



STATE OF CONNECTICUT  
OFFICE OF THE CHILD ADVOCATE

REPORT

CONNECTICUT PROBATE COURT  
GUARDIANSHIP PROCEEDINGS

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March 2025

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## I. INTRODUCTION

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The Office of the Child Advocate (“OCA”) is an independent government agency that is statutorily required to “[r]eview complaints of persons concerning the actions of any state or municipal agency providing services to children and of any entity that provides services to children through funds provided by the state ... investigate those where the Child Advocate determines that a child or family may be in need of assistance from the Child Advocate or that a systemic issue in the state's provision of services to children is raised by the complaint ... provide assistance to a child or family who the Child Advocate determines is in need of such assistance including, but not limited to, advocating with an agency, provider or others on behalf of the best interests of the child . . . [and] [e]valuate the delivery of services to children by state agencies and those entities that provide services to children through funds provided by the state.”<sup>1</sup> Concurrently, OCA is required to “[t]ake all possible action including, but not limited to, conducting programs of public education, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil and special rights of children who reside in this state.”<sup>2</sup>

In February 2024, the OCA became aware of allegations that a young woman, who will be referred to in this report as Jane Doe,<sup>3</sup> was repeatedly sexually assaulted by throughout her childhood her guardian, Roger Barriault, who was appointed by the Connecticut Probate Court. Mr. Barriault was arrested and charged with sexual assault and risk of injury to a minor.<sup>4</sup> It is alleged that the assault resulted in a pregnancy, birth of a child, and continued sexual abuse for over a decade while she remained in the home of her guardian/abuser. Pursuant to OCA's statutory responsibilities, it immediately began an investigatory review of the circumstances of the guardianship to identify any system failures that may have allowed such abuse to go unchecked.

During the course of its investigatory review, the OCA was charged with the responsibility, pursuant to Public Act 24-118, Section 12, to conduct a one-time review of practice and procedures in guardianship matters in Probate Court. Pursuant to Section 12 of Public Act 24-118, OCA was charged with providing a report on the following:

- (1) statutory requirements applicable to such proceedings;
- (2) applicable court rules and policies and quality assurance measures;

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<sup>1</sup> Conn. Gen. Stat. § 46a-13l.

<sup>2</sup> *Id.*

<sup>3</sup> This is a pseudonym.

<sup>4</sup> As of the date of this report, the charges remain pending.

- (3) practices, procedures and quality assurance framework applicable to the work of the Department of Children and Families in Probate Court matters;
- (4) training and contractual expectations for counsel assigned to minors and guardians ad litem (GALs) in Probate Court guardianship matters; and
- (5) practices and procedures for providing guardianship subsidies to eligible recipients by the Department of Social Services<sup>5</sup> and the quality assurance framework applicable to the administration of such benefits.

This report includes information related to OCA's investigatory review of the circumstances of the Barriault guardianship and OCA's review pursuant to Public Act 24-118. OCA has reviewed the contents of this Report with the Office of the Probate Court Administrator (PCA), the Department of Children and Families (DCF), the Department of Social Services (DSS). Formal responses, where received, are included at the conclusion of this Report.

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## **II. BRIEF SUMMARY OF FINDINGS**

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The Office of the Child Advocate finds that there were missed opportunities to intervene to protect Jane. Despite numerous reports, Jane's pregnancy, Mr. Barriault's refusal to take paternity tests, and, later, receipt of text messages alluding to Mr. Barriault's paternity, DCF did not contact the police to alert them to the allegations of sexual abuse. While DCF and a Guardian ad Litem requested paternity testing through the Probate Court, DCF did not file a petition in the Superior Court for Juvenile Matters to seek court ordered paternity testing following Jane's withdrawal of the matter pending in Probate Court. The Probate Court also did not alert the police. OCA also finds that the quality of DCF assessments submitted to the court varied, with some assessments omitting critically important information.

In addition, OCA finds that assessments for the Probate Court are not treated as investigations by DCF, in the way that reports to the DCF Careline would be. As a result, the way information is recorded by DCF in relation to assessments for the Probate Court may result in a lack of complete and accurate information, may impact the availability of complete and accurate information for future investigations or assessments, and may create a lack of clarity on whether and when police reports are required. OCA finds that a quality assurance framework is needed at DCF to ensure the quality of assessments submitted to the Probate Court and that certain DCF policies should be amended.

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<sup>5</sup> DSS does not provide guardianship subsidies. Individuals appointed as guardians through the Probate Court are not eligible for subsidized guardianship through DCF. Where an appointment of guardian has been made through Probate Court, financial support is available in the form of Temporary Family Assistance, through DSS. See Section V.B., at p. 25, of this Report.

OCA finds that while judges in the Probate Court receive training, there are no requirements that they receive training specific to guardianship of minors and issues related to child abuse and neglect, the impact of trauma, or recognizing signs of grooming or sexual abuse. Attorneys serving as panel attorneys in the Probate Court are not required to receive any specific training or demonstrate any particular expertise. There are no practice standards applicable to panel attorneys and no formal quality assurance framework.

Based on these findings, OCA makes several specific recommendations for improvement including the creation of a working group, providing certain information to parties in Probate Court proceedings, recording proceedings regarding removal of guardian, and policy changes at DCF. These are outlined in detail in the Section VIII of this report.

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### III. METHODOLOGY

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As part of its investigation, OCA engaged in the following activities:

1. Review and analysis of relevant state and federal law, including review of statutory requirements applicable to Probate proceedings in guardianship matters.
2. Review of applicable court rules, policies, and quality assurance measures.
3. Review of practices, procedures and quality assurance framework applicable to the work of DCF in Probate Court matters.
4. Review of training and contractual expectations for counsel assigned to minors and guardians ad litem in Probate Court guardianship matters.
5. Review of practices and procedures for providing financial assistance to eligible guardians by DSS and the quality assurance framework applicable to the administration of such benefits.
6. Review of Probate Court records and DCF records pertaining to Mr. Barriault and all children subject to his temporary or permanent guardianship.
7. Review of DSS records pertaining to the Barriaults.
8. Review of redacted records filed in the Superior Court in relation to the arrests of Mr. and Mrs. Barriault.
9. Discussions with representatives of the Connecticut Probate Court.
10. Discussions with representatives of DCF.
11. Discussions with representatives of DSS.
12. Interview of Jane Doe.

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## IV. BARRIAULT MATTER

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### A. FINDINGS

OCA cautions that due to changes in policy and practice, and changes in information collection and record keeping, since the 2005-2012 time period, there are some challenges in extrapolating current systemic issues from this individual case. Nonetheless, the case does demonstrate lost opportunities to intervene and some systemic gaps that may persist. Most notably, despite multiple allegations of sexual abuse over a period of years, Jane's pregnancy at the age of 12, and text messages alluding to Mr. Barriault's paternity of Jane's child, DCF did not alert the police to allegations regarding Jane. OCA also found inconsistencies in the accuracy and completeness of assessments submitted by DCF to the Probate Court.

OCA makes the following findings in relation to the Barriault matter:

- 1. At the time of the first request to appoint the Barriaults as temporary guardians for Jane, the Probate Court did not have all of the relevant information.** When Mary,<sup>6</sup> a 13-year-old girl and the child of a friend of the Barriaults, first made allegations in 2005 that Mr. Barriault sexually abused her, Mr. Barriault should have been identified as an alleged perpetrator of sexual abuse in DCF's LINK system. Had this occurred, subsequent searches of his name in LINK would have revealed the allegations. When Jane was first placed into the Barriaults' home, a DCF investigation was waived. Had the information been properly documented, and had the Probate Court ordered a study, the Probate Court would have had the benefit of this information at time of the first request to make the Barriaults Jane's temporary guardians.
- 2. In 2008, when a report was made to DCF because Jane, then 13, was pregnant, additional action was warranted.** While Jane denied any allegations and indicated another youth was the father, no paternity testing was done to confirm paternity. Given the allegations, made by Mary earlier in 2008, that Mr. Barriault sexually assaulted both Mary and Jane, further action to determine paternity was warranted.
- 3. In 2012, when DCF conducted an assessment for the Probate Court in relation to other children in the home, and noted concerns regarding the paternity of Jane's child, further action should have been taken to determine paternity.** During its assessment, DCF noted concerns that Mr. Barriault might be the father of Jane's child and conducted

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<sup>6</sup> This name is a pseudonym.

an investigation. Mr. Barriault refused a paternity test. DCF did not take any action to seek court ordered paternity testing, such as filing petitions in the Superior Court for Juvenile Matters, or make a report to the police. While Jane denied being sexually abused at that time, the fact of her pregnancy at the age of 12, combined with the 2008 allegation by Mary that Jane had been sexually assaulted and the facts that Mr. Barriault would not allow the children to be interviewed alone, refused a paternity test, and was argumentative with DCF, warranted further action.

4. **In 2015, DCF and/or the Probate Court should have notified the police of the allegations of sexual abuse and text messages alluding to Mr. Barriault's paternity received during a 2015 investigation.** When DCF conducted an assessment for the Probate Court in relation to other children in the home in 2015, it obtained a text message from Mr. Barriault to Jane that read "Please please please I love you baby girl u no it to learn never do a can look at r beautiful girl we have to gather" (sic), and "look at that beautiful girl I gave you." While DCF reported this to the Probate Court when it later conducted an assessment in relation to Jane's petition to have herself removed as her daughter's guardian and appoint the Barriaults as guardian, DCF took no action, either at the time that it received the text messages or at the time of the assessment, to notify the police. At the time of Jane's petition, DCF and the GAL appointed for Jane's child requested paternity testing, but no one made a report to the police after Jane withdrew the petition thus depriving the Probate Court of jurisdiction to issue an order for paternity testing.
5. **In December 2023, DCF did not inform the Probate Court about the July 2023 substantiation of allegations of sexual abuse and placement on the DCF Central Registry.** In December of 2023, DCF completed a Probate assessment regarding another child for whom the Barriaults had previously been appointed as guardians, in relation to the parent's request for removal of the Barriaults as guardians and reinstatement of the parent as guardian. Prior to the date of this study, in July 2023, DCF had substantiated allegations of sexual abuse and made a decision to place Mr. Barriault on the DCF Central Registry. The DCF Probate study made no mention of the investigation or its substantiation and Central Registry determination. The Probate Court was not provided with that information until after Mr. Barriault was arrested.
6. **The Barriaults received public benefits as guardian for seven children over roughly two-decades.** The Barriault family had 7 children in their care through Probate Court arrangements with completed DCF studies, all of which went through the same local Probate Court. The Barriaults, who at times claimed up to 9 children in their care, received

approximately \$400,000 in a variety of state/federal financial aid programs (Child Support, Food Stamps/SNAP, SAGA, TFA/TANF), paid by or through DSS. Jane's wages were garnished to pay child support while her child was in the care of the Barriaults. In all, Jane paid over \$23,000 in child support payments.

