



Substitute Senate Bill No. 1439

Public Act No. 07-116

**AN ACT CONCERNING CONSERVATORS AND APPEALS OF
CONSERVATORSHIPS AND GUARDIANSHIPS.**

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

Section 1. Section 45a-132a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

In any matter before a court of probate in which the capacity of a party to the action is at issue, the court may order an examination of [any] the allegedly incapable party by a physician or psychiatrist or, where appropriate, a psychologist, licensed to practice in the state, except that a conserved person, as defined in section 45a-644, as amended by this act, the respondent to an application for involuntary representation made under section 45a-648, as amended by this act, or a respondent to an application for appointment of a temporary conservator made under section 45a-654, as amended by this act, may refuse to undergo an examination ordered by the court under this section. The expense of such examination may be charged against the petitioner, the respondent, the party who requested such examination or the estate of the [alleged] allegedly incapable party in such proportion as the judge of the court determines. If any such party is unable to pay such expense and files an affidavit with the court demonstrating the inability to pay, the reasonable compensation shall

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be established by, and paid from funds appropriated to, the Judicial Department, [however,] except that if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

Sec. 2. Section 45a-186 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Any person aggrieved by any order, denial or decree of a court of probate in any matter, unless otherwise specially provided by law, may, not later than forty-five days after the mailing of an order, denial or decree for a matter heard under any provision of section 45a-593, as amended by this act, 45a-594, 45a-595, as amended by this act, or 45a-597, sections 45a-644 to 45a-677, inclusive, as amended by this act, or sections 45a-690 to 45a-705, inclusive, and not later than thirty days after mailing of an order, denial or decree for any other matter in a court of probate, appeal therefrom to the Superior Court. [in accordance with subsection (b) of this section. Except in the case of an appeal by the state, such person shall give security for costs in the amount of one hundred fifty dollars, which may be paid to the clerk, or a recognizance with surety annexed to the appeal and taken before the clerk or a commissioner of the Superior Court or a bond substantially in accordance with the bond provided for appeals to the Supreme Court.] Such an appeal shall be commenced by filing a complaint in the superior court in the judicial district in which such court of probate is located, except that (1) an appeal under subsection (b) of section 12-359, subsection (b) of section 12-367 or subsection (b) of subsection 12-395 shall be filed in the judicial district of Hartford, and (2) an appeal in a matter concerning removal of a parent as guardian, termination of parental rights or adoption shall be filed in the superior court for juvenile matters having jurisdiction over matters arising in such probate district. The complaint shall state the reasons

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for the appeal. A copy of the order, denial or decree appealed from shall be attached to the complaint. Appeals from any decision rendered in any case after a [record] recording is made of the proceedings under [sections] section 17a-498, 17a-685, 45a-650, as amended by this act, 51-72 [and] or 51-73 shall be on the record and shall not be a trial de novo.

[(b) Any such appeal shall be filed in the superior court for the judicial district in which such court of probate is located except that (1) any appeal under subsection (b) of section 12-359 or subsection (b) of section 12-367 or subsection (b) of section 12-395, shall be filed in the judicial district of Hartford and (2) any appeal in a matter concerning removal of a parent as guardian, termination of parental rights or adoption shall be filed in the superior court for juvenile matters having jurisdiction over matters arising in such probate district.]

(b) Each person who files an appeal pursuant to this section shall serve a copy of the complaint on the court of probate that rendered the order, denial or decree appealed from and on each interested party. The failure of any person to make such service shall not deprive the Superior Court of jurisdiction over the appeal. Notwithstanding the provisions of section 52-50, service of the copy of the complaint shall be by state marshal, constable or an indifferent person. Service shall be in hand or by leaving a copy at the court of probate that rendered the order being appealed, or by leaving a copy at the place of residence of the interested party being served or at the address for the interested party on file with said court of probate, except that service on a respondent or conserved person in an appeal from an action under part IV of chapter 802h shall be in hand by a state marshal, constable or an indifferent person.

(c) Not later than fifteen days after a person files an appeal under this section, the person who filed the appeal shall file or cause to be filed with the clerk of the Superior Court a document containing (1) the

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name, address and signature of the person making service, and (2) a statement of the date and manner in which a copy of the complaint was served on the court of probate and each interested party.

(d) If service has not been made on an interested party, the Superior Court, on motion, shall make such orders of notice of the appeal as are reasonably calculated to notify any necessary party not yet served.

(e) A hearing in an appeal from probate proceedings under section 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685, 45a-650, as amended by this act, 45a-654, as amended by this act, 45a-660, as amended by this act, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699, 45a-703 or 45a-717 shall commence, unless a stay has been issued pursuant to subsection (f) of this section, not later than ninety days after the appeal has been filed.

(f) The filing of an appeal under this section shall not, of itself, stay enforcement of the order, denial or decree from which the appeal is taken. A motion for a stay may be made to the Court of Probate or the Superior Court. The filing of a motion with the Court of Probate shall not preclude action by the Superior Court.

