Legislative History for Connecticut Act

SB 547 PA 470 1980

House - 7277-7281 5

Senate - 3345-3347, 3472 4

Judiciary - 720-729, 820-824 15

LAW/LEGISLATIVE REFERENCE
DO NOT REMOVE FROM LIBRARY

(24p.)

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

Connecticut State Library

Compiled 2013

H-274

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1980

VOL. 23
PART 25
7240-7594

SPEAKER ABATE:

Is there objection? Hearing none, it is so ordered.

CLERK:

Calendar Page 2, Calendar No. 738, File 398. Substitute for Senate Bill No. 547. AN ACT CONCERNING CONFINEMENT AT THE WHITING FORENSIC INSTITUTE. (As amended by Senate Amendment Schedule "A." Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

I move for acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER ABATE:

The question is on acceptance of the Joint Committee's Favorable Report and passage of this bill in concurrence with the Senate.

SPEAKER ABATE:

Will you remark, sir?

REP. TULISANO: (29th)

Yes, Mr. Speaker. The Clerk has amendment, LCO 4345.

SPEAKER ABATE:

The Clerk has in his possession an amendment, LCO No. 4345 previously designated Senate Amendment Schedule "A." Will the Clerk please call the amendment.

CLERK:

LCO No. 4345 offered by Senator DePiano of the 23rd district.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Permission to summarize?

SPEAKER ABATE:

Is there objection to summarization? Hearing none, you may proceed to summarize this amendment, Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker. What the amendment does is to clarify some of the file copy language. It strikes out line 74, limiting the qualified person up to the personnel of the institute not any other qualified person. That language in the file was too general and this narrows it down to individuals who might be at mental institutions. I move adoption of the amendment.

SPEAKER ABATE:

The question is on adoption of Senate Amendment Schedule "A." Will you remark further on its adoption? Will you remark further on the adoption of Senate Amendment Schedule "A." If not, all those in favor of its adoption, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

All those opposed, nay. The ayes have it. It is adopted. Will you remark further on the bill as amended?

REP. TULISANO: (29th)

Yes, Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the bill as amended is an attempt to conform to the sections dealing with the Diagnostic Unit at Whiting Forensic. That law which was passed in '59 to current constitutional standards and requirements of other statutes which were enacted after that date.

It has the support of the Connecticut Department of Mental Health as well as the Connecticut Psychiatric Society,

who both supported the bill. The bill is here at the request of the Department of Mental Health. It allows the mental health facilities other than Whiting Forensic as alternative placement locations if that place were filled or otherwise.

I move for adoption.

SPEAKER ABATE:

Will you remark further on this bill as amended? Will you remark further on the bill as amended by Senate Amendment "A." If not, will all the members please be seated. Staff and guests to the Well of the House, please. All staff and guests please come to the Well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately?

Have all the members voted? Will the members please check the roll call machine to determine if their vote is properly recorded. The machine will be locked. The Clerk will take the tally.

Clerk, please announce the tally.

CLERK:

Senate Bill No. ~~457~~ 547. (As amended by Senate Amendment Schedule "A.")

Total number voting	142
Necessary for passage	72
Those voting yea	141
Those voting nay	1
Those absent and not voting	9

SPEAKER ABATE:

Bill as amended, passes.

CLERK:

Calendar No. 739, File 480. Substitute for Senate Bill No. 737. AN ACT CONCERNING THE REVISOR'S CORRECTIONS TO THE GENERAL STATUTES AND THE 1979 PUBLIC ACT. (As amended by Senate Amendment Schedules "A," "B" and "C.") Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

S-166

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1980

VOL. 23
PART 10
3053-3476

THE CLERK:

Moving to page 2 of the calendar, Calendar No. 325, File 398, Substitute for Senate Bill No. 547. An Act Concerning Confinement At the Whiting Forensic Institute with a Favorable Report of the Committee on Judiciary, and the Clerk has an amendment.

THE CHAIR:

Senator DePiano.

SENATOR DEPIANO:

Mr. President, I move for acceptance of the committee's joint favorable report and passage of that bill.

THE CHAIR:

The Clerk read the amendment.

SENATOR DEPIANO:

I'll waive the reading of the amendment.