7. **DCF investigated the family on 27 occasions, substantiating only once prior to substantiating the allegations of sexual abuse in July 2023 and placing Mr. Barriault on the DCF Central Registry.**

## **B. DETAILED CHRONOLOGY**

*The below narrative is generated through a review of records from the Superior Court, DCF, Probate Courts, and DSS. Probate Court records are limited to the paper record as the proceedings were not recorded. OCA also interviewed Jane. Information obtained from Jane is noted in footnotes.*

Jane was born in 1995. Her parents struggled with meeting the needs of their children, eventually leading to involvement by DCF. In 1999, based on evidence of neglect, DCF filed for custody of Jane and her two siblings. Jane's siblings were placed into foster care and eventually committed to DCF. Jane's guardianship was transferred to a family friend, who identified as a resource for only her. It was in this family friend's care that Jane met the Barriault family.

In January 2006, Jane's guardian was planning to move out of state without Jane, who reportedly wanted to stay in Connecticut. The guardian filed a petition in the local Probate Court to make the Barriaults Jane's temporary guardians. An investigation by DCF was waived for cause shown.<sup>7</sup> A few months later, the original guardian filed a petition to remove herself as guardian and grant guardianship to Mr. and Mrs. Barriault. The Probate Court ordered DCF to conduct an investigation and an attorney was appointed by Probate Court to represent Jane. Pending the DCF investigation and hearing on the removal and appointment of guardian, the Probate Court granted temporary custody of Jane to the Barriaults. DCF's investigation report was to be filed in July 2006, but was not timely received and the matter was adjourned until receipt of the report.

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<sup>7</sup> [Connecticut General Statute § 45a-619](#) requires that the Probate Court request that the Commissioner make an investigation and provide a written report to the Court in any proceeding alleging that the minor has been abused or neglected as those terms are defined in section 46b-120. For all other proceedings, the court "shall request an investigation and report unless this requirement is waived for cause shown."

## **2005**

Previously, in 2005, a 13-year-old girl and the child of a family friend, Mary, made allegations of sexually inappropriate touching by Mr. Barriault. The allegations were documented as allegations of neglect by Mary's parent/legal guardian for failure to supervise/protect her from sexual abuse at the hands of Mr. Barriault. The allegation of neglect by Mary's parent/legal guardian was substantiated. Notably, although Mr. Barriault was identified as the perpetrator of sexual abuse in the report to DCF, he was not identified in the DCF record as an alleged perpetrator and was not interviewed by DCF. As a result, a subsequent search of the DCF record would not have identified Mr. Barriault as an alleged perpetrator of sexual abuse. The police were notified of these allegations and participated in an interview of the child. The DCF record notes that Mr. Barriault was offered a polygraph by police and declined.

## **2006**

In the summer of 2006, Mary again made allegations that Mr. Barriault sexually assaulted her. At the time of the report, Mary was immediately removed from her home and placed in foster care as DCF determined that the child's parent would not keep her safe from Mr. Barriault. A DCF investigation and criminal investigation followed, with a resulting substantiation of sexual abuse by Mr. Barriault, placement on DCF's Central Registry, and arrest. Concurrently, DCF opened an investigation regarding the children in the Barriault home, concerned that they were at risk due to Mary's allegations of sexual abuse. Jane, then 11, was interviewed and denied any abuse or neglect by the Barriaults. The allegations were unsubstantiated. DCF filed neglect petitions in Superior Court of Juvenile Matters (SCJM) and Jane was temporarily placed with Mrs. Barriault's sister. While Jane was placed in the care of her aunt, from December 22, 2006 to June 8, 2007, there is no record of any contact by DCF with Jane despite the fact that DCF's case remained open, with Jane temporarily placed with Mrs. Barriault's sister for her safety.<sup>8</sup>

Following Mr. Barriault's arrest in December of 2006, the Probate Court scheduled a review of the guardianship. The Probate matter was then continued multiple times while the SCJM matter was being addressed.

## **2007**

In January 2007, Mrs. Barriault petitioned the Probate Court to vest temporary guardianship of Jane in Mrs. Barriault's sister and this request was granted. In March 2007, DCF submitted its study in support of vesting temporary guardianship in Mrs. Barriault's sister. The original guardian's petition for removal of herself

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<sup>8</sup> Jane later reported that Mr. Barriault would pick her up from school daily and spend time with her, of which DCF was not aware.

remained pending at that time. In September 2007, the petition for removal of guardian was granted and Mrs. Barriault's sister was appointed as the guardian.

Mary later changed her account of the alleged sexual assault by Mr. Barriault, indicating that she wanted to "fix it" and go home to her family. In September 2007, the charges against Mr. Barriault were nolled because the alleged victim recanted. In October 2007, Mrs. Barriault filed a petition to have her sister removed as Jane's guardian, to give Mrs. Barriault immediate temporary custody, and to make Mrs. Barriault Jane's guardian.

## **2008**

While this petition was pending, Jane remained under the guardianship of Mrs. Barriault's sister, and in January of 2008, unbeknownst to authorities, at the age of 12, became pregnant. With the criminal case resolved with no conviction, Mr. Barriault appealed the 2006 substantiation and Central Registry decision by DCF. In February 2008, the allegations were administratively overturned based on the resolution of the criminal case without a conviction and Mr. Barriault was removed from the Central Registry. Two months later, Mrs. Barriault's sister was removed as a guardian and Mr. and Mrs. Barriault were named as Jane's sole guardians by the Probate Court per the recommendations of a DCF submitted study and DCF ended their involvement. Notably, while the information regarding the 2006 allegations was included in the report to the court, no information regarding the 2005 allegations was included as DCF did not document Mr. Barriault as an alleged perpetrator in relation to that investigation.

In April of 2008, Mary reported to her therapist that Mr. Barriault sexually assaulted her and Jane. Jane, who was pregnant at the time, was interviewed and denied the allegations. Again, the allegations were unsubstantiated.

In August of 2008, a report was made to DCF that Jane, now 13, was pregnant and in need of supports. Jane reported that the father of her child was another minor whose full name she did not know and whom she met at a party. Jane's daughter was born in September 2008 and Jane was withdrawn from school by the Barriaults to care for her. The DCF investigation closed with allegations unsubstantiated and evidence that the family had the resources to meet the needs of the newborn.

## **2009-2012**

In October of 2009, the Barriaults were appointed temporary guardians of Jane's daughter through Probate Court, without a DCF assessment. The Barriaults soon after became the payee of state issued financial support on behalf of Jane's daughter. Temporary guardianship was renewed yearly thereafter.

## 2012

In the following years, the Barriaults applied to become guardians through the same local Probate Court of several other children who were relatives or children of family friends, leading to multiple Probate requested DCF studies. DCF also investigated the family on multiple occasions during this time in response to allegations of abuse or neglect of the children in their care. In April of 2012, DCF completed a study at the request of the Probate Court in relation to a transfer of guardianship regarding another child. DCF raised concerns about the Barriaults' motivation to pursue guardianship, as the Barriaults often questioned the financial reimbursement. During this assessment, DCF noted that there were suspicions that Mr. Barriault might be the father of Jane's child and about the need for Jane to get clinical supports. A DCF investigation was initiated regarding paternity concerns. All of the household members denied Mr. Barriault was the father and Mr. Barriault denied a request by DCF to take a paternity test. Throughout these involvements with DCF, DCF documented that Mr. Barriault was argumentative and did not permit the children in his care to be interviewed alone. DCF did not notify the police of the allegations of sexual assault.

## 2015

In June 2015, Jane (now age 20) moved out of the Barriault residence. Three months later, she petitioned the Probate Court to be removed as guardian for her daughter.<sup>9</sup> A DCF Probate study was initiated. DCF provided a detailed report to the court and noted that during a prior 2015 investigation, regarding a different child in the home, DCF acquired a screen shot of a picture of Jane with her daughter along with a text message from Mr. Barriault, which read "Please please please I love you baby girl u no it to learn never do a can look at r beautiful girl we have to gather" (sic), and "look at that beautiful girl I gave you." The Department expressed concerns that Mr. Barriault might be the father of Jane's daughter. The Guardian ad Litem for Jane's daughter reiterated the concerns of paternity in her report to Probate. Both DCF and the GAL requested that the matter be removed from Probate Court and transferred to SCJM so the paternity allegations could be addressed. Jane then withdrew her application from Probate Court, leaving that court with no authority to transfer the case to SCJM.<sup>10</sup> DCF conducted an internal legal consult and a decision was made not to file a neglect petition, despite a decade of sexual abuse concerns and the recently acquired text message evidence of an apparent admission of paternity. The police were never informed of the paternity allegations and DCF took no further action regarding this concern.

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<sup>9</sup> Jane later reported that this was motivated by the false understanding, reportedly provided by Mr. Barriault, that this was necessary to ensure her daughter had insurance.

<sup>10</sup> Jane later reported that she did this upon the urging of Mr. Barriault.

## **2019-2023**

In 2019, Jane was ordered to pay child support for her daughter, who was in the care of the Barriaults. In June 2020, Jane took her daughter into her care and requested that Probate court to remove the Barriaults as guardians. Jane continued to make child support payments until December 2023.

## **2023-2024**

In May of 2023, Jane gave a statement to the police alleging that Mr. Barriault sexually assaulted her on a near daily basis throughout her childhood. Jane reported that sexual abuse by Mr. Barriault dated back to 2004 and continued until she moved out of the home in 2015. Witness statements corroborated Jane's account. DCF launched an investigation at that time. The other minor children in the home were interviewed and denied any concerns for themselves.

In July 2023, the allegations of sexual abuse against Mr. Barriault were substantiated and he was placed on the DCF Central Registry. The DCF case was closed with the other minor children remaining in the care of Mrs. Barriault, while Mr. Barriault moved out of the residence.

In December of 2023, DCF completed an assessment for the Probate Court, in relation to a different child for whom the Barriaults had previously been appointed guardian. The parent of that child was requesting removal of the Barriaults as guardians and reinstatement of the parent as guardian. The DCF Probate study made no mention of the July 2023 substantiation of allegations of sexual abuse and DCF Central Registry determination. It also did not include information regarding any of the seven accepted reports between 2016 and 2019, despite DCF policies requiring a complete history.

In January/February of 2024, Mr. and Mrs. Barriault were arrested on multiple charges following paternity tests that verified Mr. Barriault as the father of Jane's child.<sup>11</sup> DCF then launched another investigation, this time removing the children from the Barriault home and submitted a revised Probate Study including the 2023 substantiation. This revised study still did not include the history between 2016 and 2019, as required by DCF Policy.

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<sup>11</sup> Mr. Barriault has pending charges of Sexual Assault in the First Degree and Risk of Injury to a Child and Mrs. Barriault has pending charges for Risk of Injury to a Child.

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## V. REVIEW PURSUANT TO SECTION 12 OF PUBLIC ACT 24-118

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### **A. PROBATE COURT GUARDIANSHIP PROCEEDINGS**

The Connecticut Probate Court system currently consists of 54 separate statutory probate courts and six Regional Children's Probate Courts established throughout Connecticut.<sup>12</sup> Probate Courts have jurisdiction over "the estates of deceased persons, testamentary trusts, adoptions, conservators, commitment of the mentally ill, guardians of the persons, and estates of minors."<sup>13</sup> Regional Children's Probate Courts operate in New Haven, Meriden, New London, Waterbury, Windham, and East Hartford.

