torts Committed By Guardian, Committee, Or Trustee In Managing Estate</i> , 40 ALR2d 1103 (1955).
Will	Jeffrey F. Ghent, Annotation, <i>Ademption Or Revocation Of Specific Devise Or Request By Guardian, Committee, Conservator, Or Trustee Of Mentally Or Physically Incompetent Testator</i> , 84 ALR4th 462 (1991). Annotation, <i>Effect Of Guardianship Of Adult On Testamentary Capacity</i> , 89 ALR2d 1120 (1963).

Section 5: Appointment of Guardians

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the appointment of guardians

DEFINITION:

- **Appointment of guardian of the person of the minor:** "In the case of a minor who has no guardian of the person due to the death of his parents, the probate court for the district in which the minor resides may appoint a guardian for the minor on its own initiative. When the court has removed both parents as guardians of the minor's person, it must appoint a successor guardian. If the court removes only one parent as guardian, or if one parent dies, the remaining parent is the sole guardian of the person of the minor."

PROBATE COURT FREQUENTLY ASKED QUESTIONS:

<http://www.jud.ct.gov/probate/faq.html>

"Guidelines for Guardianship of Minors"

STATUTES:

- CONN. GEN. STAT. (2011)
 - [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-617. Appointment of guardian or coguardians 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 by court. Written acceptance of guardianship. Probate bond. Findings of court. Appointment of employee of Department of Mental Retardation as plenary guardian or limited guardian

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; 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."

- 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
 - § 38. Generally
 - § 39. Best interest of ward or conservatee as paramount
 - § 40. Preferences in appointment of guardian of minor
 - § 43. 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
- Danny R. Veilleux, Annotation, *Necessity Or Propriety Of Appointment Of Independent Guardian For Child Who Is Subject Of Paternity Proceedings*, 70 ALR4th 1033 (1989).
- Peter G. Guthrie, Annotation, *Priority And Preference In Appointment Of Conservator Or Guardian For An Incompetent*, 65 ALR3d 911 (1975).
- Peter G. Guthrie, Annotation, *Who Is Minor's Next Of Kin For Guardianship Purposes*, 63 ALR3d 813 (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).

- Annotation, *Consideration And Weight Of Religious Affiliations In Appointment Or Removal Of Guardian For Minor Child*, 22 ALR2d 696 (1952).

**TEXTS &
TREATISES:**

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).

Chapter 3. Guardianship

§ 3:7. Types of guardianship of minors

§ 3:8. Testamentary guardians

§ 3:10. Removal of parents or other guardians of minor's person, temporary custody orders, visitation and reinstatement rights, appointment of guardian or coguardians

§ 3:17. Appointment of guardian of the minor's estate

- ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).

Chapter 11 Guardianship

§ 11.7. Persons who may be appointed guardian

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* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 8: Factors Used in Choosing a Guardian

CONN. GEN. STAT. [§ 45a-617](#) (2011).

When appointing a guardian or coguardians of the person of a minor, the court shall take into consideration the following factors:
(1) The ability of the prospective guardian or coguardians 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 or coguardians
(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 is in the best interests of the minor child.

Section 6: Child's or Respondent's Wishes

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the child's preference in the appointment of guardian

DEFINITION:

- **Guardian of the person of a minor:** "When appointing a guardian or coguardians 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](#) (2011).
- **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\(b\)](#) (2011).
- **Guardian of mentally retarded person:** "In selecting a plenary guardian or limited guardian of the mentally retarded person, 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\(f\)](#) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
[Chapter 802h](#). Protected persons and their property
[Part II. Guardians of the person of a minor](#)
§ 45a-617. Appointment of guardian or coguardians 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 by court

LEGISLATIVE:

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

COURT CASES:

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

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:**

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).

Chapter 3. Guardianship

§ 3:2. Parent and child—statutory guardians of the person, custody and control, termination of parental rights, statutory parent

- ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).

Chapter 11 Guardianship

§ 11.8. Child's preference

COMPILER:

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* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 7: 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

DEFINITION:

- **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](#) (2011).
- **Minor:** "means a person under the age of eighteen." CONN. GEN. STAT. [§ 45a-604](#)(4) (2011).
- **Final accounting:** "Courts of probate shall have jurisdiction of the interim and final accounts of . . . guardians" CONN. GEN. STAT. [§ 45a-175](#)(a) (2011).
- **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) (2011).

FORMS:

- [Probate Court Forms](#)
 - PC-500. Application/Removal of guardian
 - PC-520. Order of notice, temporary custody or removal and appointment of guardian
 - PC-530. Notice/Receipt of application for removal of guardian
 - PC-531. Citation and return/Temporary custody/Removal of guardian
 - PC-560. Decree/Removal of guardian and appointment
 - PC-570. Guardian's report/Guardianship of the person of a minor
 - PC-580. Receipt and release of guardian of estate

STATUTES:

- CONN. GEN. STAT. (2011)
 - [Chapter 802h](#). Protected persons and their property
 - [Part II. Guardians of the person of a minor](#)

- § 45a-242. Replacement of fiduciary [as amended by 2001 Conn. Acts 114, effective October 1, 2001]
- § 45a-605. Provisions construed in best interest of minor child
- § 45a-610. Removal of parent as guardian
- § 45a-613. Removal of guardian or coguardians 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 CASES:

- In Re Savannah L., Superior Court, Judicial District of Waterbury, Juvenile Matters at Waterbury, Docket No. U06-CP09-006773 (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). "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."

ENCYCLOPEDIAS:

- 39 [AM JUR 2d](#) *Guardian and Ward* (2008).
 §§ 79-85. Resignation and removal; selection of successor
 § 81. Grounds
- Sheldon R. Shapiro, Annotation, *Resignation Or Removal Of Executor, Administrator, Guardian Or Trustee, Before Final Administration Or Before Termination Of Trust, As Affecting His Compensation*, 96 ALR3d 1102 (1979).
- Annotation, right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 ALR2d 751 (1954).

TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM , [INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D](#) (2006).
 Chapter 3. Guardianship
 § 3:10. Removal of parents or other guardians of minor's person, temporary custody orders, visitation and reinstatement rights, appointment of guardian or co-guardian

§ 3:19. Removal, resignation or death of guardian
§ 3:20. Termination of guardianship of minors

- ANN M. HARALAMBIE, [HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES](#) (2009).
Chapter 11 Guardianship
§ 11.13. Change of guardian
§ 11.14. Termination of guardianship

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