THE CHAIR:

Is there a motion that we accept the amendment.

SENATOR DEPIANO:

Yes, there is such a motion.

THE CLERK:

The Clerk has Senate Amendment Schedule "A", LCO No. 4345. LCO No. 4345, Senate Amendment Schedule "A", copies are presently being distributed.

THE CHAIR:

Senator DePiano.

SENATOR DEPIANO:

Yes, Mr. President, the amendment merely clarifies the bill and is really technical in nature and I move for acceptance of that amendment.

THE CHAIR:

Are there any comments? Other comments? Hearing none, all those in favor of the amendment? All those opposed? Amendment carries.

SENATOR DEPIANO:

Mr. President, this bill would allow the Mental Health Commissioner to designate facilities other than Whiting Forensic as alternative placement locations for those committed to an institute. The bill makes several technical changes and deletes reference to statutory sections that have been repealed or would be repealed under the bill. The bill would add to the current committment standard of danger to self and others a determination that the individual is mentally ill. Under the bill, transfers of prisoners from correctional institutions would be made pursuant to recently enacted law which affords procedural safeguards. The bill would also amend current procedure for examination and committment of criminal defendents convicted of certain crimes. Further, the bill would require reexamination of patients every six months rather than every year. It would add to the current report requirements of finding of whether the patient continues to be mentally ill. This bill would re-

move time limitations on the length of leaves of absences and extended visits. The bill would permit court hearings at any time for the purpose of determining whether a convicted defendent should be discharged and mandates such hearings at least once every five years. Finally, the bill eliminates requirements of notifying certain relatives of the director's evaluation of patient's transfers and prohibits individuals other than legal guardians or parents of patients who are minors from obtaining information on the patient's condition. If there's no objection, I move it be placed on the consent calendar.

THE CHAIR:

Are there any objections on the bill? Hearing none, the item is placed on the consent calendar.

THE CLERK:

Calendar No. 397. Calendar No. 397, File 480, Substitute for Senate Bill No. 737, An Act Concerning the Revisor's Corrections to the General Statutes and the 1979 Public Acts. (As amended by Senate Amendment Schedule "A"), with a Favorable Report of the Committee on Judiciary. The Clerk has three amendments.

THE CHAIR:

Senator DePiano.

SENATOR DEPIANO:

Mr. President, I move for acceptance of the committee's

of the calendar, calendar 543. On page 4, calendar 586. On page 5, calendar 632 and 670. Page 6, calendar 688. Page 8, calendar 694, 696, 697 and 698. Page 9, calendar 699, 700, 701. That concludes today's consent calendar.

THE CHAIR:

We are going to have two roll calls, one on a calendar item that had been removed by request from Senator Johnson which would be calendar 703 on page 9 and then the consent calendar. Announce an immediate roll call in the Senate please.

HB 5876

THE CLERK:

An immediate roll call has been callef for in the Senate. Will all Senators please be seated. An immediate roll call has been callef ror in the Senate. Will all Senators please take their seats.

THE CHAIR:

Machine is open. Machine's closed. Clerk will take a tally. The vote is 34 yea, 1 nay. The bill is passed. Clear the machine please. We'll now vote on the consent calendar. The machine is open. Have all Senators voted? Machine is closed. Clerk will take a tally. The vote is 35 yea, 0 nay. Consent Calendar is passed. Senator Lieberman, we have some items that just came up from the House.

SB 547, SB 737, HB 5937, HB 5991, HB 5807, HB 5574, HB 5949, HB 5124, HB 5523, HB 5605, HB 5614, HB 5652, HB 5672, HB 5678

SENATOR LIEBERMAN:

Mr. President, if I may move for suspension to allow for immediate transmittal of the bills we just adopted to go to the House.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 9
APPENDIX
648-1081

1980

than thirty days after receipt of [such] THE petition, and [such] THE court shall give notice [thereof] OF THE HEARING to the petitioner and agency or department, as the case may be, at least ten days [prior to such] BEFORE THE hearing. If [such] THE court finds [such] THE information is being withheld in violation of section 45-68e, ~~AS AMENDED BY SECTION 161 OF THIS ACT~~, [such] THE court shall order [such] THE agency or department to release [such] THE information.