The Probate Court Administrator has the powers and duties to attend to matters necessary for the efficient operation of the courts of probate and for the expeditious dispatch and proper conduct of the business of such courts.<sup>14</sup> Probate Court judges are elected to serve in each court and must be attorneys licensed to practice in the State of Connecticut.<sup>15</sup> Newly elected probate judges must receive training relative to the matters that are brought in Probate Court.<sup>16</sup>

One of the more complicated matters that is brought in probate courts is guardianship. Guardianship matters can include many different layers, may require attorneys appointed and/or may require an investigation conducted by DCF when there are allegations of abuse and/or suspected abuse of the minor. As stated on the CT Probate Court website:

When a parent is incapable of caring for a child, the Probate Court must appoint somebody to take responsibility and provide a suitable home for the child. Family members, most often, come forward and assume custody of the child, but sometimes family members are not available or

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<sup>12</sup> [Conn. Gen. Stat. §45a-8a](#). Section 45a-8a(b) provides that: "[t]he Probate Court Administrator may establish seven Regional Children's Probate Courts in regions designated by the Probate Court Administrator. In establishing such courts, the Probate Court Administrator shall consult with the probate judges of the districts located in each designated region, each of whom may participate on a voluntary basis."

<sup>13</sup> [About CT Courts - Organization of the Courts - CT Judicial Branch](#). Information about the Probate Courts may be found on the [CT Probate Court Welcome](#) page.

<sup>14</sup> [Conn. Gen. Stat. § 45a-77](#).

<sup>15</sup> [Conn. Gen. Stat. § 45a-18](#).

<sup>16</sup> [Conn. Gen. Stat. §45a-27](#).

suitable for the task. In those situations, the court will often appoint a close family friend to care for the child.

In accordance with Connecticut General Statutes § 45a-604(5), “[g]uardianship” 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.”

### *Third Party Co-Guardians*

At birth, the father and mother are joint guardians of the person of their children.<sup>17</sup> Guardianship rights may be granted or removed by court order or other legal method. A parent or court-appointed guardian who is the sole guardian can petition the court to appoint a coguardian, effective immediately or upon some contingency, such as mental incapacity, physical debilitation or death.<sup>18</sup> When this occurs, the petitioning parent or guardian remains the guardian, and the coguardian also becomes a guardian, with the same rights and obligations. Disagreements between coguardians may be submitted to the Probate Court.<sup>19</sup>

### *Standby Guardian*

Parents or a sole parent may designate, through completion of a specified form, a standby guardian, to become the guardian upon the occurrence of a specified contingency, such as the mental incapacity, physical debilitation or death of the parent.<sup>20</sup> If both parents are alive, unless removed as guardian or parental rights have been terminated, both must consent.<sup>21</sup> When this occurs, the standby guardian will become the guardian when the contingency occurs, and the guardianship will continue for one year, or until the specified contingency no longer exists.<sup>22</sup> When the contingency is the death of the parent, the standby guardian remains in effect for 90 days and will cease unless the standby guardian files an application for guardianship.<sup>23</sup>

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<sup>17</sup> “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.

<sup>18</sup> [Conn. Gen. Stat. §45a-616.](#)

<sup>19</sup> [Conn. Gen. Stat. 45a-616\(d\).](#)

<sup>20</sup> [Conn. Gen. Stat. §45a-624a-624g.](#)

<sup>21</sup> [Conn. Gen. Stat. §45a-624.](#)

<sup>22</sup> [Conn. Gen. Stat. § 45a-624d.](#)

<sup>23</sup> [Conn. Gen. Stat. § 45a-624e.](#)

## Temporary Guardian

Parents/guardians may also apply to the Probate Court for the appointment of a temporary guardian, to serve for no longer than one year, if the parent or guardian is unable to care for the minor child for any reason, including illness and absence from the jurisdiction.<sup>24</sup> Temporary guardianships cease when the appointing parent notifies the court and temporary guardian, in writing, that the temporary guardianship shall cease.<sup>25</sup>

### **1. REMOVAL OF PARENT OR GUARDIAN**

Parents<sup>26</sup> may be removed as guardians through a petition filed in the Probate Court.<sup>27</sup> Such petitions may be filed by any adult relative of the minor, any person with actual physical custody of the minor at the time of the petition, or counsel for the minor.<sup>28</sup> Petitions for removal of guardian must be filed in the Probate Court in the district in which the minor child resides, is domiciled, or is located at the time of the filing of the petition.<sup>29</sup> In calendar year 2022, 1232 petitions for the removal of guardian were filed in Connecticut Probate Courts. In 2023, 1426 petitions for removal were filed.

When a petition is filed to remove a parent, guardian, or permanent guardian, the Probate Court will schedule a hearing and provide notice to the Commissioner of Children and Families, the parents, and the minor if he or she is over the age of 12.<sup>30</sup>

The parent may only be removed as guardian if notice has been given (or there is a waiver) and, following a hearing, the judge finds by “clear and convincing evidence” one of the following conditions has been met:

- (1) The parent consents to his or her removal as guardian; or
- (2) the minor child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility for the minor child's welfare; or
- (3) the minor child has been denied the care, guidance or control necessary for his or her physical, educational, moral or emotional well-being, as a result of acts of parental commission or omission, whether the acts are the result of the physical or mental incapability

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<sup>24</sup> [Conn. Gen. Stat. § 45a-622.](#)

<sup>25</sup> [Id.; Probate Court Rules of Procedure, Rule 40.8\(b\)](#)

<sup>26</sup> A Probate Court may also remove a guardian, coguardian or permanent guardian. [Conn. Gen. Stat. §45a-613.](#)

<sup>27</sup> [Conn. Gen. Stat. § 45a-609.](#)

<sup>28</sup> [Conn. Gen. Stat. §45a-614.](#)

<sup>29</sup> [Id.](#)

<sup>30</sup> [Conn. Gen. Stat. §45a-609.](#)

of the parent or conditions attributable to parental habits, misconduct or neglect, and the parental acts or deficiencies support the conclusion that the parent cannot exercise, or should not in the best interests of the minor child be permitted to exercise, parental rights and duties at the time; or

(4) the minor child has had physical injury or injuries inflicted upon the minor child by a person responsible for such child's health, welfare or care, or by a person given access to such child by such responsible person, other than by accidental means, or has injuries which are at variance with the history given of them or is in a condition which is the result of maltreatment such as, but not limited to, malnutrition, sexual molestation, deprivation of necessities, emotional maltreatment or cruel punishment; or

(5) the minor child has been found to be neglected or uncared for, as defined in section [46b-120](#).<sup>31</sup>

When an application for removal of guardian has been filed, along with an application for temporary custody, the court may issue an order "awarding temporary custody of the minor child to a person other than the parent or guardian."<sup>32</sup> The Probate Court may grant temporary custody following a hearing if the court finds:

by a fair preponderance of the evidence (1) that the parent or other guardian has performed acts of omission or commission [that establish

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<sup>31</sup> [Conn. Gen. Stat. § 45a-610](#). With the exception of subsection (1), Connecticut General Statutes §45a-610 mirrors the definitions for "abuse," "neglect," and "uncared for" under [Connecticut General Statute §46b-120](#), applicable to Juvenile matters in the Superior Court. Under Connecticut General Statute §46b-120, the terms are defined as follows:

(4) A child may be found "neglected" who, for reasons other than being impoverished, (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child;

(5) A child may be found "abused" who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment;

(6) A child may be found "uncared for" (A) who is homeless, (B) whose home cannot provide the specialized care that the physical, emotional or mental condition of the child requires, or (C) who has been identified as a victim of trafficking, as defined in section [46a-170](#). For the purposes of this section, the treatment of any child by an accredited Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute neglect or maltreatment .

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<sup>32</sup> [Conn. Gen. Stat. § 45a-607](#).

grounds for removal of guardianship] as set forth in section [45a-610](#), and (2) that, because of such acts, the minor child is suffering from serious physical illness or serious physical injury, or the immediate threat thereof, or is in immediate physical danger, so as to require that temporary custody be granted . . .<sup>33</sup>

The Probate Court also has the authority to issue immediate ex parte orders for temporary custody, without notice and a hearing, if the Court finds, in the case of a child who is not in the custody of the parent or guardian, that:

(A) The minor child was not taken or kept from the parent, parents or guardian, and (B) there is a substantial likelihood that the minor child will be removed from the jurisdiction prior to a hearing under subsection (c) of this section, or (C) to return the minor child to the parent, parents or guardian would place the minor child in circumstances which would result in serious physical illness or injury, or the threat thereof, or imminent physical danger prior to a hearing . . .<sup>34</sup>

Temporary custody may be given to a relative of the minor child, the Commissioner of Children and Families, “the board of managers of any child-caring institution or organization,” any children’s home licensed or approved by the Commissioner of Children and Families,<sup>35</sup> or any other person.<sup>36</sup> Orders of temporary custody remain in place until the disposition of the application for removal of guardian.<sup>37</sup>

The hearing process for removal of guardian includes several protections to ensure that the Probate Court has the information necessary to make a decision in the best interests of the child, including the appointment of counsel and/or guardians ad litem for the minor child; investigation by DCF; orders for examination of the child or a parent whose competency or ability to care for the child is at issue; and, in the Regional Children’s Probate Courts (or Probate Court not located in a region served by a Regional Children’s Probate Court), the employment of family specialists. In addition, cases may be transferred to the Regional Children’s Probate Court or the Superior Court for Juvenile Matters. The ordinary rules of evidence apply to hearings in which facts are

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<sup>33</sup> [Conn. Gen. Stat. § 45a-607\(d\)](#). Such orders may be issued ex parte, pending a hearing, in limited circumstances set forth in this section.

<sup>34</sup> [Conn. Gen. Stat. § 45a-607\(b\)\(1\)](#). Ex parte orders of temporary custody may be issued for minor children in the custody of their parents under very limited circumstances under [Connecticut General Statutes § 45a-607\(b\)\(2\)](#).

<sup>35</sup> If DCF is appointed as the temporary custodian, DCF policy requires the immediate filing of a petition in the Superior Court for Juvenile Matters. [DCF Policy 6-7; Probate Court Rules of Procedure, Rule 42.3](#).

<sup>36</sup> [Conn. Gen. Stat. § 45a-607\(d\)](#).

