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Conservator of Person

Secs. 45a-651-1—45a-651-9. Reserved

Sec. 45a-651-10. Definitions

As used in sections 10 through 16, inclusive:

(a) The terms “conservator of the person,” “incapable of managing his or her affairs,” “incapable of caring for oneself,” “respondent,” and “ward” are defined in accordance with C.G.S. Section 45a-644.

(b) Available Appropriations means funds, if any, appropriated by the General Assembly to the Department of Human Resources to carry out the purposes of C.G.S. Section 45a-651.

(c) Commissioner means the Commissioner of the Department of Human Resources.

(d) Designee means any person selected by the Commissioner of Human Resources to act in his behalf as conservator of the person under C.G.S. Section 45a-651.

(e) Earned Income means any compensation payable by an employer to an employee for personal services and includes wages, salaries, tips, commissions, bonuses, and earnings from self-employment or contractual agreements based on the most recent 13 weeks, minus the usual and customary deductions.

(f) Other Income may include, but is not limited to pensions; annuities; dividends; interest; rental income; estate or trust income; royalties; social security minus any medicare deductions; supplemental security income; unemployment compensation; workmen’s compensation; alimony; child support; and cash assistance from federal, state; or municipally funded assistance programs not otherwise excluded as income by federal or state law.

(g) Liquid Assets means all traditional assets readily convertible into cash, excluding real property and a monthly maintenance allowance to be determined by the Commissioner, and including but not limited to, cash, bank accounts, stocks, certificates of deposit, credit union shares, present interests in estates, the cash value of life insurance, and the cash value of burial insurance over \$1,500. Liquid Assets also means Earned Income, and Other Income as defined in this section.

(h) Suitable Conservator means any person, municipal or state official, or private for profit or non-profit corporation, except a hospital or nursing home as defined in C.G.S. Section 19a-521, found appropriate by the probate court, upon taking into consideration the condition and needs of the respondent.

(Effective July 23, 1991)

Sec. 45a-651-11. Eligibility standards for the commissioner of human resources to serve as conservator of the person

(a) The Commissioner of Human Resources shall accept appointment, within available appropriations, as conservator of the person of any respondent, 60 years of age or older, found incapable under Chapter 802h of the C.G.S. of caring for himself or herself if the probate court finds that the health or welfare of the respondent is in jeopardy without such appointment; and that the conditions of Sections 2 (a) (1) and 2 (b), below, have been met. Such appointment shall be subject to the provisions of 2 (c) below and the Commissioner of Human Resources shall have the right to refuse any appointment in accordance with said section. The Commissioner shall not accept appointment as conservator of the person for any respondent who is receiving services from a governmental entity in another state.

(1) The Commissioner of Human Resources is the conservator of the person of last choice. The availability of family, friends, town and state officials, town social service providers, state social service providers, the Department of Administrative Services under C.G.S. Section 4a-15 and any other appropriate persons, to serve as conservator of the person shall be fully explored by the person petitioning the court for a conservator of the person before the Commissioner is authorized to serve as conservator of the person. The Commissioner shall not serve as conservator of the person if an individual has a family that is available, qualified and willing to serve.

(b) The Commissioner will serve as conservator of the person only for those elderly individuals whose liquid assets do not exceed \$1,500 at the time of such appointment.

In determining an applicant's initial eligibility liquid assets shall not have been disposed of or transferred without receiving reasonable consideration or fair value, or for the purpose of qualifying for conservator services, for a period of 2 years prior to the date of application.

(c) Service by the Commissioner of Human Resources is contingent upon the availability of funds.

(d) When the Commissioner believes that the Department has reached its maximum capacity with appropriated funds, he shall send a notice to Courts of Probate that the Department will no longer accept new appointments. Such notice shall be in effect until the Commissioner notifies the Courts of Probate that the Department will once again be able to accept new appointments.

(Effective July 23, 1991)

Sec. 45a-651-12. Application and determination of eligibility

(a) Any application for conservator which requests appointment of the Commissioner of Human Resources shall have attached thereto Form PRC-79, setting forth the efforts made to find a suitable conservator, conditions which place the health and welfare of the respondent in jeopardy and a representation that the liquid assets of the respondent do not exceed \$1,500.