(d) Any adult adopted person who is of the opinion that any item of information in section 45-68e, ~~AS AMENDED BY SECTION 161 OF THIS ACT~~, is being withheld by the court of probate, or any adult adopted person or the department or agency who is aggrieved by an order of the court of probate under subsection (c) of this section may appeal to the adoption records review board established in accordance with section 45-68d, ~~AS AMENDED BY SECTION 160 OF THIS ACT~~, or if any adult adopted person is aggrieved by an order of the [juvenile] SUPERIOR court, he may appeal in accordance with section 46b-142.

720

Sec. 45a-178. [Sec. 45-68i.] Petition for identifying information.

Any adult adopted person, whose adoption was finalized in this state or whose genetic parents had their rights terminated in this state or whose genetic parents were removed as guardians in this state or whose genetic parents' rights to custody were removed in this state, may petition, in writing, the court of probate in which the adoption decree was granted or termination took place or removal as guardians or of custody took place, for release of information concerning his background which shall be in addition to the information available in section 45-68e, ~~AS AMENDED BY SECTION 161 OF THIS ACT~~. If there is only a termination or removal of custody and [such] THE termination or removal of custody took place in the juvenile OR SUPERIOR court, [such] THE person may petition the [juvenile] SUPERIOR court in writing for release of [such] THE information. The provisions of chapter 55 shall not apply to the provisions of this section. [No such] SUCH information shall NOT be released unless [such] THE court is satisfied as to the identity of [such] THE person.

Reviser's comments:

Minor language changes for clarification and simplification.

Sec. 45a-179. [Sec. 45-68j.] Release of identifying information. Investigation. Hearing. Conditions. Appeal.

(a) When a petition, filed under the provisions of section 45-68i, ~~AS AMENDED BY SECTION 165 OF THIS ACT,~~ is received by either the court of probate or the [juvenile] SUPERIOR court, as the case may be, if such court is satisfied as to the identity of [such] THE person, the matter shall be referred within fifteen days after receipt of [such] THE petition to the agency or the department which has access to the information which the adult adopted person is requesting under section 45-68i, ~~AS AMENDED BY SECTION 165 OF THIS ACT,~~ for an investigation and report. If [such] THE agency or department is out-of-state and unwilling to provide [such] THE investigation and report, the court of probate or the [juvenile] SUPERIOR court, as the case may be, shall refer the matter to an agency or the department in this state for an investigation and report. [Such] THE investigation and report shall be completed within sixty days after receipt of the request from [such] THE court [,]. THE REPORT AND INVESTIGATION shall include but not be limited to an interview with the adult adopted person for the purpose of ascertaining the reasons for his request for information and may include information concerning either genetic parent received by the agency or department since termination or removal of guardianship or removal of custody

Reviser's comments:

Minor language changes for clarification and simplification.

Reference to superior court substituted for reference to juvenile court to conform to court reorganization.

took place. The adoptive parents, if living, shall be notified of [such] THE petition and shall have the opportunity to be interviewed [with respect to such] REGARDING THE petition. In making its report, [such] THE agency or department may, but shall not be required to, state a conclusion as to the merits of the request of the adult adopted person for [such] THE information. Upon receipt of [such] THE report, or upon expiration of sixty days, whichever is sooner, the court shall set a time and place for hearing not later than fifteen days thereafter and give notice [thereof] OF THE HEARING to [such] THE petitioning adult adopted person and to [such] THE agency or commissioner of the department. At [such] THE hearing, [such] THE petitioner may give evidence to support his petition as he deems appropriate. Within fifteen days after the conclusion of [such] THE hearing, the court shall issue a decree as to whether or not the information requested under the provisions of section 45-68i, ~~AS AMENDED BY SECTION 165 OF THIS ACT~~, should be given to [such] THE petitioner. The court shall grant [such] THE petition and [such] THE agency or department shall furnish [such] information [as] WHICH the court directs to the petitioner unless (1) [such] THE information would identify the genetic parents and written consent of each identified genetic parent, subject to the provisions of section 45-681, ~~AS AMENDED BY SECTION 168 OF THIS ACT,~~ has not been given, (2) the adult adopted person has contact with a biological sibling who is a minor, and the

adoptive parents or guardian, if any, of [such] THE sibling, have not consented to the release of [such] THE information or (3) the judge of probate or the [juvenile] SUPERIOR court judge, as the case may be, determines that release of [such] THE information to [such] THE adult adopted person would be seriously disruptive to or endanger the physical or emotional health of the adult adopted person or the genetic parents of [such] THE adopted person.