<sup>37</sup> [Conn. Gen. Stat. § 45a-607\(e\)](#).

in dispute.<sup>38</sup> There is no requirement that guardianship proceedings be recorded; such proceedings are not routinely recorded; and even when they are recorded, they are not hearings on the record for purposes of appeal.<sup>39</sup>

### **a. Appointment of Counsel and/or Guardian Ad Litem**

The Probate Court is authorized to appoint counsel to represent the minor in any proceedings regarding immediate temporary custody, temporary custody or removal of guardian. The Probate Court must appoint counsel to represent the minor in any proceeding in which “abuse or neglect, as defined in section § [46b-120](#), is alleged by the applicant, or reasonably suspected by the court.”<sup>40</sup> Attorneys appointed to represent the minor child must represent the express wishes of the child.<sup>41</sup> If the court determines that the minor’s wishes, if followed, could lead to substantial physical, financial or other harm to the minor, the court may appoint an attorney for the minor and a separate guardian ad litem for the minor.<sup>42</sup> If the child is unable to express his or her wishes, the court may appoint an attorney to serve as both attorney and guardian ad litem.<sup>43</sup>

A respondent parent has the right to be represented by counsel and to request court appointed counsel if they are unable to obtain or pay for an attorney.<sup>44</sup>

In all guardianship matters, the Probate Court may also appoint a guardian ad litem for the child. The guardian ad litem may be an attorney but is not required to be an attorney but shall be knowledgeable about the needs and protection of children.<sup>45</sup> PCA and the Probate Courts each maintain a panel of attorneys who may serve as counsel for indigent parents and minor children, and as Guardians ad Litem. It is within the Court’s discretion to select an attorney from one of the panels or a non-attorney volunteer to serve as Guardian ad Litem.

### **b. DCF Investigation**

In cases where the “applicant [for removal of guardian] has alleged that the minor has been abused or neglected, as those terms are defined in section [46b-120](#), or in

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<sup>38</sup> [Probate Court Rules, Rule 62](#).

<sup>39</sup> [Conn. Gen. Stat. § 45a-136](#).

<sup>40</sup> [Conn. Gen. Stat. § 45a-620](#).

<sup>41</sup> “[A] lawyer shall abide by a client’s decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. [Practice Book § 1.2](#).

<sup>42</sup> [Probate Court Rules of Procedure, Rule 40.2\(c\)](#).

<sup>43</sup> [Probate Court Rules of Procedure, Rule 40.2\(b\)](#).

<sup>44</sup> [Conn. Gen. Stat. §45a-609\(b\)](#). See also [Conn. Gen. Stat. § 45a-607\(c\)](#).

<sup>45</sup> [Conn. Gen. Stat. § 45a-620](#). Note that when a parent is less than eighteen years of age, the Probate Court must appoint a guardian ad litem to appear on behalf of the parent. [Conn. Gen. Stat. § 45a-621](#).

which the probate judge has reason to believe that the minor may have been abused or neglected,” the Probate Court must request that the Commissioner of Children and Families or any organization, agency or individual licensed or approved by the commissioner, to make an investigation and written report to it, within ninety days from the receipt of such request.<sup>46</sup> For the calendar year 2022, the Probate Court reported that a DCF investigation was ordered in 99.14% of cases where removal of guardianship was granted. In 2023, a DCF investigation was ordered in 98.46% of cases in which removal of guardianship was granted.

When a DCF investigation is requested, the report must include information regarding “the physical, mental and emotional status of the minor and shall contain such facts as may be relevant to the court's determination of whether the proposed court action will be in the best interests of the minor, including the physical, social, mental, and financial condition of the parties, and such other factors which the commissioner or agency finds relevant to the court's determination of whether the proposed action will be in the best interests of the minor.”<sup>47</sup> The Probate Court is required to request an investigation in all other cases seeking removal of the parent or guardian, unless the requirement is waived for cause shown.<sup>48</sup> The report shall be admissible in evidence, subject to the right of any interested party to require that the person making it appear as a witness, if available, and subject to examination.<sup>49</sup>

DCF has adopted policies for conducting assessments<sup>50</sup> requested by the Probate Court. These policies require the assigned worker to conduct a thorough assessment of the situation, make appropriate recommendations, attend all scheduled court hearings and family meetings, and provide updated studies to the Probate Court throughout the proceedings if ordered.<sup>51</sup> When a request is received from the Probate Court, the DCF case worker is directed to “conduct a diligent search to determine whether another court case involving the custody of the child is currently pending in another court.”<sup>52</sup> If there is another court matter, there are procedures specified to resolve this including that DCF worker may request that the Probate Court dismiss the case or proceed in accordance with Probate Court Rules regarding overlapping jurisdiction in the Superior and Probate Courts. The policy makes clear that DCF “shall disclose records and information, without the consent of the person who is the subject of the record, to a judge or employee of a Probate Court who requires access

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<sup>46</sup> [Conn. Gen. Stat. § 45a-619](#). If the proceeding concerns an application for immediate temporary custody or temporary custody, the report must be completed by such date as is reasonably ordered by the court.

<sup>47</sup> [Id.](#)

<sup>48</sup> [Id.](#)

<sup>49</sup> [Id.](#)

<sup>50</sup> The term “investigation” is used in the statutes related to Probate Court, as described herein. However, within DCF, the term “investigation” refers to investigations completed based on an acceptance of a report of child abuse or neglect through the DCF Careline. Under DCF policies, the term for the Probate Court ordered investigation is “assessment.”

<sup>51</sup> [DCF Policy 6-7](#).

<sup>52</sup> [Id.](#)

to such records in order to perform official duties.”<sup>53</sup> DCF workers are directed to share information with the Probate Court “as soon as possible, when requested by the Probate Court, to allow Probate Court staff to make informed decisions pending the submission of DCF’s final report.”<sup>54</sup> DCF caseworkers completing assessments for Probate Court matters are directed to:

- conduct a home visit with parents or current guardian, proposed guardians or custodians, and the children;
- interview the children alone, if age- and developmentally-appropriate;
- obtain releases of information;
- conduct in-state criminal record, child protective services, sex offender, judicial, protective and restraining order registry and DMV checks on all parties including all household members, age 18 and older, involved in the case;
- gather as much social, medical, educational and employment information and documentation as possible, directly from collateral contact sources, including checks, schools, doctors, therapists for everyone residing in the homes of the parents(s) and the proposed custodian(s) or guardian(s).<sup>55</sup>

The report should include information on whether:

- there is an open DCF investigation or ongoing services case with respect to the child(ren);
- DCF conducted a Considered Removal Meeting with the family;
- there is a Safety or Service Agreement in effect;
- there is any matter currently before the Superior Court for Juvenile Matters or another Probate Court concerning the child(ren);
- the facts learned during the investigation support the allegations;
- new allegations were uncovered;
- the petitioner is currently able to act as an appropriate caregiver for the child(ren);
- the parents are or could be appropriate caregivers;
- the continued placement of the child with the proposed guardian(s) or custodian(s) is in the child's best interest, including the rationale for this finding;
- the current guardian is an appropriate caregiver;
- the legal guardian is in agreement with the proposed action or is contesting it;
- professionals involved with the case are in agreement with the proposed action or are contesting it;

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<sup>53</sup> [Id.](#)

<sup>54</sup> [Id.](#)

<sup>55</sup> [DCF Probate Court Practice Guide](#).

- it is in the best interests of the child for the Court to take the proposed action; and
- recommendations for support services, visitation and expectations for all parties are appropriate.<sup>56</sup>

If, during the course of an investigation there is suspected child abuse or neglect regarding the proposed temporary custodian or guardian, the DCF case worker must make a referral to the DCF Careline, notify the Probate Court, and suspend the Probate Court assessment.<sup>57</sup> If the report is accepted by the Careline, an investigation must be conducted and a decision must be made as to whether there is legal sufficiency to file abuse or neglect petitions in the Superior Court for Juvenile Matters.<sup>58</sup> If allegations are substantiated against a guardian who has already been appointed, the DCF caseworker must notify the Probate Court and provide a copy of the investigation to “the Office of Probate Court Administration for distribution to the appropriate Probate Court.”<sup>59</sup> Notification to the Probate Court is required “whether or not the allegations involve the guardian’s own children or those for whom he or she is guardian or occur when the DCF Probate case is open or closed.”<sup>60</sup> While the policy does not explicitly state that a substantiation regarding a proposed temporary custodian or proposed guardian must be provided to the Probate Court, DCF indicated that the information would be provided to the Probate Court as part of the “thorough assessment” required by policy. In this situation, information would be provided to the court but a copy of the investigation would not be provided.

#### **c. Examination of the Child or Parent**

In the course of a proceeding for removal of guardianship, the Probate Court may order the child to be “examined at a suitable place by a physician, psychiatrist or licensed clinical psychologist appointed by the court.”<sup>61</sup> The Probate Court may also order an examination of “a parent or custodian whose competency or ability to care for a child before the court is at issue.”<sup>62</sup>

#### **d. Family Specialists Employed By Probate Court**

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<sup>56</sup> [Id.](#)

<sup>57</sup> [DCF Policy 6-7.](#)

<sup>58</sup> [Id.](#)

<sup>59</sup> [Id.](#)

<sup>60</sup> [Id.](#)

<sup>61</sup> [Conn. Gen. Stat. §45a-609\(d\).](#)

<sup>62</sup> [Id.](#) “The expenses of any examination, if ordered by the court on its own motion, shall be paid for by the applicant, or if ordered on motion by a party, shall be paid for by the party moving for such an examination. If such applicant or party is unable to pay the expense of any such examination, it shall be paid from the Probate Court Administration Fund, or, if the matter has been removed to the Superior Court, from funds appropriated to the Judicial Department.” *Id.*

Regional Children's Probate Courts, or Probate Courts not located in a region with a Children's Regional Probate Court, may employ a family specialist to assist in any guardianship matter.<sup>63</sup> The Probate Judge may assign a family specialist who may perform a variety of functions in any particular matter, including:

- (1) Conduct conferences with interested parties, attorneys for interested parties, representatives from the DCF and social service providers, when appropriate;
- (2) Facilitate the development of the family's plan for the care of the minor;
- (3) Facilitate the development of a visitation plan;
- (4) Coordinate with the Department of Children and Families to facilitate a thorough review of the matter being heard;
- (5) Assess whether the family's plan for the care of the minor, if any, is in the minor's best interests;
- (6) Assist the family in accessing community services; and
- (7) Conduct follow-up regarding orders of the court.<sup>64</sup>

In addition, the family specialist may file with the court a report that may include:

- (1) An assessment of the minor's and family's history;
- (2) An assessment of the parent's and any proposed guardian's involvement with the minor;
- (3) Information regarding the physical, social and emotional status of the interested parties;
- (4) An assessment of the family's plan for the care of the minor; and
- (5) Any other information or data that is relevant to determine if the proposed court action is in the best interests of the minor.<sup>65</sup>

The report of the family specialist is admissible as evidence in the proceedings, though any party or attorney may notify the Court prior to the hearing that he or she wishes to examine the family specialist.<sup>66</sup> When this occurs, the Probate Court must order the family specialist to appear at the hearing.<sup>67</sup>

#### **e. Transfer To Superior Court or Regional Children's Probate Court**

A *contested* Guardianship matter may transferred to Superior Court or Regional Children's Probate Court.<sup>68</sup> Such transfers to Superior Court are automatic "on the

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<sup>63</sup> [Conn. Gen. Stat. § 45a-8d.](#)

<sup>64</sup> [Conn. Gen. Stat. § 45a-8d\(c\).](#)

<sup>65</sup> [Conn. Gen. Stat. § 45a-8d\(d\).](#)

<sup>66</sup> [Conn. Gen. Stat. § 45a-8d\(e\).](#)

<sup>67</sup> [Id.](#)

<sup>68</sup> [Conn. Gen. Stat. §45a-623.](#)

motion of any party other than a party who applied for the removal of a parent as a guardian.”<sup>69</sup> The Probate Court may also transfer such a case to Superior Court on its own motion or motion by the party applying for removal of the parent or guardian. Transfer to a Regional Children’s Probate Court may occur on the court’s own motion or the motion of “any interested party.”<sup>70</sup>

The Probate Court reported to OCA that transfer to the Superior Court for Juvenile Matters did not occur in any cases in calendar year 2022 and in only 4 cases in calendar year 2023. For calendar year 2022, 51.6% of cases in which removal was granted were heard in the Regional Children’s Probate Court. For calendar year 2023, 54.46% of cases in which removal was granted were heard in the Regional Children’s Probate Court.