(b) Upon receiving the petition, the Court(s) of Probate shall send a copy of said petition including the information in PRC-79 to the Commissioner of Human Resources or his designee, within a five day period, excluding Saturday, Sunday and Holidays. A notice of the hearing date shall be sent to the Commissioner as soon as reasonably possible. The Commissioner may request such additional information as may be necessary to determine eligibility for his appointment either through the Court of Probate or directly through the petitioner. At the hearing the Commissioner or his designee shall accept or decline the appointment in accordance with these regulations and may present any evidence or information in support of his or her decision.

(Effective July 23, 1991)

Sec. 45a-651-13. Duties

(a) When appointed under C.G.S. Section 45a-651, the Commissioner or his designee shall have all the powers and duties of a conservator as provided in the General Statutes.

(b) In his capacity as conservator of the person, the Commissioner or his designee has the authority to contract with service providers for assistance in carrying out the duties as conservator listed in C.G.S. Section 45a-656.

(c) The Commissioner or his designee, in their capacity as conservator of the person, shall maintain a visitation schedule as follows:

(1) Not less than monthly visits for persons living in the community.

(2) Not less than quarterly visits for persons in institutions.

(d) The Commissioner shall provide a written report to the Court of Probate on an annual basis.

(Effective July 23, 1991)

Sec. 45a-651-14. Replacement of commissioner with another suitable conservator of the person

During the term of appointment of the Commissioner of Human Resources as conservator of the person, if a suitable person, corporation or municipal or state official is found to replace said Commissioner as conservator of the person, such person, corporation, or official shall be appointed successor conservator of the person, subject to the approval of the court of probate.

(Effective July 23, 1991)

Sec. 45a-651-15. Payment of cost of services of conservator of the person

Subject to the approval of the probate court having jurisdiction, the estate of any person for whom the Commissioner has been appointed conservator of the person pursuant to C.G.S. Section 45a-651 shall be liable for payment for the cost of services as conservator of the person and, to the extent possible, payment to the Commissioner for such services shall be made from the assets of the estate.

(Effective July 23, 1991)

Sec. 45a-651-16. Payment for services received, other than services of conservator

In accordance with C.G.S. Section 45a-656, the preceding duties, responsibilities and powers shall be carried out within the limitations of the resources available to the conserved individual, either through his own estate or through public or private assistance.

(Effective July 23, 1991)

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Adoption Placement of Children Who Have Been Identified or Located by Prospective Adoptive Parents

Sec. 45a-728-1. Scope of regulations

The Commissioner or a Child Placing Agency may place a child in adoption who has been identified or located by a prospective adoptive parent provided any such placement shall be made in accordance with these regulations. If any such placement is not made in accordance with these regulations, the Probate Court shall not approve the adoption application.

(Effective February 1, 1994)

Sec. 45a-728-2. Definitions

As used in Sections 45a-728-1 through 45a-728-10, except as otherwise provided therein:

(a) "Department" means the Department of Children and Families.

(b) "Commissioner" means the Commissioner of the Department of Children and Families.

(c) "Child placing agency" means any agency within or without the State of Connecticut licensed or approved by the Commissioner of Children and Families for the placement of children for the purpose of adoption.

(d) "Birth parent" means the mother who bore or is bearing the child and the biological father.

(e) "Identify" means to give, share, or obtain any information regarding a specific child or birth parent(s) or expectant birth parent for the purpose of adoption.

(f) "Locate" means to engage in the process of searching for or seeking out a child or children for the purpose of adoption.

(g) "Non-approved child placing agency" means an agency in any of the United States or its political subdivisions which is not approved by the department but is licensed or similarly regulated by the jurisdiction in which it is located. Such agency is prohibited from the placement of a child, for any purpose, into the State of Connecticut.

(h) "Place for adoption" or "placement for adoption" means the act of giving or transferring physical possession of a child or children to the prospective adoptive parent(s) by a child placing agency or the department, or by a person designated by a child placing agency or the department, provided such person is designated in writing and qualified under subsection (b) of Section 45a-728-7 of the Regulations of Connecticut State Agencies.

(i) "Homestudy" means the process of assisting the prospective adoptive family to assess their own readiness to adopt and parent including a determination of the compliance of the family and their residence with: (1) department licensing regulations 17a-145-48 et seq., if the homestudy is completed on a family residing in the State of Connecticut, or (2) licensing requirements of the State in which the family resides if the family resides outside of the State of Connecticut.

(j) "Cohabitor" means one who lives with another as a husband and wife or as though the conjugal relationship existed.