(b) Identifying information shall not be disclosed concerning any adult blood relative other than a genetic parent unless consent is obtained from the following persons in the following order: (1) Any living genetic parents of the adult adopted person, (2) any living adoptive parents or guardian of the blood relative to be identified, as the case may be, and (3) [such] THE adult blood relative.

(c) If the court of probate or the [juvenile] SUPERIOR court, as the case may be, denies [such] THE petition, [such] THE court may request [such] THE agency or department to notify the genetic parent or parents that the adult adopted person has petitioned [such] THE court for information identifying [such] THE genetic parent or parents, if [such] THE court determines that it would be in the best interests of [such] THE parent or parents to be so notified. [Such] THE notification shall be accomplished in [such] a manner [as to] WHICH WILL protect

724

the confidentiality of the communication and shall be done without disclosing the identity of the adult adopted person.

(d) Any such adult adopted person aggrieved by the decision of [such] THE court of probate may appeal to the adoption records review board established by section 45-68d, ~~AS AMENDED BY SECTION 160 OF THIS ACT,~~ or if aggrieved by a decision of the [juvenile] SUPERIOR court, may appeal in accordance with the provisions of section 46b-142.

Sec. 45a-180. [Sec. 45-68k.] Appeal before board.

(a) Upon [a] receipt of an appeal, in writing, under [the provisions of] section 45-68g, ~~AS AMENDED BY SECTION 163 OF THIS ACT,~~ the board shall set a time and place for a hearing [thereon] ON THE APPEAL not later than thirty days after receiving [such] THE petition and shall give notice [thereof] OF THE HEARING to [such] THE agency or commissioner of the department and [such] THE judge of probate. At [such] THE hearing, [such] THE agency or department may give evidence to support its petition as it deems appropriate. Within fifteen days after the conclusion of [such] THE hearing, the board shall (1) issue an order that sufficient effort has been made or information released to satisfy the requirements of section 45-68g~~, AS AMENDED BY SECTION 163 OF THIS ACT,~~ and the board shall send [such] THE order in writing to [such] THE judge of probate with a copy to [such] THE agency or department, or (2) issue an order that more effort is required to be made by the agency or department or THAT information be released to satisfy the requirements of the provisions of section 45-68g, ~~AS AMENDED BY SECTION 163 OF THIS ACT~~ [and the]. THE board shall send [such] THE order to [such] THE agency or department with a copy to [such] THE judge of probate.

(b) Upon [a] receipt of an appeal in writing under the provisions of subsection

Reviser's comments:

Minor language changes for clarification and simplification.

726

(d) of section 45-68h, ~~AS AMENDED BY SECTION 164 OF THIS ACT,~~ or section 45-68j, ~~AS AMENDED BY SECTION 166 OF THIS ACT,~~ the board shall set a time and place for a hearing [thereon] ON THE APPEAL not later than thirty days after receiving [such] THE petition [and]. THE BOARD shall give notice [thereof] OF THE HEARING to the adult adopted person and to the court of probate or the agency or commissioner of the department, as the case may be. At [such] THE hearing, [such] THE petitioner may give [such] evidence to support his petition [as] WHICH he deems appropriate. Within fifteen days after the conclusion of [such] THE hearing, the board shall issue a decree as to whether or not [such] THE information or any part [thereof] OF IT should be given to [such] THE petitioner, provided [such] THE hearing may be continued by [such] THE board at its discretion to obtain further evidence. If the board grants [such] THE petition for information, [such] THE court, agency or department shall release [such] information [as] WHICH the board directs to [such] THE petitioner. If the board grants a petition under section 45-68j, ~~AS AMENDED BY SECTION 166 OF THIS ACT,~~ [such] THE court of probate shall, after receipt of a certified copy thereof, order the release by [such] THE agency or department of such information [as is directed]. Any [such] petitioner aggrieved by the decision of the board may appeal [therefrom] FROM THE DECISION to the superior court as provided in section 45-289, ~~AS AMENDED BY SECTION 93 OF THIS ACT~~. If the