(g) Nothing in this section shall prevent any person aggrieved by any order, denial or decree of a court of probate in any matter, unless otherwise specially provided by law, from filing a petition for a writ of habeas corpus, a petition for termination of involuntary representation or a petition for any other available remedy.

Sec. 3. (NEW) (*Effective October 1, 2007*) (a) In an appeal from an order, denial or decree of a Court of Probate made after a hearing that is on the record, not later than thirty days after service is made of an appeal under section 45a-186 of the general statutes, as amended by this act, or within such further time as may be allowed by the Superior Court, the Court of Probate shall transcribe any portion of the

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recording of the proceedings that has not been transcribed. The expense for such transcript shall be charged against the person who filed the appeal, except that if the person who filed the appeal is unable to pay such expense and files an affidavit with the court demonstrating the inability to pay, the expense of the transcript shall be paid by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(b) The Court of Probate shall transmit to the Superior Court the original or a certified copy of the entire record of the proceeding from which the appeal was taken. The record shall include, but not be limited to, the findings of fact and conclusions of law, separately stated, of the court of probate.

(c) An appeal from an order, denial or decree made after a hearing on the record shall be heard by the Superior Court without a jury, and may be referred to a state referee appointed under section 51-50l of the general statutes. The appeal shall be confined to the record. If alleged irregularities in procedure before the court of probate are not shown in the record or if facts necessary to establish such alleged irregularities in procedure are not shown in the record, proof limited to such alleged irregularities may be taken in the Superior Court. The Superior Court, on request of any party, shall hear oral argument and receive written briefs.

Sec. 4. (NEW) (*Effective October 1, 2007*) In an appeal taken under section 45a-186 of the general statutes, as amended by this act, from a matter heard on the record in the Court of Probate, the Superior Court shall not substitute its judgment for that of the court of probate as to the weight of the evidence on questions of fact. The Superior Court shall affirm the decision of the Court of Probate unless the Superior Court finds that substantial rights of the person appealing have been prejudiced because the findings, inferences, conclusions or decisions are: (1) In violation of the federal or state constitution or the general

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statutes, (2) in excess of the statutory authority of the court of probate, (3) made on unlawful procedure, (4) affected by other error of law, (5) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. If the Superior Court finds such prejudice, the Superior Court shall sustain the appeal and, if appropriate, may render a judgment that modifies the court of probate's order, denial or decree or remand the case to the court of probate for further proceedings. For the purposes of this section, a remand is a final judgment.

Sec. 5. (NEW) (*Effective October 1, 2007*) (a) In an appeal taken under section 45a-186 of the general statutes, as amended by this act, costs may be taxed in favor of the prevailing party in the same manner, and to the same extent, that such costs are allowed in judgments rendered by the Superior Court.

(b) If the appellant claims that such appellant cannot pay the costs of an appeal taken under section 45a-186 of the general statutes, as amended by this act, the appellant shall, within the time permitted for filing the appeal, file with the clerk of the court to which the appeal is to be taken an application for waiver of payment of such costs, including the requirement of bond, if any. The application for waiver of such costs shall conform to the requirements prescribed by rule of the judges of the Superior Court. After such hearing as the court determines is necessary, the court shall render judgment on the application for waiver of such costs, which judgment shall contain a statement of the facts found by the court and the court's conclusions based on the facts found. The filing of the application for the waiver of such costs shall toll the time limits for the filing of an appeal until such time as a judgment on such application is rendered. A fiduciary acting on an order of the court made after expiration of the period of appeal shall not be liable for actions made in good faith unless such fiduciary

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has actual notice of the tolling of the appeal period.

Sec. 6. Section 45a-199 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

As used in sections 45a-143, 45a-152, 45a-202 to 45a-208, inclusive, [and] 45a-242 to 45a-244, inclusive, and section 5 of this act, unless otherwise defined or unless otherwise required by the context, "fiduciary" includes an executor, administrator, trustee, conservator or guardian.

Sec. 7. Section 45a-487c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

In connection with trust matters, to the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute: (1) A court-appointed conservator or guardian of the estate may represent and bind the estate that the conservator or guardian controls; (2) a court-appointed conservator or guardian of the person may represent and bind the ward or conserved person if a conservator or guardian of the ward's estate or conserved person's estate has not been appointed; (3) an agent having authority to do so may represent and bind the principal; (4) a trustee may represent and bind the beneficiaries of the trust; (5) an executor or administrator of a decedent's estate may represent and bind persons interested in the estate; and (6) if a conservator or guardian has not been appointed, a parent may represent and bind the parent's minor or unborn child.

Sec. 8. Section 45a-593 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) The Administrator of Veterans' Affairs, created by Act of the Congress of the United States, or [his] the administrator's successor, shall be a party in interest in any proceedings brought under any

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provision of the general statutes for the appointment of a guardian or conservator of a veteran of any war or other beneficiary on whose account benefits of compensation, adjusted compensation, pension or insurance or other benefits are payable by the Veterans' Administration.

