



General Assembly

January Session, 2001

Raised Bill No. 1057

LCO No. 3288

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING BENEFICIARY INTERESTS IN ESTATE AND TRUST MATTERS.

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

- 1 Section 1. (NEW) As used in sections 1 to 6, inclusive, of this act:
- 2 (1) "Fiduciary matters" means (A) any property or interest in
3 property held as part of a decedent's estate, in trust or by a person in a
4 fiduciary capacity; (B) applications for probate of a will or intestate
5 administration; (C) actions by or against a decedent's estate, a trust or
6 any other property held in a fiduciary capacity, or by or against the
7 fiduciary of any such estate or trust or holding any such other
8 property, in its capacity as such fiduciary; (D) proceedings for the
9 interpretation of any will, trust or other instrument pursuant to which
10 property is held in a fiduciary capacity; (E) accountings, whether
11 intermediate or final, of any fiduciary; and (F) any other matters
12 concerning the administration of a decedent's estate, a trust or other
13 property held in a fiduciary capacity.
- 14 (2) "Represent" shall not be construed to permit a person who has
15 not been admitted as an attorney under the provisions of section 51-80

16 of the general statutes to serve as legal counsel for any other person in
17 a fiduciary matter.

18 Sec. 2. (NEW) To the extent there is no conflict of interest between
19 the holder of a power of appointment and the persons represented
20 with respect to the particular question or dispute: (1) The sole holder
21 or all coholders of any power of appointment, whether or not
22 presently exercisable, shall represent the potential appointees; and (2)
23 the sole holder or all coholders of a power of revocation or a general
24 power of appointment, including one in the form of a power of
25 amendment, shall also represent the takers in default of the exercise
26 thereof.

27 Sec. 3. (NEW) To the extent there is no conflict of interest between
28 representative and the person represented or among those being
29 represented with respect to a particular question or dispute: (1) A court
30 appointed conservator or guardian of the estate may represent and
31 bind the estate that the conservator or guardian controls; (2) a court
32 appointed conservator or guardian of the person may represent and
33 bind the ward if a conservator or guardian of the ward's estate has not
34 been appointed; (3) an agent having authority to do so may represent
35 and bind the principal; (4) a trustee may represent and bind the
36 beneficiaries of the trust; (5) an executor or administrator of a
37 decedent's estate may represent and bind persons interested in the
38 estate; and (6) if a conservator or guardian has not been appointed, a
39 parent may represent and bind the parent's minor or unborn child.

40 Sec. 4. (NEW) Unless otherwise represented, a minor, incapacitated
41 or unborn individual, or a person whose identity or location is
42 unknown and not reasonably ascertainable, may be represented by
43 and bound by another person having a substantially identical interest
44 with respect to the particular question or dispute, but only to the
45 extent there is no conflict of interest between the representative and
46 the person being represented.

47 Sec. 5. (NEW) (a) If the court determines that an interest is not

48 represented under sections 2 to 4, inclusive, of this act, or that the
49 otherwise available representation might be inadequate, the court may
50 appoint a guardian ad litem to receive notice, give consent, and
51 otherwise represent, bind and act on behalf of a minor, incapacitated
52 or unborn individual, or a person whose identity or location is
53 unknown. A guardian ad litem may be appointed to represent several
54 persons or interests.

55 (b) A guardian ad litem may act on behalf of the individual
56 represented with respect to any fiduciary matter, whether or not a
57 judicial proceeding is pending.

58 (c) In making decisions, a guardian ad litem may consider general
59 benefit accruing to the living members of the individual's family.

60 Sec. 6. (NEW) (a) Notice to a person who may represent and bind
61 another person under sections 2 to 5, inclusive, of this act, has the same
62 effect as if notice were given directly to the other person.

63 (b) The consent of a person who may represent and bind another
64 person under sections 2 to 5, inclusive, of this act, is binding on the
65 person represented, unless the person represented objects to the
66 representation before the consent would otherwise have become
67 effective.

68 (c) Sections 2 to 5, inclusive, of this act shall apply to all judicial
69 proceedings and all nonjudicial settlements, agreements or acts
70 pertaining to fiduciary matters, as defined in section 1 of this act.

Statement of Purpose:

To eliminate the need for the appointment of a guardian ad litem for duplicative and costly work in probate proceedings where a minor, incapable or unascertained party has a parent, relative or other person with similar or identical interests who can adequately represent the interests of such party.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]