(k) "Identified Adoption" means an adoption where a non-related child was identified and/or located for the purpose of adoption by prospective adoptive parent(s) prior to the child's placement in the home.

(l) "Fee Schedule" means the method by which an agency establishes a rate of compensation for its services and/or payments on behalf of birth parents related to the identified adoption placement.

(Effective December 22, 1994)

Sec. 45a-728-3. Restricted activities and penalties

(a) No person, persons, association, corporation or any other entity except a child placing agency or the department shall offer, give, request, receive, or accept payment of cash or other consideration, directly or indirectly, for the identification or location of a specified child or children for prospective adoptive parent(s) or for information regarding birth parents.

(b) No person, persons, association, corporation or any other entity, other than a child placing agency or the department or a person designated by a child placing agency or the department, provided such person is designated in writing and qualified under subsection (b) of Section 45a-728-7 of the Regulations of Connecticut State Agencies, shall be permitted to physically place a child with the prospective adoptive parent(s) for adoption.

(c) These provisions shall not restrict physicians or attorneys from receiving reasonable payment for services (other than those set forth in subsection (a) of this section) customarily performed by such physicians or attorneys.

(d) Any child-placing agency violating any provision of Sections 45a-728-1 through 45a-728-10 of the Regulations of Connecticut State Agencies may be subject to revocation of its license or approval to operate in the State of Connecticut in accordance with Section 17a-150-8 of the Regulations of Connecticut State Agencies.

(Effective December 22, 1994)

Sec. 45a-728-4. Permissible activities for non-approved child placing agencies

Non Approved Child Placing Agencies—The activities of out-of-state non approved child placing agencies shall be permitted so long as such activities are not performed within the State of Connecticut and are of the type customarily performed by a child placing agency, and provided further that the actual placement of a child is made only by the department or a child placing agency. Or a person designated by a child placing agency or the department, provided such person is designated in writing and qualified under subsection (b) of Section 45a-728-7 of the Regulations of Connecticut State Agencies.

(Effective December 22, 1994)

Sec. 45a-728-5. Prospective adoptive parents—homestudy

(a) Prospective adoptive parents should initiate the identified adoption process by requesting a homestudy by a child placing agency. During the homestudy process, the child placing agency shall provide the prospective adoptive parents detailed information regarding the identified adoption process and a copy of these regulations.

(b) Prospective adoptive parents and their home must be studied and determined to meet licensing standards prior to the placement of a child in their home. Such determination should be done prior to the identification of a prospective child for adoption. However, a child placing agency (or the department in the case of a child or youth in the care or custody of the Commissioner) may accept a request for a homestudy where the identification of a child has been made prior to the initiation or completion of the homestudy unless the manner of location or identification of the child is inconsistent with these regulations.

(c) In all cases, placement of a child with the prospective adoptive parent(s) shall not be permitted less than forty-five (45) days from the initiation of the homestudy process (which is defined as the first in person meeting regarding adoption between the prospective adoptive parent(s) and a qualified representative of a child placing agency, or a non approved child placing agency).

(d) In all cases placement of a child with a prospective adoptive parent shall not be permitted until the home is determined by the child placing agency or non-approved child placing agency to have met the requirements of the state into which the child is to be placed.

(e) No homestudy for adoption purposes by any child placing agency or the department shall be permitted if the child is already residing in the home of the prospective adoptive family. This prohibition shall not apply: (1) in cases where the child was placed in the home by a child-placing agency or the Commissioner; (2) in cases when the placement of the child in the home was not for adoption purposes and the adoption application will be brought before the adoption review board under the provisions of Section 45a-764 of the Connecticut General Statutes. (Effective December 22, 1994)

Sec. 45a-728-5a. Prospective adoptive parents—permissible activities

(a) Prospective adoptive parents may: (1) participate in the labor and birth of the child identified for adoption; and (2) visit the newborn child, provided the birth mother, her physician and the child placing agency agree and, if such participation and visitation are consistent with the medically necessary procedures of the hospital.

(b) Prospective adoptive parents may be present at the discharge of the infant from the hospital with the approval of the child placing agency.

(c) Prospective adoptive parents shall receive either through the hospital, at the time of discharge, or through the child placing agency any nonidentifying information customarily provided to birth parents concerning the care, feeding, and health of the infant.

(d) Prospective adoptive parents shall be permitted to participate in any program of instructions regarding infant care and child development that is available through the licensed hospital to birth parents, provided the prospective adoptive parents pay the cost of participation in such program.