(b) The Administrator of Veterans' Affairs, or [his] the administrator's successor, shall be an interested party in the administration of the estate of any ward or conserved person on whose account the benefits are payable or whose estate includes assets derived from benefits paid by the Veterans' Administration, its predecessor or successor.

(c) Written notice shall be given by regular mail, unless waived in writing, to the division of the office of the Veterans' Administration having jurisdiction over the area in which the court is located, of the time and place for a hearing on any petition or pleading or in connection with any proceeding pertaining to or affecting in any manner the administration of the estate of any beneficiary of the Veterans' Administration. Notice shall be mailed in time to reach such office not less than ten days before the date of the hearing or other proceeding.

Sec. 9. Section 45a-595 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

Upon application of a conservator or the guardian of the estate of a ward, conserved person or other incapable person, the Court of Probate may authorize the conservator or guardian to invest income or principal of the estate, to the extent found reasonable by the court under all the circumstances, in one or more policies of life or endowment insurance or one or more annuity contracts issued by a life insurance company authorized to conduct business in this state, on the life of the ward, conserved person or incapable person, or on the life of

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a person in whose life the ward, conserved person or incapable person has an insurable interest. Any such policy or contract shall be the sole property of the ward, conserved person or incapable person whose funds are invested in it.

Sec. 10. Section 45a-644 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

For the purposes of sections 45a-644 to [45a-662] 45a-663, inclusive, as amended by this act, the following terms shall have the following meanings:

(a) "Conservator of the estate" means a person, a municipal or state official, or a private profit or nonprofit corporation except a hospital or nursing home as defined in section 19a-521, appointed by the Court of Probate under the provisions of sections 45a-644 to [45a-662] 45a-663, inclusive, as amended by this act, to supervise the financial affairs of a person found to be incapable of managing his or her own affairs or of a person who voluntarily asks the Court of Probate for the appointment of a conservator of the estate, and includes a temporary conservator of the estate appointed under the provisions of section 45a-654, as amended by this act.

(b) "Conservator of the person" means a person, a municipal or state official, or a private profit or nonprofit corporation, except a hospital or nursing home as defined in section 19a-521, appointed by the [Probate] Court of Probate under the provisions of sections 45a-644 to [45a-662] 45a-663, inclusive, as amended by this act, to supervise the personal affairs of a person found to be incapable of caring for himself or herself or of a person who voluntarily asks the Court of Probate for the appointment of a conservator of the person, and includes a temporary conservator of the person appointed under the provisions of section 45a-654, as amended by this act.

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(c) "Incapable of caring for one's self" or "incapable of caring for himself or herself" means that a person has a mental, emotional or physical condition [resulting from mental illness, mental deficiency, physical illness or disability, chronic use of drugs or alcohol, or confinement, which results in the person's inability to provide medical care for physical and mental health needs, nutritious meals, clothing, safe and adequately heated and ventilated shelter, personal hygiene and protection from physical abuse or harm and which results in endangerment to such person's health] that results in such person being unable to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to meet essential requirements for personal needs.

(d) "Incapable of managing his or her affairs" means that a person has a mental, emotional or physical condition [resulting from mental illness, mental deficiency, physical illness or disability, chronic use of drugs or alcohol, or confinement, which prevents that person from performing] that results in such person being unable to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to perform the functions inherent in managing his or her affairs, and the person has property [which] that will be wasted or dissipated unless [proper] adequate property management is provided, or that funds are needed for the support, care or welfare of the person or those entitled to be supported by [that] the person and that the person is unable to take the necessary steps to obtain or provide funds [which are] needed for the support, care or welfare of the person or those entitled to be supported by [such] the person.

(e) "Involuntary representation" means the appointment of a conservator of the person or a conservator of the estate, or both, after a finding by the Court of Probate that the respondent is incapable of

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managing his or her affairs or incapable of caring for himself or herself.

(f) "Respondent" means an adult person for whom an application for involuntary representation has been filed or an adult person who has requested voluntary representation.

(g) "Voluntary representation" means the appointment of a conservator of the person or a conservator of the estate, or both, upon request of the respondent, without a finding that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself.

(h) ["Ward"] "Conserved person" means a person for whom involuntary representation is granted under sections 45a-644 to [45a-662] 45a-663, inclusive, as amended by this act.

(i) "Personal needs" means the needs of a person including, but not limited to, the need for food, clothing, shelter, health care and safety.

(j) "Property management" means actions to (1) obtain, administer, manage, protect and dispose of real and personal property, intangible property, business property, benefits and income, and (2) deal with financial affairs.

(k) "Least restrictive means of intervention" means intervention for a conserved person that is sufficient to provide, within the resources available to the conserved person either from the conserved person's own estate or from private or public assistance, for a conserved person's personal needs or property management while affording the conserved person the greatest amount of independence and self-determination.

Sec. 11. (NEW) (*Effective October 1, 2007*) Each Court of Probate shall cause a recording to be made of all proceedings held under sections 45a-644 to 45a-663, inclusive, of the general statutes, as amended by

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this act. The recording shall be part of the court record and shall be made and retained in a manner approved by the Probate Court Administrator.