## 2. APPOINTMENT OF GUARDIAN

If, after removal of a parent<sup>71</sup> as guardian in accordance with Connecticut General Statutes § 45a-610 as described above, the minor child has no guardian of his or her person,<sup>72</sup> a guardian or co-guardians may be appointed under the provisions of Connecticut General Statutes § 45a-616.<sup>73</sup> The following individuals may properly petition the Probate Court for such an appointment: “(1) Any adult relative of the minor, including those by blood or marriage; (2) a person with actual physical custody of the minor at the time the petition is filed; or (3) counsel for the minor.”<sup>74</sup>

Appointment of a guardian may also occur if a parent or guardian who is the sole guardian, or the Commissioner of DCF (with the consent of the parent or guardian) petitions for the appointment of one or more persons to serve as co-guardians of the child.

The Probate Court must consider several factors when appointing a guardian. Those factors include: “(1) [t]he ability of the prospective guardian, coguardians or permanent guardian to meet, on a continuing day to day basis, the physical, emotional, moral and educational needs of the minor; (2) the minor's wishes, if he or she is over the age of twelve or is of sufficient maturity and capable of forming an intelligent preference; (3) the existence or nonexistence of an established relationship between the minor and the prospective guardian, coguardians or permanent

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<sup>69</sup> [Id.](#)

<sup>70</sup> [Id.](#)

<sup>71</sup> Guardians, co-guardians, and permanent guardians may also be removed. [Conn. Gen. Stat. § 45a-613](#).

<sup>72</sup> When removal of a parent or guardian occurs under Connecticut General Statutes § 45a-610, the child is not always left without a guardian. For example, if the court removes one parent, the court may affirm the remaining parent as the sole guardian.

<sup>73</sup> [Conn. Gen. Stat. § 45a-610](#).

<sup>74</sup> [Conn. Gen. Stat. § 45a-616\(a\)](#). When a petition for removal of parent as guardian is filed, it is typically filed along with a petition for the appointment of guardian and both petitions would be heard and determined together.

guardian; and (4) the best interests of the child.”<sup>75</sup> “There shall be a rebuttable presumption that appointment of a grandparent or other relative related by blood or marriage as a guardian, coguardian or permanent guardian is in the best interests of the minor child.”<sup>76</sup> The Probate Court may also request a bond if it deems it necessary for the protection of the minor.<sup>77</sup>

The Probate Court reported to OCA that, for cases in which removal of guardianship was granted, a relative was appointed (or the remaining parent affirmed as guardian) in 83.45% of cases in calendar year 2022 and 83.26% in calendar year 2023. Non-relatives were appointed in the remaining cases.

### Permanent Guardian

A court-appointed guardian may seek to be appointed a permanent guardian.<sup>78</sup> A “permanent guardianship” means a guardianship that is “intended to endure until the minor reaches the age of majority without termination of the parental rights of the minor's parents . . . .”<sup>79</sup> The Probate Court may establish a permanent guardianship if it finds by clear and convincing evidence that the establishment of a permanent guardianship is in the best interests of the minor and that the following have been proven by clear and convincing evidence:

- (1) One of the grounds for termination of parental rights<sup>80</sup> . . . exists or the removed parent has voluntarily consented to the appointment of a permanent guardian;
- (2) Adoption of the minor is not possible or appropriate;
- (3) (A) If the minor is at least twelve years of age, such minor consents to the proposed appointment of a permanent guardian, or (B) if the minor is under twelve years of age, the proposed permanent guardian is a relative or already serving as the permanent guardian of at least one of the minor's siblings;
- (4) The minor has resided with the proposed permanent guardian for at least one year; and
- (5) The proposed permanent guardian is suitable and worthy and committed to remaining the permanent guardian and assuming the

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<sup>75</sup> [Conn. Gen. Stat. § 45a-617.](#)

<sup>76</sup> [Id.](#)

<sup>77</sup> [Conn. Gen. Stat. § 45a-616.](#)

<sup>78</sup> [Conn. Gen. Stat. § 45a-616a.](#)

<sup>79</sup> [Conn. Gen. Stat. § 45a-604.](#)

<sup>80</sup> The grounds for termination of parental rights are set forth in Connecticut General Statutes § [45a-717](#).

rights and responsibilities for the minor until the minor reaches the age of majority.<sup>81</sup>

Prior to issuing an order for permanent guardianship, the court must provide notice to the removed parent that the parent may not petition for reinstatement as guardian or petition to terminate the permanent guardianship. If such notice is not provided, the court must indicate “on the record why such notice could not be provided.”<sup>82</sup> When permanent guardianship is granted, the parent who has been removed as guardian may not petition for reinstatement, though a Probate Court may reinstate the parent if the permanent guardian becomes unable or unwilling to serve and the court finds that factors resulting in removal have been resolved satisfactorily and it is in the best interests of the child to reinstate the parent as guardian.<sup>83</sup>

While it is beyond the scope of this report, it is important to note that petitions to terminate parental rights may be filed and heard in the Probate Court, based on similar grounds. Such proceedings are governed by Connecticut General Statutes § 45a-706 et seq.

### **3. ANNUAL REPORT OF THE GUARDIAN TO THE PROBATE COURT**

Once a guardian is appointed, DCF has no ongoing involvement or supervision of the home, even in cases where a DCF investigation was ordered as part of the process for removal of guardian.<sup>84</sup> Attorneys and Guardians ad Litem may remain appointed, but there are no requirements for visitation or otherwise monitoring the child’s well-being in the home of the guardian. Appointed guardians must report “at least annually” on the condition of the minor to the specific Probate Court in which the guardian was appointed.<sup>85</sup>

### **4. REINSTATEMENT OF GUARDIAN**

A parent or guardian who has been removed as guardian may apply to the court for reinstatement if, in his or her opinion the factors which resulted in the removal have been resolved satisfactorily.<sup>86</sup> When this occurs, the court will hold a hearing following notice to the current guardian, parents, minor, if over the age of 12, and attorneys of record.<sup>87</sup> The court may remove the guardian and reinstate the parent or prior guardian as guardian if it finds that the factors which resulted in removal

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<sup>81</sup> [Conn. Gen. Stat. § 45a-616a\(a\)](#).

<sup>82</sup> [Id.](#)

<sup>83</sup> [Conn. Gen. Stat. § 45a-616a\(b\)](#).

<sup>84</sup> [DCF Policy 6-7](#). If DCF believes that DCF monitoring or additional services are required to ensure the wellbeing of the child, a Child Protective Services referral must be made.

<sup>85</sup> [Conn. Gen. Stat. § 45a-625](#). The Probate Courts have created a [form](#) for this purpose.

<sup>86</sup> [Conn. Gen. Stat. § 45a-611](#).

<sup>87</sup> [Conn. Gen. Stat. § 45a-611\(b\)](#).

have been resolved and it is in the best interests of the minor to do so.<sup>88</sup> The Court must issue findings of fact to support its conclusions if requested by a parent, guardian, counsel or guardian ad litem representing one of the parties.<sup>89</sup>

## **B. BENEFITS AVAILABLE TO COURT APPOINTED GUARDIANS**

When an individual is appointed to be the guardian of a child, they may have access to certain public benefits and/or grants. Generally, legal guardians have access to all public benefits that any other parent would, such as Supplemental Nutritional Assistance Program, Medicaid, or Earned Income [Tax] Credit, if they meet the eligibility requirements. In addition, guardians appointed by the Probate Court are eligible for additional financial assistance including Temporary Family Assistance, administered by DSS, as well as Kinship Fund grants, and Family Respite fund grants, administered by the Probate Court.

Temporary Family Assistance is a program that provides cash assistance to eligible families.<sup>90</sup> Generally, to be eligible for TFA, families must have a dependent under the age of 18 and meet income and asset limits. For children living with court appointed guardians, however, the income and assets of the non-parent guardian does not count unless the guardian receives (and is income eligible for) TFA themselves.<sup>91</sup> In addition, while benefits under this program are generally limited to thirty-six months, non-parent guardians who only receive cash for children in their care are exempt from these time limits.<sup>92</sup> The amount of this benefit when calculated for the child only is \$505 per month.

Individuals appointed as guardians through the Probate Court are not eligible for subsidized guardianship through DCF.<sup>93</sup>

Limited financial support is available through [the Kinship and Family Respite Fund programs](#). The Probate Court describes these two programs as follows:

The Kinship Fund makes grants to guardians in the amount of \$550 per child per year, up to a maximum \$2,200 per family. Grants must be used for the child or children for:

- Health (eyeglasses, dental care, hearing improvement treatment);

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<sup>88</sup> [Id.](#)

<sup>89</sup> [Id.](#)

<sup>90</sup> [Conn. Gen. Stat. 17b-112.](#)

<sup>91</sup> DSS Policy 8540.25

<sup>92</sup> DSS Policy 8540.03.

<sup>93</sup> [DCF Policy 26-1.](#) In addition to other requirements, children must be in foster care residing with the caregiver for at least six months to be eligible for subsidized guardianship.

- Enrichment (school field trips, clubs, or sports fees, purchase of sports equipment, educational classes or tutoring, purchase of art supplies, materials for creative tasks, books);
- Development (clothing for social functions that mark developmental milestones, photographs or other memorabilia); and
- Basic needs (school clothes and supplies, coats, hats, mittens, boots, sneakers or closely related items)

The Respite Fund makes grants up to \$2,200 per year to guardians for respite. Guardians may use respite grants for the following purposes for children under their care:

- Housing (rent, mortgage interest, property taxes, maintenance, insurance);
- Food (groceries, school meals, restaurants);
- Transportation (public transportation and car purchase and financing costs, insurance, gasoline, maintenance);
- Clothing and personal care items;
- Education (tuition, books, supplies, uniforms, lessons, driver education classes);
- Child care (day care tuition, baby-sitting, summer camp, vacations, entertainment, recreational equipment, reading material); and
- Spending allowances.

To be eligible for a Kinship or Family Respite Fund Grant, a guardian must meet all of the following requirements:

- Is serving as a guardian for a minor child as the result of an appointment by the Probate Court or Superior Court Juvenile Matters;
- Qualifies at the time of the grant application for a Probate Court fee waiver or is determined by a probate judge to be in need;
- Is not receiving benefits or subsidies from DCF; and
- Has submitted a grant application together with all required documentation.