board denies [such] THE petition, it may request [such] THE agency or department to notify the genetic parent or parents that the adult adopted person has appealed to the board for information identifying [such] THE genetic parent or parents, if the board deems such notification to be in the best interests of [such] THE genetic parent or parents. Such notification shall be accomplished in [such] a manner [as to] WHICH WILL protect the confidentiality of the communication and shall not disclose the name of the adult adopted person.

Sec. 45a-181. [Sec. 45-68l.] Obtaining consent of genetic parents.

(a) If the court of probate or the [juvenile] SUPERIOR court, as the case may be, grants a petition under section 45-68j, ~~AS AMENDED BY SECTION 166 OF THIS ACT,~~ the agency or department which furnished a report requested by [such] THE court, shall, with the assistance of [such] THE court, be required to expend not more than six hours time, and may charge the petitioning adult adopted person reasonable compensation and be reimbursed for expenses [,] in locating the genetic parents of [such] THE petitioner and in locating the adoptive parents or guardian of any biological siblings known to the petitioner in order to obtain [such] consent [as] WHICH is required by section 45-68j, ~~AS AMENDED BY SECTION 166 OF THIS ACT~~. The obtaining of such consent shall be accomplished in [such] a manner [as to] WHICH WILL protect the confidentiality of the communication and shall be done without disclosing the identity of the adult adopted person.

(b) If, after due diligence, [such] THE agency or department is unable to locate [such] THE parents in order to obtain [such] consent, then, the petitioner shall be notified by [such] THE court that for any further search by [such] THE agency or department on his behalf, [such] THE agency or department may charge [such] THE petitioner [such amounts as are] THE

Reviser's comments:

Minor language changes for clarification and simplification.

Section subdivided to improve readability.

Reference to Superior Court substituted for former Juvenile Court to conform to court reorganization.

required to secure such loan or loans, and to renew existing loans either as maker or endorser.

(9) Vote Shares. --To vote shares of stock owned by the estate or owned by any trust at stockholders´ meetings in person or by special, limited, or general proxy, with or without power of substitution.

(10) Register in Name of Nominee. --To hold any investment in the name of a nominee or in any form in which title will pass by delivery, but the fiduciary shall be liable for any act of the nominee in connection with the investment so held. Any corporation or its transfer agent may presume conclusively that the nominee is the actual owner of securities submitted for transfer.

(11) Use of Private Nominees. --To form a general or limited partnership or partnerships under any name or names of the fiduciary´s selection for the purpose of taking and holding title to all or any of the assets comprising the estate or trust property and for becoming the named beneficiary of any or all of the insurance policies therein; said partnership or partnerships shall have the power to deposit, withdraw, sell, loan, mortgage, lease, assign, convey, exchange, transfer or deal with said estate or trust property in all ways permitted to the fiduciary and to take any such action over the signature of only one partner or of the partnership itself; and any broker, bank, savings bank, savings and loan association, and any corporation or its transfer agent or registrar may presume conclusively that said partnership or partnerships are the actual owners of the bank deposits, savings and loan shares and securities registered in their names and submitted for transfer or re-registration.

(12) Take and Exercise Options, Rights and Privileges. --To take options for acquisition of property, to

exercise all options, rights, and privileges to convert stocks, bonds, debentures, notes, mortgages, or other property into other stocks, bonds, debentures, notes, mortgages, or other property; to subscribe for other or additional stocks, bonds, debentures, notes, mortgages, or other property; and to hold such stocks, bonds, debentures, notes, mortgages, or other property so acquired as investments of the estate or trust so long as the fiduciary shall deem advisable.