Sec. 12. Section 45a-645 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Any person who has attained at least eighteen years of age, and who is of sound mind, may designate in writing a person or persons whom he or she desires to be appointed as conservator of his or her person or estate or both, if he or she is thereafter found to be incapable of managing his or her affairs or incapable of caring for himself or herself.

(b) The designation shall be executed, witnessed and revoked in the same manner as provided for wills in sections 45a-251 and 45a-257, [; provided,] except that any person who is so designated as a conservator shall not qualify as a witness.

(c) Such written instrument may excuse the person or persons so designated from giving the probate bond required under the provisions of section 45a-650, as amended by this act, if appointed thereafter as a conservator.

Sec. 13. Section 45a-648 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) An application for involuntary representation may be filed by any person alleging that a respondent is incapable of managing his or her affairs or incapable of caring for himself or herself and stating the reasons for the alleged incapability. The application shall be filed in the court of probate in the district in which the respondent resides, [or has his domicile] is domiciled or is located at the time of the filing of the application.

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(b) An application for involuntary representation for a nondomiciliary of the state made pursuant to subsection (a) of this section shall not be granted unless the court finds the (1) respondent is presently located in the probate district in which the application is filed; (2) applicant has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649, as amended by this act, concerning the respondent; (3) respondent has been provided an opportunity to return to the respondent's place of domicile, and has been provided the financial means to return to the respondent's place of domicile within the respondent's resources, and has declined to return, or the applicant has made reasonable but unsuccessful efforts to return the respondent to such respondent's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met.

(c) If, after the appointment of a conservator for a nondomiciliary of the state the nondomiciliary becomes domiciled in this state, the provisions of this section regarding involuntary representation of a nondomiciliary shall no longer apply.

(d) The court shall review any involuntary representation of a nondomiciliary ordered by the court pursuant to subsection (b) of this section every sixty days. Such involuntary representation shall expire sixty days after the date such involuntary representation was ordered by the court or sixty days after the most recent review ordered by the court, whichever is later, unless the court finds the (1) conserved person is presently located in the state; (2) conservator has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649, as amended by this act, concerning the conserved person; (3) conserved person has been provided an opportunity to return to the conserved person's place of domicile and has been provided the financial means to return to the

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conserved person's place of domicile within the conserved person's resources, and has declined to return, or the conservator has made reasonable but unsuccessful efforts to return the conserved person to the conserved person's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met. As part of its review under this subsection, the court shall receive and consider reports from the conservator and from the attorney for the conserved person regarding the requirements of this subsection.

[(b) Any] (e) A person [who] is guilty of fraudulent or malicious application or false testimony when such person (1) wilfully files a fraudulent or malicious application for involuntary representation or appointment of a temporary conservator, [or any person who] (2) conspires with another person to file or cause to be filed such an application, or [any person who] (3) wilfully testifies either in court or by report to the court falsely to the incapacity of any person in any proceeding provided for in sections 45a-644 to [45a-662] 45a-663, inclusive, as amended by this act. [, shall be fined not more than one thousand dollars or imprisoned not more than one year or both.]
Fraudulent or malicious application or false testimony is a class D felony.

Sec. 14. Section 45a-649 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) (1) Upon an application for involuntary representation, the court shall issue a citation to the following enumerated parties to appear before it at a time and place named in the citation, which shall be served on the parties at least [seven] ten days before the hearing date, or in the case of an application made pursuant to section 17a-543 or 17a-543a, at least seven days before the hearing date, which date in any event shall not be more than thirty days after the receipt of the application by the Court of Probate unless continued for cause shown.

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Notice of the hearing shall be sent within thirty days after receipt of the application.

[(1)] (2) The court shall direct that personal service of the citation be made, by a state marshal, constable or an indifferent person, upon the following: [(A)] The respondent [, except that if the court finds personal service on the respondent would be detrimental to the health or welfare of the respondent, the court may order that such service be made upon counsel for the respondent, if any, and if none, upon the attorney appointed under subsection (b) of this section; (B)] and the respondent's spouse, if any, if the spouse is not the applicant, except that in cases where the application is for involuntary representation pursuant to section 17b-456, and there is no spouse, the court shall order notice by certified mail to the children of the respondent and if none, the parents of the respondent and if none, the brothers and sisters of the respondent or their representatives, and if none, the next of kin of such respondent.

[(2)] (3) The court shall order such notice as it directs to the following: (A) The applicant; (B) the person in charge of welfare in the town where the respondent is domiciled or resident and, if there is no such person, the first selectman or chief executive officer of the town if the respondent is receiving assistance from the town; (C) the Commissioner of Social Services, if the respondent is in a state-operated institution or receiving aid, care or assistance from the state; (D) the Commissioner of Veterans' Affairs if the respondent is receiving veterans' benefits or the Veterans' Home, or both, if the respondent is receiving aid or care from such home, or both; (E) the Commissioner of Administrative Services, if the respondent is receiving aid or care from the state; (F) the children of the respondent and if none, the parents of the respondent and if none, the brothers and sisters of the respondent or their representatives; (G) the person in charge of the hospital, nursing home or some other institution, if the

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respondent is in a hospital, nursing home or some other institution.