Grant amounts are determined by a probate judge and may vary depending upon available funding. A guardian may apply for grants in multiple years, provided that all eligibility requirements continue to be met. . . . **Please note: A fee waiver and decree appointing the applicant as guardian for the child must be submitted with the grant application.**

## **C. QUALITY ASSURANCE MEASURES - PROBATE COURT**

### **1. TRAINING OF PROBATE COURT JUDGES**

As stated above, newly elected probate judges must receive training relative to the matters that are brought in Probate Court.<sup>94</sup> The training program includes: “(1) A course to be taken between the date of election and the date of assuming office concerning the rules of judicial conduct for a judge of probate, the ethical considerations arising in that office, the operation of a probate court, and the availability of assistance for a judge in the operation of a probate court; and (2) courses to be taken within six months after the date of assuming office that provide fundamental training in (A) civil procedure, including constitutional issues, due process, and evidentiary considerations, (B) property law, including conveyancing and title considerations, (C) the law of wills and trusts, and (D) family law in the context of the probate courts.”<sup>95</sup>

The Probate Court has adopted regulations that implement that statutory requirements for training of Probate Court judges.<sup>96</sup> PCA, along with the Continuing Education Committee of the Probate Court Assembly (the statewide association of probate judges) establishes the training curriculum for Probate Court judges. These regulations require that new judges receive a minimum of forty hours of training, to be completed within six months of taking office.<sup>97</sup> In addition, each newly elected judge is assigned a mentor (a judge who has served for at least four years), and the new judge is required to observe eight hours of hearings before the mentor within two months of election. In addition to the mandatory forty hours as a new judge, Probate Court judges must complete 15 hours of continuing judicial education annually.<sup>98</sup>

OCA reviewed trainings listed in the biennial reports of the Probate Court and noted a variety of trainings offered that include topics relevant to guardianship of minors. For example, in the 2020-2021, trainings included one entitled Impact of Trauma on Children, Caregivers and Court Staff and one entitled Children’s Matters: Did You Know That? In 2022-2023, trainings included a DCF Program Update. PCA stated that it offers at least one annual training, that typically is for one full day, dedicated to children’s issues. There is no requirement, however, that all Probate Court judges, or all judges serving in the Regional Children’s Probate Courts, receive training specific to guardianship of minors and issues related to child abuse and neglect, the impact of trauma, or recognizing signs of grooming or sexual abuse.

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<sup>94</sup> [Conn. Gen. Stat. §45a-27.](#)

<sup>95</sup> [Id.](#)

<sup>96</sup> [Office of the Probate Court Administrator, Probate Court Regulations.](#)

<sup>97</sup> [Probate Court Regulations, Section 26.2.](#)

<sup>98</sup> [Probate Court Regulations, Section 26.3.](#)

DCF and PCA indicated that they have worked collaboratively over a number of years to provide joint system training for DCF workers, Probate Court family specialists, and Probate Court judges. PCA indicated that the Probate Courts and DCF are jointly training court family specialists and DCF workers at a training scheduled for March 2025. Both the Probate Courts and DCF intend to continue such collaborative trainings in the future for court staff, judges, and DCF workers.

## **2. TRAINING OF APPOINTED COUNSEL AND GUARDIANS AD LITEM**

Attorneys are appointed from a panel of attorneys maintained by each Probate Court or the available PCA panel.<sup>99</sup> Any attorney who is a member of the Connecticut bar and in good standing may request to serve on the panel.<sup>100</sup> No specialized training or experience is required to serve on the panel or to accept cases. Attorneys are paid \$58 per hour, and may charge for travel time from his or her place of business in connection with the representation, but travel expenses such as mileage, parking, and tolls are not reimbursable.<sup>101</sup> There are no practice standards related to independent information gathering or visiting with the child client. The Integrity of the Practice/Pro Bono Subcommittee of the Connecticut Bar Association (CBA) Estates and Probate Section has published a manual, entitled Court-Appointed Attorneys in Courts of Probate, which provides some guidance to attorneys handling such matters.

Attorneys serving on the panel may be appointed to serve as Guardian ad Litem, but there is no requirement that Guardians Ad Litem be attorneys. The Judicial Branch is directed pursuant to Connecticut General Statutes § 51-10b to contract with Children in Placement (CIP), a non-profit entity, in the amount of \$150,000 annually, “to provide services to assist the court in preparing and monitoring expectations to promote permanency planning for children.” CIP trains volunteers to serve as Guardians Ad Litem. To become a Guardian Ad Litem, volunteers must be 21 or older and undergo a background check to include criminal background check (based on state and national name search, not fingerprints), DCF registry check, and a check of the sex offender registry. CIP also interviews candidates. There is no required educational background or training, and volunteers have a wide variety of backgrounds. Volunteers must attend forty hours of training initially and an additional 12 hours annually. Training topics include roles and responsibilities, how the DCF process works, mandated reporting, cultural competency, how to gather information, personal safety, and how to write a court report for both SCJM and Probate Court. There are no practice standards applicable to Guardians Ad Litem in the Probate Court.

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<sup>99</sup> Probate Court Regulations, Section 12.2.

<sup>100</sup> Probate Court Regulations, Section 12.3.

<sup>101</sup> Probate Court Regulations, Section 13.4.

### 3. MONITORING, OVERSIGHT, AND DATA COLLECTON

PCA provided certain data based upon requests by OCA.

#### Cases Filed, Appointment of Counsel, DCF Studies

OCA requested data to understand the frequency of appointment of counsel, appointment of guardians ad litem, cases filed and decided based on allegations of child abuse or neglect, and cases filed and decided regarding termination of parental rights.

PCA indicated that 1232 petitions for removal of guardian were filed in calendar year 2022. The total number of cases decided was 1027 (530 in the Regional Children's Probate Courts; 497 in the local Probate Courts).<sup>102</sup> Of these, 925 were granted. In calendar year 2023, 1426 petitions were filed, with 705 cases decided (384 in the Regional Children's Probate Courts; 321 in the local Probate Courts). Of the cases decided, 651 were granted.<sup>103</sup> Thus, slightly more than half of the cases were decided in the Regional Children's Probate Courts.

Data provided by PCA showed that counsel is appointed for the minor child and DCF studies are ordered in the vast majority of cases.<sup>104</sup> Appointment of Guardians ad Litem was rare.<sup>105</sup> In the vast majority of cases in which guardianship was granted, relatives were appointed as guardians.<sup>106</sup> A total of 681 petitions to terminate parental rights were filed in 2022 and 2023. Of those, 422 were granted.

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<sup>102</sup> Cases decided may be cases filed in prior years.

<sup>103</sup> PCA provided data on only cases that were granted. However, guardianship was granted in roughly 90% of the cases decided. For that reason, OCA determined that this data was adequate for purposes of this review.

<sup>104</sup> For calendar year 2022, a DCF study was ordered in 99.14% of the cases in which removal of guardianship was granted. For calendar year 2023, a DCF study was ordered in 98.46% of the cases in which removal of guardianship was granted. For calendar year 2022, counsel was appointed in 93.73% of cases in which removal of guardianship was granted. For calendar year 2023, counsel was appointed in 96.16% of cases in which removal of guardianship was granted.

<sup>105</sup> For calendar year 2022, a GAL was appointed in 6.43% of cases in which removal of guardianship was granted. For calendar year 2023, a GAL was appointed in 4.1% of cases in which removal of guardianship was granted.

<sup>106</sup> For calendar year 2022, for cases in which removal of guardianship was granted and a guardian was appointed, a relative was appointed in 83.45% of the cases. For calendar year 2023, for cases in which removal of guardianship was granted and a guardian was appointed, a relative was appointed in 83.26% of the cases.

PCA was not able to provide data disaggregated by the specific statutory grounds in cases regarding removal of guardian. PCA was not able to provide data regarding the statutory grounds for cases in which termination of parent rights was requested or granted.

#### *Annual Report by the Guardian*

Once guardianship is transferred, the primary tool for monitoring the guardianship is the annual report, which is filed by the guardian using a form developed by the Probate Court.<sup>107</sup> There is no requirement for supporting documentation such as proof of enrollment in school or well-child care. There is no independent verification of information provided in the annual report, except in circumstances where a potential concern is identified. Under those circumstances, the family specialist or the child's guardian ad litem may obtain additional information.

PCA indicated that the court utilizes a "tickler" system to send reminders to the guardian to file the required report. Once filed, the family specialist assigned to the case (or the clerk of the court for non-regional children's probate courts) reviews the report and if there are concerning changes or circumstances, will request an In-Court Review before the judge or conduct a family case conference. The case conference includes DCF, the parties, all attorneys of record including the court-appointed attorney for the minor and GAL, if any. If no concerns are noted upon review of the annual report, this may be filed with the court without any additional action.

PCA indicated that, in the event an annual report is not filed in response to court requests, the court issues an updated certificate of appointment to the court-appointed attorney instructing the attorney to contact the minor and guardian. The court may also schedule a hearing to remove the guardian for failure to file required documents. The court may re-engage DCF at this time to conduct an investigation, file an updated report, and attend the hearing.

PCA indicated that in cases of particular complexity, the family specialist assigned to the case continues to monitor the guardianship with periodic direct outreach to the guardian and parents. The family specialist may conduct post-guardian decree case conferences or request in-court reviews before the judge.

#### *Notifications Related to Public Benefits*

In cases in which the guardian may be receiving Temporary Family Assistance or other public benefits, guardians are required to report changes in circumstances, including termination of the guardianship, to DSS. Probate Court records of proceedings for removal of guardian are confidential pursuant to Connecticut General

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<sup>107</sup> [PC-570 Guardian's Report/Guardianship of the Person of a Minor](#)

Statutes § 45a-754, thus prohibiting the Probate Court from notifying DSS if guardianship ends.

### *Quality of Legal Representation and Practice Standards*

While the manual entitled Court-Appointed Attorneys in Courts of Probate provides guidance to attorneys in matters involving removal of guardian and termination of parental rights, there are no practice standards.<sup>108</sup> No information is gathered on the quality of legal representation or the quality of guardian ad litem work.

OCA met with CIP to determine what practice standards may be in place and what quality assurance might be in place with regard to volunteer Guardians Ad Litem. There are no formal practice standards through which performance of the Guardian Ad Litem is assessed. CIP stated that every case is supervised by a manager, who meets regularly with the Guardian Ad Litem, guides their work, and reviews their reports. There are five managers and approximately 100-115 Guardians Ad Litem. Case assignments are not weighted based on the complexity of the case, but CIP indicated that volunteers generally carry one or two cases at a time. CIP reported that they use their discretion in assigning cases and consider the individual needs of the case and the experience of the volunteer. For example, if a case involves a child with medical needs, CIP may choose a volunteer with a medical background. While Guardians Ad Litem are not mandated reporters, CIP reported that they train their volunteers to escalate concerns to the CIP Regional Manager and to the DCF Regional Manager and that Regional Managers make reports to the Careline if appropriate. With regard to information gathering, CIP indicated that they make efforts to obtain first-hand information, but this is not always possible. This may occur, for example, if the volunteer is unable to reach a party or if an attorney refuses access to a parent client. CIP indicated that when information cannot be obtained first-hand, they note this in their report to the court. With regard to quality assurance, CIP stated that employees receive supervision and annual assessments. Volunteers are assigned cases by regional managers, who discuss the case with the volunteer and provide regular supervision regarding their cases. All documents filed are reviewed and approved by the Chief of Staff. Beyond supervision, CIP did not describe any formal processes used to monitor performance of its volunteers but indicated that they do not continue to assign cases to volunteers who are not meeting expectations and will remove a volunteer from their service if they determine that is appropriate.