(13) Participate in Reorganizations. --To unite with other owners of property similar to any which may be held at any time in the decedent's estate or in any trusts in carrying out any plan for the consolidation or merger, dissolution or liquidation, foreclosure, lease or sale of the property; incorporation or reincorporation, acquisition, recapitalization, reorganization or readjustment of the capital or financial structure of any corporation, company or association

the securities of which may form any portion of an estate or trust; to become and serve as a member of a stockholders' or bondholders' protective committee; to deposit securities in accordance with any plan agreed upon; to pay any assessments, expenses, or sums of money that may be required for the protection or furtherance of the interest of the distributees of an estate or beneficiaries of any trust with reference to any such plan; and to receive as investments of any estate or any trust any securities issued as a result of the execution of such plan.

(14) Renew and Extend Obligations. --To continue any obligation, whether secured or unsecured, upon and after maturity with a renewal or extension upon such terms as the fiduciary shall deem advisable, without regard to the value of the security, if any, at the time of such continuance, even though such continuance may extend beyond the period of the estate or of any trust.

(15) Foreclose and Bid in. --To foreclose, as an incident to the collection of any bond, note or other obligation, any mortgage, deed of trust, or other lien securing such bond, note or other obligation, and to bid in the property at such foreclosure sale, or to acquire the property by deed from the mortgagor or obligor without foreclosure; and to retain the property so bid in or taken over without foreclosure.

(16) Insure. --To carry such insurance coverage, including but not limited to public liability, fire, rent, title or casualty insurance for such hazards and in such amounts, either in stock companies or in mutual companies, as the fiduciary shall deem advisable. A fiduciary or a fiduciary's employee who is a director of any corporation, more than nineteen per cent of whose stock is held by the estate or any trust, may use estate or trust assets to purchase and pay premiums on

insurance to indemnify himself from liability resulting from acting with conflicting interests and from other acts in his capacity as a director.

(17) Collect. --To collect, receive and give receipts for rents, issues, profits, and income of an estate or trust.

(18) Litigate, Compromise or Abandon. --To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the estate or trust as the fiduciary shall deem advisable, and the fiduciary's decision shall be conclusive between the fiduciary and the beneficiaries of the estate or trust in the absence of fraud, bad faith or gross negligence of the fiduciary. No beneficiary serving as a co-fiduciary and no settlor serving as a fiduciary or co-fiduciary may participate in any decision as to claims between him and the estate or trust. Any claim by a settlor or beneficiary serving as a co-fiduciary shall be determined only by the other co-fiduciary.

(19) Employ and Compensate Agents, etc. --To employ and compensate persons deemed by the fiduciary needful to advise or assist in the proper settlement of the estate or administration of any trust including, but not limited to: Servants, agents, accountants, brokers, attorneys-at-law, attorneys-in-fact, real estate managers, rental agents, realtors, appraisers, and investment counsel, custodians and other professional advisors as reasonably may be required or desired in managing, protecting and investing the estate or any trusts without liability for any neglect, omission, misconduct, or default of such person provided such person was selected and retained with due care on the part of the fiduciary. If investment counsel is selected, which at the time of selection has a reputation in its community for competence and fair dealing, its selection and retention shall be

considered as having been made with due care, provided the fiduciary continues to retain such counsel only so long as such counsel maintains said reputation. Under said circumstances, the fiduciary shall have no investment responsibility whatever and may act without independent investigation upon the recommendations of any such person, without liability for any neglect, omission, misconduct, or default of such person.

(20) Acquire and Hold Property of Two or More Trusts Undivided. --To acquire, receive, hold and retain the principal of several trusts created by a single instrument undivided until division shall become necessary in order to make a distribution; to hold, manage, invest, reinvest, and account for the several shares or parts of shares by appropriate entries in the fiduciary's books of account, and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, that the provisions of this subdivision shall not defer the vesting in possession of any share or part of share of the estate or trust.

(21) Distribute in Cash or Kind. --To make distribution of assets of the estate or trust in kind or in cash, or partially in kind and partially in cash, in divided or undivided interests, provided shares may be composed differently and specific assets may be allocated to particular distributions; to make such distribution either upon final distribution or during one or more preliminary distributions, at the then current values, as the fiduciary finds to be most practicable and for the best interests of the distributees; and to make reasonable determinations of said values for the purpose of making distribution if there is more than one distributee thereof, which determination shall be binding upon the distributees, provided no settlor serving as a fiduciary of an irrevocable trust and no beneficiary serving as a fiduciary of any trust shall have such power.