[(3)] (4) The court, in its discretion, may order such notice as it directs to other persons having an interest in the respondent and to such persons the respondent requests be notified.

(5) If personal service of the notice required in subsection (b) of this section is not made as required in subdivision (2) of this subsection, the court shall be deprived of jurisdiction over the application.

(b) [(1)] The notice required by subdivision [(1)] (2) of subsection (a) of this section shall specify (A) the nature of involuntary representation sought and the legal consequences thereof, (B) the facts alleged in the application, [and] (C) the date, time and place of the hearing, [. (2) The notice shall further state] and (D) that the respondent has a right to be present at the hearing and has a right to be represented by an attorney of the respondent's choice at [his or her] the respondent's own expense. The notice shall also include a statement in boldface type of a minimum size of twelve points in substantially the following form:

"POSSIBLE CONSEQUENCES OF THE APPOINTMENT OF A
CONSERVATOR FOR YOU

This court has received an application to appoint a conservator for you. A conservator is a court-appointed legal guardian who may be assigned important decision-making authority over your affairs. If the application is granted and a conservator is appointed for you, you will lose some of your rights.

A permanent conservator may only be appointed for you after a court hearing. You have the right to attend the hearing on the application for appointment of a permanent conservator. If you are not able to access the court where the hearing will be held, you may request that the hearing be moved to a convenient location, even to

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your place of residence.

You should have an attorney represent you at the hearing on the application. If you are unable to obtain an attorney to represent you at the hearing, the court will appoint an attorney for you. If you are unable to pay for representation by an attorney, the court will pay attorney fees as permitted by the court's rules. Even if you qualify for payment of an attorney on your behalf, you may choose an attorney if the attorney will accept the attorney fees permitted by the court's rules.

If, after a hearing on the application, the court decides that you lack the ability to care for yourself, pay your bills or otherwise manage your affairs, the court may review any alternative plans you have to get assistance to handle your own affairs that do not require appointment of a conservator. If the court decides that there are no adequate alternatives to the appointment of a conservator, the court may appoint a conservator and assign the conservator responsibility for some or all of the duties listed below. While the purpose of a conservator is to help you, you should be aware that the appointment of a conservator limits your rights. Among the areas that may be affected are:

- Accessing and budgeting your money

- Deciding where you live

- Making medical decisions for you

- Paying your bills

- Managing your real and personal property

You may participate in the selection of your conservator. If you have already designated a conservator or if you inform the court of your choice for a conservator, the court must honor your request

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unless the court decides that the person designated by you is not appropriate.

The conservator appointed for you may be a lawyer, a public official or someone whom you did not know before the appointment. The conservator will be required to make regular reports to the court about you. The conservator may charge you a fee, under the supervision of the court, for being your conservator."

(c) Notice to all other persons required by this section shall only be required to state that involuntary representation is sought, the nature of the involuntary representation sought, the legal consequences of the involuntary representation and the date, time and place of the hearing on the application for involuntary representation.

(d) If the respondent is unable to request or obtain [counsel] an attorney for any reason, the court shall appoint an attorney to represent the respondent in any proceeding under this title involving the respondent. If the respondent is unable to pay for the services of such attorney, the reasonable compensation for such attorney shall be established by, and paid from funds appropriated to, the Judicial Department, [however,] except that if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(e) If the respondent notifies the court in any manner that [he or she] the respondent wants to attend the hearing on the application but is unable to do so, [because of physical incapacity,] the court shall schedule the hearing on the application at a place [which] that would facilitate attendance by the respondent. [but if not practical, then the judge shall visit the respondent, if he or she is in the state of Connecticut, before the hearing. Notice to all other persons required by this section shall state only the nature of involuntary representation

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sought, the legal consequences thereof and the time and place of the hearing.]

Sec. 15. (NEW) (*Effective October 1, 2007*) (a) A respondent, as defined in section 45a-644 of the general statutes, as amended by this act, or a conserved person, as defined in section 45a-644 of the general statutes, as amended by this act, who is subject to proceedings subsequent to the appointment of a conservator pursuant to an application for involuntary representation shall have the right to be represented by an attorney of the respondent's or conserved person's choosing at the expense of the respondent or conserved person or, if the respondent or conserved person is indigent, within the payment guidelines of the Court of Probate.

(b) If the Court of Probate finds the respondent or conserved person is indigent or otherwise unable to pay for an attorney, the court shall appoint an attorney for the respondent or conserved person unless the respondent or conserved person refuses to be represented by an attorney and the court finds that the respondent or conserved person understands the nature of the refusal. The court shall appoint an attorney from a panel of attorneys admitted to practice in this state provided by the Probate Court Administrator in accordance with regulations issued under section 45a-77 of the general statutes.