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<sup>108</sup> Attorneys and Guardians ad Litem appointed to represent children in the Superior Court for Juvenile Matters must comply with the performance guidelines developed by the Office of the Chief Public Defender. State of Connecticut Office of Chief Public Defender, Delinquency Defense and Child Protection. [https://portal.ct.gov/-/media/ocpd/child\\_protection/performance-guidelines-for-counsel-in-child-protection-matters.pdf?rev=7276b90473b54717a23cef42c18cbc54&hash=1B6D00B8863A8DB56397E1A3596FA714](https://portal.ct.gov/-/media/ocpd/child_protection/performance-guidelines-for-counsel-in-child-protection-matters.pdf?rev=7276b90473b54717a23cef42c18cbc54&hash=1B6D00B8863A8DB56397E1A3596FA714). Accessed on January 31, 2025.

## **D. QUALITY ASSURANCE MEASURES - DEPARTMENT OF CHILDREN AND FAMILIES**

Data shows that Probate cases have been increasing since early 2023 and are now at rates not seen since 2004-2005. Cases assigned for assessment in Probate Court matters are not treated as investigations of abuse or neglect, as are reports made to the DCF Careline. Notably, a probate case is assigned a 2.9% utilization percentage, allowing a maximum of 30 cases per case worker. A standard investigation is 5.9%, allowing a case worker to be assigned a maximum of 17 cases. This means that case workers have less time to dedicate to each assessment for the Probate Court, which may impact their ability to be thorough.<sup>109</sup>

While DCF's policies regarding completion of assessments for the Probate Court are broadly appropriate, OCA identified several gaps:

- Workers conducting assessments for the Probate Court receive training on the Probate Court process, but do not receive the same or similar training specific to conducting investigations that workers assigned to the investigations unit receive;
- DCF's policies related to Careline investigations includes a requirement, pursuant to Connecticut General Statutes 17a-101b(c), that DCF notify the police when it receives a report alleging sexual abuse or serious physical abuse.<sup>110</sup> The same requirement is not embedded into DCF's policies related to assessments through the Probate Court, raising concern that allegations of sexual assault or serious physical abuse by the parent for whom removal is sought may not result in notification to law enforcement.<sup>111</sup>
- Assessment reports submitted to the Probate Court are not consistently entered in LINK, which means that important information may be missed in relation to future assessments for the Probate Court or investigations if a DCF case arises; and
- Reports provided to the Probate Court may include information without clear indication of the source of the information and date on which it was obtained.

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<sup>109</sup> In response to a draft of this report, DCF indicated that the utilization percentages are based on varied roles, responsibilities, and expectations. DCF did not agree that the different caseloads resulted in less time to complete the work or to complete a thorough report.

<sup>110</sup> Connecticut General Statute § 17a-101b(c) states: "If the Commissioner of Children and Families, or the commissioner's designee, receives a report alleging sexual abuse or serious physical abuse, including, but not limited to, a report that: (1) A child has died; (2) a child has been sexually assaulted; (3) a child has suffered brain damage or loss or serious impairment of a bodily function or organ; (4) a child has been sexually exploited; or (5) a child has suffered serious nonaccidental physical injury, the commissioner shall, within twelve hours of receipt of such report, notify the appropriate law enforcement agency."

<sup>111</sup> OCA notes that law enforcement was not notified when sexual abuse allegations were made in the context of Probate Court assessments in the Barriault case described above.

With regard to the source of information contained in DCF reports to the Probate Court, OCA notes that this concern is similar to that identified in the [fatality report regarding Liam R.](#) In that case, incorrect and substantively critical information was included in a report to the court. OCA recommended statutory changes to require that DCF provide the source and date of information provided in narrative reports to the court. A similar requirement should apply to the Probate Court.

DCF has not developed a quality assurance framework for Probate cases. For other types of cases, such as in-home cases (those in which a case remains open with DCF while children remain in the home), Family Assessment Response, and investigations, DCF regularly collects data through sampling and specified performance measures to conduct internal quality assurance reviews. Cases in which children are in the care of DCF are regularly reviewed by a quality assurance reviewer through Administrative Case Reviews. There are no similar audits or reviews of Probate Court assessments.

DCF noted in response to a draft of this report that it does have performance management expectations in place. Supervisors are expected to review assessments, ensure that they are timely, and ensure that they include the proper contents. In addition, Program Supervisors approve the document by signing it. DCF indicated that the check and balance on the quality of reports is that the Probate Court communicates with DCF regional offices if there is a problem with reports.

#### **E. QUALITY ASSURANCE MEASURES - DEPARTMENT OF SOCIAL SERVICES**

While DSS policies require the relative caretaker to notify DSS if the child is absent from the home for 90 days, there is no system for tracking if and when a guardianship ends. Probate Court records regarding removal of guardian are confidential and may not be shared with DSS.<sup>112</sup> As such, there is no mechanism for communication between the Probate Court and DSS to ensure that DSS is notified when guardianship is ended.

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<sup>112</sup> Connecticut General Statutes 45a-754.

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## VI. FINDINGS IN RELATION TO REVIEW UNDER PUBLIC ACT 24-118

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1. In calendar years 2022 and 2023, over 1700 petitions for removal of guardianship were decided. The vast majority of these (90% in 2022; 92% in 2023) were granted.
2. Of all cases decided, nearly half (48% in 2022; 45% in 2023) are decided in local Probate Courts.
3. Counsel was appointed to represent the child in nearly all cases in which removal of guardian was granted (93.73% in 2022; 96.16% in 2023).
4. A DCF study was ordered in nearly all cases in which removal of guardianship was granted (99.14% in 2022; 98.46% in 2023).
5. Guardians ad Litem were appointed in very few cases in which guardianship was granted (6.43% in 2022; 4.1% in 2023).
6. In the vast majority of cases in which removal of guardian is granted, and a guardian is appointed, the guardian is a relative (83.45% in 2022; 83.26% in 2023).
7. Probate Court judges do receive training. The curriculum is established by Probate Court Administration, along with the Continuing Education Committee of the Probate Assembly. Some of these trainings involve topics relevant to the guardianship of minors. Nonetheless, while the statute requires training regarding “family law in the context of the probate courts,” there are no statutory requirements that Probate Court judges receive training specific to guardianship of minors or issues related to child abuse and neglect, the impact of trauma, or recognizing signs of grooming or sexual abuse. There is no specialized training required for judges in the Regional Children’s Probate Courts.
8. Regional Children’s Probate Courts benefit from support of family specialists, but just over half of all removal of guardianship cases are decided in those courts.
9. Attorneys providing representation to children or serving as Guardian ad Litem are not required to receive training, or demonstrate any specific

training or experience related to child abuse and neglect, to be appointed to the panel.

10. There are no practice standards applicable to attorneys representing children or serving as Guardians ad Litem in the Probate Courts. There is no formal quality assurance framework.
11. There are no practice standards applicable to volunteer Guardians ad Litem and no formal quality assurance framework.
12. Hearings for removal of guardian and appointment of guardian are not required to be recorded, are not routinely recorded, and are not hearings on the record for purposes of appeal. Appeals of guardianship decisions in the Probate Court may be appealed by filing a complaint in the Superior Court for Juvenile Matters, which would then conduct a de novo (new) hearing, requiring that the matter be heard again, with new presentation of the same testimony and evidence.
13. Absent some issue triggering a request for an in-court review, monitoring of the child's well-being after appointment of a guardians is limited to an annual report, filed by the guardian.
14. DCF assessments ordered by the Probate Court are not processed by DCF in the same way as investigations based on reports to the DCF Careline in several important ways:
  - a. Probate Court assessments are done by the caseworkers assigned to the probate unit. These cases carry a lower case weight than investigations, resulting in higher case load for caseworkers completing Probate Court studies as compared to caseworkers conducting investigations of Careline reports.
  - b. Because Probate Court assessments come to DCF as orders from the Probate Court, not through the DCF Careline, even if the basis for the petition for removal is an allegation of abuse or neglect, Probate Court cases do not include identification and recording of the alleged perpetrator, a determination as to whether the allegations are substantiated or unsubstantiated, or a determination as to whether the alleged perpetrator should be placed on the child abuse registry.
  - c. Probate Court assessments are not consistently entered in LINK. As a result, such assessments may only be available in hard copy, which

may impact the completeness of future assessments and investigations.

- d. DCF's policies related to Careline investigations includes a requirement, pursuant to Connecticut General Statutes 17a-101b(c), that DCF notify the police when it receives a report alleging sexual abuse or serious physical abuse.<sup>113</sup> The same requirement is not embedded into DCF's policies related to assessments through the Probate Court, raising concern that allegations of sexual assault or serious physical abuse by the parent for whom removal is sought may not result in notification to law enforcement.
- e. There is no requirement in the Probate Court that DCF assessments include identification of the source and date of the information provided to the Probate Court.

15. DCF has not developed a quality assurance framework for assessing and improving the quality of Probate Court assessments.

16. There is currently no system for notifying DSS if a guardian who is receiving TFA for a child is no longer the appointed guardian.

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## **VII. IMPORTANT DIFFERENCES BETWEEN PROBATE COURT AND THE SUPERIOR COURT FOR JUVENILE MATTERS**

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Probate Court offers an important avenue for families to transfer guardianship to relatives, either through consent of the parent, or because a relative is concerned about the care being provided to children. It provides a route for families to intervene and provide care, without the need for intrusive DCF involvement. At the same time, it is critically important to recognize that in cases where there are allegations of child

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<sup>113</sup> Connecticut General Statute § 17a-101b(c) states: "If the Commissioner of Children and Families, or the commissioner's designee, receives a report alleging sexual abuse or serious physical abuse, including, but not limited to, a report that: (1) A child has died; (2) a child has been sexually assaulted; (3) a child has suffered brain damage or loss or serious impairment of a bodily function or organ; (4) a child has been sexually exploited; or (5) a child has suffered serious nonaccidental physical injury, the commissioner shall, within twelve hours of receipt of such report, notify the appropriate law enforcement agency."

abuse or neglect, there are trade-offs in using the Probate Court process instead of reporting the alleged neglect or abuse to DCF.<sup>114</sup>

For children who are removed through the Probate Court process, federal legal requirements that apply when children are removed by DCF do not apply. This means that the Probate Court is not required, except in the rare circumstance where DCF is appointed to be the child's guardian, to determine that reasonable efforts were made to prevent removal, to require that reasonable efforts be made to reunify the child with the parent, or to determine prior to terminating parental rights that reasonable efforts to reunify the child with the parent were made. This can have a significant impact on the parents' ability to be reinstated as guardians of their children.