(Effective December 22, 1994)

Sec. 45a-728-6. Advertising

(a) Any birth parent or prospective adoptive parent may advertise through any Connecticut public media for the purposes of identified adoption in accordance with the provisions of Public Act 93-101.

(b) The department and child placing agencies may advertise in any Connecticut public media regarding the availability of their adoption services or for the placement of a child for the purpose of adoption.

(Effective December 22, 1994)

Sec. 45a-728-7. Birth parent counseling

(a) Counseling of the birth mother may occur anytime during the pregnancy, but shall not occur later than seventy-two (72) hours after the birth of the child, or as soon as possible thereafter should the mother's medical condition prevent such counseling. In the case of a child whose age exceeds seventy-two (72) hours and where counseling of the birth mother was not delayed as the result of a medical condition counseling shall be provided to the birth mother prior to placement. Counseling shall also be offered to the birth father, if known within the time conditions provided for in this subsection.

(b) Such counseling shall be done by a staff person from a child placing agency or the department designated to provide this type of counseling or one of the following with the approval of the child placing agency or the department:

(1) A staff person in a Council on Accreditation of Services of Families and Children (hereafter referred to C.O.A.) accredited family services or child placing agency designated to provide this type of counseling.

(2) A staff person in a mental health facility accredited by the C.O.A. or the Joint Commission on the Accreditation of Hospitals designated to provide this type of counseling.

(3) A staff person in a governmental child welfare or child placing agency or a non-approved child placing agency designated to provide this type of counseling.

(4) A person who is a member of the Academy of Certified Social Workers.

(5) A person with a masters or doctoral degree in counseling, psychology or related mental health disciplines from an accredited college or university.

(c) Such counseling shall consist of:

(1) an explanation and consideration of alternatives to adoption available to the birth parent(s) to assist the birth parent(s) in determining the best course of action.

(2) detailed information regarding the identified adoption process including reviewing and providing a copy of these regulations.

(3) a thorough explanation and consideration of the legal and personal impact of terminating parental rights and adoption.

(4) an explanation of informed consent by using and having executed Affidavit/Consent to Termination of Parental Rights (form JD-JM-60) if the termination of parental rights is to occur in Connecticut. Such informed consent shall not be executed earlier than forty-eight (48) hours after birth pursuant to subsection (a) of Section 45a-715 of the Connecticut General Statutes.

(5) completion of department birth parent social and medical history forms in accordance with Section 45a-746 of the Connecticut General Statutes.

(d) The counselor shall prepare a written report containing a description of the topics covered as required pursuant to Sections 45a-728-1 through 45a-728-10, inclusive, of the Regulations of Connecticut State Agencies and the results thereof, including his/her opinion indicating whether or not the birth parent(s) understood all issues and was/were capable of informed consent. This report shall be submitted to the child placing agency no later than the date of placement of the child for adoption.

(e) The counselor's report, together with executed Affidavit/Consent to Termination of Parental Rights—Form JD-JM-60, shall be attached to and made a part of the report to the probate court required by subsection (e) of Section 45a-717 or subsection (b) of Section 45a-727 of the Connecticut General Statutes.

(f) The child placing agency or the department shall also certify that, if the birth father did not receive counseling, a reasonable effort was made to notify him of the availability of the counseling required by these regulations. Such certifications shall be made a part of the report required by subsection (e) of Section 45a-717 or subsection (b) of Section 45a-727 of the Connecticut General Statutes.

(Effective December 22, 1994)

Sec. 45a-728-8. Permissible payments by prospective adoptive parents and/or child placing agencies involved in identified placements

In addition to the payments by the prospective adoptive parents to the child placing agency in accordance with its fee schedule on file with the department, the payments listed below shall also be permitted. The child placing agency shall be required to investigate and offer to both the prospective adoptive parents and the birth parents possible alternative sources for payment of all of the permitted expenses listed here. No payment shall be made directly to the birth parent, to any relative

by blood or marriage, to any cohabitor nor to anyone on their behalf by the prospective adoptive parents. All payments by the prospective adoptive parents, or anyone on their behalf, must be transmitted to the child placing agency for distribution. In no event may payments by the child placing agency to or on behalf of the birth parent(s) exceed the following:

(a) **Living Expenses of Birth Mother**

Payment for living expenses of a birth mother by the prospective adoptive parents shall be permitted in an amount not to exceed one thousand five hundred dollars or such amount as may be approved in unusual circumstances by the probate court responsible for such adoption. In addition to the payment of living expenses, payment by the prospective adoptive parents of reasonable telephone and maternity clothing expenses of the birth mother shall be permitted.