(c) An attorney appointed pursuant to this section shall represent the respondent or conserved person in proceedings under sections 45a-644 to section 45a-663, inclusive, of the general statutes, as amended by this act, and shall consult with the conserved person regarding bringing an appeal to the Superior Court under section 45a-186 of the general statutes, as amended by this act. Upon the request of the conserved person, the attorney for the conserved person shall assist in the filing and commencing of an appeal to the Superior Court. An attorney's assistance in filing such an appeal shall not obligate the attorney to appear in or prosecute the appeal. A conservator may not

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deny the conserved person access to the person's resources needed for an appeal.

(d) Nothing in this section shall impair, limit or diminish the right of a respondent or conserved person to replace the attorney for such respondent or conserved person with a different attorney whom such respondent or conserved person chooses in accordance with this section. Fees of an attorney chosen by the respondent or conserved person shall be approved by the Court of Probate or, if an appeal is taken, by the Superior Court.

(e) If the respondent or conserved person is indigent, an attorney appointed under this section shall be paid a reasonable rate of compensation. Rates of compensation for such appointed attorneys shall be established by the Office of the Probate Court Administrator. Such compensation shall be paid from funds appropriated to the Judicial Department. If funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be paid from the Probate Court Administration Fund.

(f) An attorney representing a respondent or conserved person subject to proceedings under chapter 802h of the general statutes shall not accept appointment as guardian ad litem or conservator of the person or estate for the same person unless such attorney has been nominated by the respondent or conserved person pursuant to section 45a-645 of the general statutes, as amended by this act, or similar instrument, including, but not limited to, a trust or an advance directive pursuant to section 19a-580e of the general statutes, as amended by this act, or section 19a-580g of the general statutes, or is nominated by the respondent or conserved person pursuant to section 45a-650 of the general statutes, as amended by this act.

(g) An attorney for the respondent or conserved person, on presentation of proof of authority, shall have access to all information

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pertinent to proceedings under title 45a of the general statutes, including immediate access to medical records available to the respondent's or conserved person's treating physician.

Sec. 16. Section 45a-650 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) At any hearing on an application for involuntary representation, before the court receives any evidence regarding the condition of the respondent or of the respondent's affairs, the court shall require clear and convincing evidence that the court has jurisdiction, that the respondent has been given notice as required in section 45a-649, as amended by this act, and that the respondent has been advised of the right to retain an attorney pursuant to section 15 of this act and is either represented by an attorney or has waived the right to be represented by an attorney. The respondent shall have the right to attend any hearing held under this section.

(b) The rules of evidence in civil actions adopted by the judges of the Superior Court shall apply to all hearings pursuant to this section. All testimony at a hearing held pursuant to this section shall be given under oath or affirmation.

(c) After making the findings required under subsection (a) of this section, the court shall receive evidence regarding the respondent's condition, the capacity of the respondent [including a written report or testimony by] to care for himself or herself or to manage his or her affairs, and the ability of the respondent to meet his or her needs without the appointment of a conservator. Unless waived by the court pursuant to this subsection, evidence shall be introduced from one or more physicians licensed to practice medicine in the state who have examined the respondent within [thirty] forty-five days preceding the hearing. The [report or testimony] evidence shall contain specific information regarding the [disability and the extent of its

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incapacitating effect] respondent's condition and the effect of the respondent's condition on the respondent's ability to care for himself or herself or to manage his or her affairs. The court may also consider such other evidence as may be available and relevant, including, but not limited to, a summary of the physical and social functioning level or ability of the respondent, and the availability of support services from the family, neighbors, community or any other appropriate source. Such evidence may include, if available, reports from the social work service of a general hospital, municipal social worker, director of social service, public health nurse, public health agency, psychologist, coordinating assessment and monitoring agencies, or such other persons as the court [deems] considers qualified to provide such evidence. The court may waive the requirement that medical evidence be presented if it is shown that the evidence is impossible to obtain because of the absence of the respondent or [his or her] the respondent's refusal to be examined by a physician or that the alleged incapacity is not medical in nature. If such requirement is waived, the court shall make a specific finding in any decree issued on the [petition] application stating why medical evidence was not required. [In any matter in which the Commissioner of Social Services seeks the appointment of a conservator pursuant to chapter 319dd and represents to the court that an examination by an independent physician, psychologist or psychiatrist is necessary to determine whether the elderly person is capable of managing his or her personal or financial affairs, the court shall order such examination unless the court determines that such examination is not in the best interests of the elderly person. The court shall order such examination notwithstanding any medical report submitted to the court by the elderly person or the caretaker of such elderly person. Any medical] Any hospital, psychiatric or medical record or report filed with the court pursuant to this subsection shall be confidential.

[(b)] (d) Upon the filing of an application for involuntary

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representation pursuant to section 45a-648, as amended by this act, the court [may] shall issue an order for the disclosure of the medical information required pursuant to [subsection (a) of] this section to the respondent's attorney and, upon request, to the respondent. The court may issue an order for the disclosure of such medical information to any other person as the court determines necessary.