There are significant financial differences. While guardians may apply for TFA, the payment is \$505 per month.<sup>115</sup> Foster parents, including relative foster parents, receive between \$780 per month and \$2460.00 per month, depending on the needs of the child. When transfer of guardianship is determined to be the appropriate permanency plan for children in foster care, they may be eligible for subsidized guardianship, which would provide ongoing payments (in amounts similar to foster care) until the age of 18, or 21 if the child remains a full-time student. These children are also eligible for ongoing HUSKY coverage until the age of 18 (21 if the child continues to reside in Connecticut).

Lastly, when guardianship is transferred through Probate Court, there is no ongoing oversight by DCF. There are no home visits. DCF does not ensure that the child's health care and educational needs are met. When children are in foster care, DCF must visit monthly, if not more frequently based on the circumstances of the individual case. DCF must ensure that the child's medical, educational, and therapeutic needs are met. And, as stated above, DCF is required to make reasonable efforts to reunify the child with the parent, which may include connecting the parent with substance use disorder treatment, mental health treatment, parenting skills training, and family therapy. None of these things are required when children are placed with guardians through Probate Court.<sup>116</sup>

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<sup>114</sup> Cases should not be heard simultaneously in both Probate Court and the Superior Court for Juvenile Matters. In addition to statutory and policy requirements, the Office of the Probate Court Administrator, the Judicial Branch, and the Department of Children and Families have a memorandum of agreement to prevent cases from being heard simultaneously.

<sup>115</sup> This is the amount for the child when the caregiver is a guardian appointed through Probate Court and is not included in the eligibility unit.

<sup>116</sup> In response to a draft of this report, DCF noted that this is true with respect to transfers of guardianship that occur in the Superior Court for Juvenile Matters. While this is accurate, cases handled in the Superior Court for Juvenile Matters generally have a period of time in which efforts

There are also significant differences in the training and practice standards of attorneys representing children in Probate Court, as compared to those representing children in the Superior Court for Juvenile Matters. For an attorney to receive court appointed cases in child abuse and neglect matters in the Superior Court for Juvenile Matters, they must complete pre-service training, work with a mentor for the first year, and complete six hours of training annually. In addition, the Office of the Chief Public Defender has established practice guidelines and has several measures in place to monitor attorney compliance with contract expectations. None of these requirements apply to attorneys on the Probate panel.

It is also important to note that when a petition for removal of guardianship is granted in the Probate Court, based on allegations of child abuse or neglect, no substantiation is recorded in DCF's records (because there is no DCF Careline report or investigation of the allegations and thus no substantiation/unsubstantiation determination) and no determination is made as to whether the parent/guardian should be placed on the DCF registry. While there is a DCF LINK record of the Probate Court matter and whether a removal of guardianship is granted, there is no documentation of an alleged perpetrator in LINK (even if the petition for removal is based on an allegation of abuse or neglect) and the report to the Probate Court may not be saved in LINK (existing in hard copy only). The lack of substantiation and registry determination has important implications for child protection, particularly for individuals who work with children in positions that require a check of the child abuse registry.

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## **VIII. CONCLUSIONS AND RECOMMENDATIONS**

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Every year, approximately 800 petitions for removal of guardian are filed in Probate Courts across the state. In the vast majority of these cases, the courts appoint counsel for children and order DCF to complete an assessment. Probate courts rely on the accuracy and completeness of these assessments to make determinations in the best interests of children. OCA found that DCF assessments for the Probate Court are not treated as "investigations," as an allegation of child neglect or abuse to the Careline would be. This has significant implications for the accuracy and completeness of information, the availability of information for future assessments, and may create a lack of clarity on whether and when police reports are required.

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to reunify are made, with the support and supervision of DCF, prior to any decision to transfer guardianship.

Caseworkers assigned to complete probate court assessments do not receive the same in-depth training on investigations that workers in the investigation unit receive, potentially impacting the adequacy of assessments. There is great variation in the accuracy and completeness of assessments submitted by DCF to the Probate Court. There is no quality assurance framework.

While training is provided to Probate Court judges, there are no requirements for training specific to guardianship of minors or issues related to child abuse and neglect, the impact of trauma or recognizing the signs of grooming or sexual abuse. While Regional Children's Probate Courts receive the benefit of family specialists, just over half of all removal cases are decided in those courts. Attorneys serving on panels in each of the Probate Courts, or the PCA panel, are not required to receive training or demonstrate any particular expertise. There are no practice standards and no formal quality assurance framework. Volunteer Guardians ad Litem receive training and oversight from CIP but there are no formal practice standards and no formal quality assurance framework.

OCA makes the following specific recommendations for systemic improvement:

1. The legislature should create a working group to review the statutes and procedures related to guardianship matters in the Probate Court, and to make recommendations for improvement. Such review should consider all of the findings in this report and include, but not be limited to, consideration of the following:
  - a. Whether cases, or specific subsets of cases, in which the grounds for petition for removal would otherwise be reportable as suspected child abuse or neglect, should be treated by DCF as investigations, with substantiation/unsubstantiation and child abuse registry decisions, while remaining in the Probate Court for determinations as to the petition for removal of guardian;
  - b. Whether DCF caseworkers assigned to the Probate unit should receive additional training on conducting thorough assessments, similar to training provided to those assigned to the investigations unit;
  - c. Requiring that all removal of guardianship matters under Connecticut General Statutes § 45a-610(2) to (5) be heard in Regional Children's Probate Courts and review any barriers to the availability of Regional Children's Probate Courts in all regions of the state, including the availability of virtual hearings;
  - d. Requirements for pre-service and in-service training for attorneys wishing to serve on the Probate Court panel, either as attorney or guardians ad litem. The working group may consider as a model

training requirements for attorneys contracting with the Office of the Chief Public Defender to provide representation to children and parents in the Superior Court for Juvenile Matters, which requires a three-day pre-service training prior to being assigned a case under the contract, work with a mentor for the first year of their contract, and complete six hours of training annually;

- e. Requirements for practice and performance guidelines for attorneys serving on the panel, and a framework for assessing the quality of the services delivered by such attorneys;
- f. Methods for ensuring the quality of services provided by volunteer guardians ad litem provided by Children in Placement;
- g. Whether family specialists should be mandated reporters;
- h. Whether the annual report submitted by the guardian is adequate to ensure the ongoing safety and well-being of the child following appointment of a guardian;
- i. Whether the statutes should be amended to require DCF and/or the Probate Court to notify law enforcement when allegations of sexual abuse or serious physical abuse are made in the context of a Probate Court case (as is required under Connecticut General Statute 17a-101b(c) when DCF receives such a report through the Careline);
- j. Whether the statutes should be amended to require that all proceedings under Connecticut General Statutes 45a-603 to 45a-625 be recorded and that the hearing be a hearing on the record under Connecticut General Statute § 45a-186, et seq.;
- k. Whether the statutes should be amended to require the Probate Court to notify DSS when a guardianship is terminated; and
- l. Whether the statutes should be amended to require that DCF include the source and date of information provided in its reports to the Probate Court.

2. The legislature should amend current law to require that parents and people seeking guardianship or being considered as potential guardians in cases in which there is a petition for removal of guardian should be notified, at the time of the filing of the petition, or as soon as possible thereafter, of (a) how to make a Careline report to DCF for suspected child abuse or neglect, (b) the differences between Probate Court and petitions filed by DCF in the Superior Court for Juvenile Matters as it relates to reasonable efforts to prevent removal, reasonable efforts to reunify, and reasonable efforts findings required prior to the termination of parental rights, (c) the difference in financial support that guardians may receive as compared to financial assistance that may be available to families providing foster care and (d) the

differences in DCF involvement and oversight for children under guardianship as compared to children in foster care. Parents and potential guardians should be canvassed by the court to ensure that both have received such notice, discussed it with counsel, and are aware of the implications of moving forward in the Probate Court.

3. DCF should:

- a. immediately modify its policies to require that all assessments to the Probate Court are saved within the LINK system (or any successor case management system);
- b. immediately modify its policies to require that all assessments, and any other documentation provided to the Probate Court in removal of guardianship cases, include the source and date of the information being provided;
- c. immediately modify its policies to require that allegations of sexual abuse or serious physical abuse made in the context of Probate Court, be reported to law enforcement;
- d. review case weighting system to determine if modifications should be made to ensure that assessments for the Probate Court are thorough; and
- e. develop a quality assurance framework to monitor and ensure the quality of DCF assessments in matters in the Probate Court and utilize this quality assurance to inform the agency about future training needs and caseload weighting.

## **APPENDIX A**

### **Formal Response of the Department of Children and Families**

**February 28, 2025**

The Department of Children and Families (DCF) appreciates the Office of the Child Advocate's (OCA) efforts to provide an overview of the Probate Court system as well as their perspective on areas needing improvement. While this OCA report appears to go beyond its intended scope as outlined in PA 24-118 (Sec. 12), the Department welcomes the opportunity to provide additional clarity and context to some of the conclusions and recommendations related to our current probate practice.

First, DCF wants to express our sincere appreciation for the ongoing collaboration and partnership we enjoy with the Office of the Probate Court Administrator (PCA), which has been instrumental to improving our probate court practice and outcomes for families served by that system. The system we have today has evolved significantly over the past 20 years, making the extensive inclusion of the decades-old Barriault case of limited utility for purposes of this report. For that reason, and due to ongoing criminal proceedings, DCF is not providing further comment here on that specific case.

As noted in this report, the Department's role in Probate cases is intentionally and appropriately different than our role and responsibility in child abuse and neglect cases that are accepted for investigation by our Careline. More specifically, the Probate Court system provides family members with a venue for directly seeking custody and/or guardianship of their relative children if/when the children's parents are unable to care for them. Unlike DCF proceedings in the Superior Court for Juvenile Matters, the Probate Court Temporary Custody/Removal of Guardianship proceedings permit family members to become custodians/guardians of relative children without requiring any unnecessary placements into the foster care system. In cases involving alleged parental neglect or abuse, the Probate Court will order DCF to conduct an investigation, including an assessment of the proposed custodian/guardian, and provide a report to assist the court in determining whether removal of the parents as guardians is warranted and whether placement with the proposed custodian/guardian is in the child(ren)'s best interests. DCF's limited role in Probate cases allows probate workers to carry a higher caseload than social workers handling child abuse and neglect investigations while still permitting them ample time to complete thorough and high-quality assessments and reports.

In collaboration with PCA, we offer joint training for our DCF and PCA staff to continue elevating the quality of our collective work and the reports DCF provides to the Probate Court. In addition, although not mentioned in the OCA report, all DCF social workers, including probate social workers, also undergo extensive pre-service training related to child abuse and neglect, trauma, assessment, case planning and services to support the safety, permanency and well-being of the children we serve.

With regard to our quality assurance framework for probate cases, it's important to note that the quality of our probate work is assured not only in supervision and review of the quality and timeliness of reports but also in the ongoing communications we have with PCA related to any case-specific and/or systemic issues.

As always, we remain committed to working in partnership with PCA, OCA and other system partners to support and improve the services we all provide to CT's children and families and appreciate the opportunity to provide this additional context.