(b) **Transportation, Lodging, Food Expenses**

(1) Birth parent. Payment for transportation, lodging and food costs for a birth parent incurred as a direct result of effecting or attempting to effect the placement with a child placing agency of a child for adoption shall be permitted at a cost not to exceed round trip coach fare on a common carrier from and to the birth parent's established place of residence, plus necessary related connecting transportation and reasonable and necessary lodging and food costs.

(2) Agency Representative. Payment for expenses of transportation, lodging and food costs for a child placing agency representative incurred as a direct result of activities customarily engaged in by child placing agencies including but not limited to expenses incurred as a direct result of effecting or attempting to effect the placement of a child for adoption shall be permitted at a cost not to exceed round trip coach fare from and to the agency representatives' established place of employment on a common carrier plus necessary related connecting transportation, and reasonable and necessary lodging and food costs.

(c) **Counseling Expenses**

Payment for up to twelve (12) hours of birth parent counseling expenses shall be permitted for each birth parent at rates not to exceed regional fee scales compiled by Family Service America for such counseling. Such rates shall be on file with the Commissioner and kept current. The permissible payment of expenses for birth parent counseling shall include the transportation costs to and from counseling for the birth parent.

(d) **Foster Care Expenses**

Payment for necessary foster care expenses for the child, who is to be adopted, in a licensed, approved or certified foster home shall be permitted at reasonable and prevailing rates where the foster home is located.

(e) **Maternity Home Expenses**

Payment for a birth mother's expenses in a licensed or governmental-approved maternity home for not longer than sixty (60) days shall be permitted.

(f) **Medical Expenses**

The cost of pre-natal medical care related to the pregnancy for the birth mother and for delivery and medical expenses of the newborn may be paid. Payments for such services shall not exceed established and generally accepted reasonable and prevailing rates in the community in which the child is born. No payment for medical expenses of birth mothers incurred more than thirty (30) days after delivery shall be made except that payment may be made for one post-partum check up visit after such thirty (30) day period.

(Effective December 22, 1994)

Sec. 45a-728-9. Provision for less affluent to participate

Each child placing agency participating in identified adoptions shall be required to file a fee schedule with the department indicating a reasonable method by which less affluent families may participate in the identified adoption process.

(Effective December 22, 1994)

Sec. 45a-728-10. Financial affidavits

(a) The birth mother shall sign a sworn financial affidavit on a form prescribed by the Probate Court containing such information as may be required concerning any payments or gratuities already made or promised to be made on her behalf, directly or indirectly, in connection with the freeing of her child for adoption. Such affidavit shall also state that no payments have been made or promised to her or, to the best of her knowledge, to any other person by any person(s) involved in the adoption except as provided by these regulations. The affidavit shall also include any additional information required by the prescribed form. Such affidavit shall be submitted to the placing agency prior to the placement of the child with the prospective adoptive parents. Such affidavit shall also be submitted to the Probate Court together with the application for approval of the adoption agreement.

(b) The adoptive parent(s) shall sign a sworn financial affidavit on a form prescribed by the Probate Court containing such information as may be required concerning any payments or gratuities already made or promised, directly or indirectly, in connection with the placement of a child with them for adoption, including attorney fees, if any. Such affidavit shall be submitted to the child placing agency (which will be the statutory parent of said child) no later than the date of placement. The affidavit shall also include any additional information prescribed by the form. The affidavit shall be updated to include any payments made or promised to be made prior to or subsequent to placement and filed with the Probate Court together with the application for approval of the adoption agreement.

(c) A duly authorized representative of the child placing agency or the department placing the child for adoption shall sign a sworn affidavit on a form prescribed by the Probate Court containing such information as may be required concerning all payments or gratuities received by the agency from the prospective adoptive parent(s) in connection with the adoption and all expenditures made by the agency on behalf of the birth parent(s), prospective adoptive parent(s), or any other person or group of persons associated in any way with the adoption. This affidavit shall be updated to include any such payments made or promised to be made prior to or subsequent to placement and filed with the Probate Court together with the application for approval of the adoption agreement.

(Effective December 22, 1994)