[(c)] (e) Notwithstanding the provisions of section 45a-7, the court may hold the hearing on the application at a place [within the state] other than its usual courtroom if it would facilitate attendance by the respondent.

[(d)] (f) (1) If the court finds by clear and convincing evidence that the respondent is incapable of managing [his or her] the respondent's affairs, that the respondent's affairs cannot be managed adequately without the appointment of a conservator and that the appointment of a conservator is the least restrictive means of intervention available to assist the respondent in managing the respondent's affairs, the court [shall] may appoint a conservator of his or her estate [unless it appears to the court that such affairs are being managed properly without the appointment of a conservator] after considering the factors set forth in subsection (g) of this section.

(2) If the court finds by clear and convincing evidence that the respondent is incapable of caring for himself or herself, that the respondent cannot be cared for adequately without the appointment of a conservator and that the appointment of a conservator is the least restrictive means of intervention available to assist the respondent in caring for himself or herself, the court [shall] may appoint a conservator of his or her person [unless it appears to the court that the respondent is being cared for properly without the appointment of a conservator] after considering the factors set forth in subsection (g) of this section.

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(3) No conservator may be appointed if the respondent's personal needs and property management are being met adequately by an agency or individual appointed pursuant to section 1-43, 19a-575a, 19a-577, 19a-580e, as amended by this act, or 19a-580g.

~~[(e)]~~ (g) When determining whether a conservator should be appointed [and in selecting a conservator to be appointed for the respondent, the court shall be guided by the best interests of the respondent. In making such determination, the court shall consider whether the respondent had previously made alternative arrangements for the care of his or her person or for the management of his or her affairs, including, but not limited to, the execution of a valid durable power of attorney, the appointment of a health-care agent or other similar document] the court shall consider the following factors: (1) The abilities of the respondent; (2) the respondent's capacity to understand and articulate an informed preference regarding the care of his or her person or the management of his or her affairs; (3) any relevant and material information obtained from the respondent; (4) evidence of the respondent's past preferences and life style choices; (5) the respondent's cultural background; (6) the desirability of maintaining continuity in the respondent's life and environment; (7) whether the respondent had previously made adequate alternative arrangements for the care of his or her person or for the management of his or her affairs, including, but not limited to, the execution of a durable power of attorney, springing power of attorney, the appointment of a health care representative or health care agent, the execution of a living will or trust or the execution of any other similar document; (8) any relevant and material evidence from the respondent's family and any other person regarding the respondent's past practices and preferences; and (9) any supportive services, technologies or other means that are available to assist the respondent in meeting his or her needs.

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(h) The respondent or conserved person may [, by oral or written request, if at the time of the request he or she has sufficient capacity to form an intelligent preference,] appoint, designate or nominate a conservator pursuant to section 19a-580e, as amended by this act, 19a-580g or 45a-645, as amended by this act, or may, orally or in writing, nominate a conservator who shall be appointed unless the court finds that the [appointment of the] appointee, designee or nominee is [not in the best interests of the respondent. In such case, or in the absence of any such nomination] unwilling or unable to serve or there is substantial evidence to disqualify such person. If there is no such appointment, designation or nomination or if the court does not appoint the person appointed, designated or nominated by the respondent or conserved person, the court may appoint any qualified person, authorized public official or corporation in accordance with subsections (a) and (b) of section 45a-644, as amended by this act. In considering who to appoint as conservator, the court shall consider (1) the extent to which a proposed conservator has knowledge of the respondent's or conserved person's preferences regarding the care of his or her person or the management of his or her affairs, (2) the ability of the proposed conservator to carry out the duties, responsibilities and powers of a conservator, (3) the cost of the proposed conservatorship to the estate of the respondent or conserved person, (4) the proposed conservator's commitment to promoting the respondent's or conserved person's welfare and independence, and (5) any existing or potential conflicts of interest of the proposed conservator.

[(f) Upon the request of the respondent or his or her counsel, made within thirty days of the date of the decree, the court shall make and furnish findings of fact to support its conclusion.]

[(g)] (i) If the court appoints a conservator of the estate of the respondent, [it] the court shall require a probate bond. The court may,

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if it [deems] considers it necessary for the protection of the respondent, require a bond of any conservator of the person appointed under this section.

[(h) The court may limit the powers and duties of either the conservator of the person or the conservator of the estate, to include some, but not all, of the powers and duties set forth in subsections (a) and (b) of section 45a-644 and sections 45a-655 and 45a-656, and shall make specific findings to justify such a limitation, in the best interests of the ward. In determining whether or not any such limitations should be imposed, the court shall consider the abilities of the ward, the prior appointment of any attorney-in-fact, health care representative, trustee or other fiduciary acting on behalf of the ward, any support services which are otherwise available to the ward, and any other relevant evidence. The court may modify its decree upon any change in circumstances.]

(j) Absent the court's order to the contrary and except as otherwise provided in subsection (b) of section 19a-580e, as amended by this act, a conservator appointed pursuant to this section shall be bound by all health care decisions properly made by the conserved person's health care representative.

(k) A conserved person shall retain all rights and authority not expressly assigned to the conservator.

(l) The court shall assign to a conservator appointed under this section only the duties and authority that are the least restrictive means of intervention necessary to meet the needs of the conserved person. The court shall find by clear and convincing evidence that such duties and authority restrict the decision-making authority of the conserved person only to the extent necessary to provide for the personal needs or property management of the conserved person. Such personal needs and property management shall be provided in a

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manner appropriate to the conserved person. The court shall make a finding of the clear and convincing evidence that supports the need for each duty and authority assigned to the conservator.

(m) Nothing in this chapter shall impair, limit or diminish a conserved person's right to retain an attorney to represent such person or to seek redress of grievances in any court or administrative agency, including proceedings in the nature of habeas corpus arising out of any limitations imposed on the conserved person by court action taken under this chapter, chapter 319i, chapter 319j or section 45a-242. In any other proceeding in which the conservator has retained counsel for the conserved person, the conserved person may request the Court of Probate to direct the conservator to substitute an attorney chosen by the conserved person.

Sec. 17. Section 45a-653 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) If an application for the appointment of a conservator has been made, and if, while the application is pending, the applicant records a notice of the application certified by the court with the town clerk of any town within which real property of the alleged incapable person is situated and with the town clerk of the town in which the alleged incapable person resides, any conveyance of such real property by such person and any contract made by such person between the time the notice of the application is recorded and the time of the adjudication of the court upon the application shall not be valid without the approval of the court.

(b) If, during the pendency of the application, the applicant lodges with any bank, trust company or other depository a notice of the application certified by the court, such bank, trust company or depository shall not allow any funds of the [alleged] allegedly incapable person to be withdrawn, between the time the notice of the

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application is lodged and the time of the adjudication of the court upon the application, without the approval of the court.

(c) [A] The original copy of the notice of the application shall be filed with the court. The notice [recorded or lodged pursuant to this section] may not be recorded or lodged elsewhere unless it is a copy certified by the court. The notice shall state that an application for appointment of a conservator is pending and shall include the name of the [alleged] allegedly incapable person, the name of the applicant, the probate district in which the application is pending, and the date of application. The notice shall be signed and acknowledged by the applicant. The notice shall not include the allegation of facts on which the application is based.

Sec. 18. Section 45a-654 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Upon written application for appointment of a temporary conservator brought by any person [deemed] considered by the court to have sufficient interest in the welfare of the respondent, including, but not limited to, the spouse or any relative of the respondent, the first selectman, chief executive officer or head of the department of welfare of the town of residence or domicile of any respondent, the Commissioner of Social Services, the board of directors of any charitable organization, as defined in section 21a-190a, or the chief administrative officer of any nonprofit hospital or such officer's designee, the Court of Probate may appoint a temporary conservator if the court finds by clear and convincing evidence that: (1) The respondent is incapable of managing his or her affairs or incapable of caring for himself or herself, [and] (2) immediate and irreparable [injury] harm to the mental or physical health or financial or legal affairs of the respondent will result if a temporary conservator is not appointed, [pursuant to this section] and (3) appointment of a temporary conservator is the least restrictive means of intervention

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available to prevent such harm. The court [may, in its discretion,] shall require the temporary conservator to give a probate bond. The court shall limit the duties [, responsibilities and powers] and authority of the temporary conservator to the circumstances that gave rise to the application and shall make specific findings, [to justify such limitation] by clear and convincing evidence, of the immediate and irreparable harm that will be prevented by the appointment of a temporary conservator and that support the appointment of a temporary conservator. In making such specific findings, the court shall consider the present and previously expressed wishes of the respondent, the abilities of the respondent, any prior appointment of an attorney-in-fact, health care representative, trustee or other fiduciary acting on behalf of the respondent, any support service otherwise available to the respondent and any other relevant evidence. In appointing a temporary conservator pursuant to this section, the court shall set forth each duty or authority of the temporary conservator. The temporary conservator shall have charge of the property or of the person of the [respondent] conserved person, or both, for such period [of time] or for such specific occasion as the court finds to be necessary, provided a temporary appointment shall not be valid for more than thirty days, unless at any time while the appointment of a temporary conservator is in effect, an application is filed for appointment of a conservator of the person or estate under section 45a-650, as amended by this act. The court may (A) extend the appointment of the temporary conservator until the disposition of such application under section 45a-650, as amended by this act, or for an additional thirty days, whichever occurs first, or (B) terminate the appointment of a temporary conservator upon a showing that the circumstances that gave rise to the application for appointment of a temporary conservator no longer exist. No appointment of a temporary conservator under this section may be in effect for more than sixty days from the date of the initial appointment.

(b) [Except as provided in] Unless the court waives the medical

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evidence requirement pursuant to subsection (e) of this section, an appointment of a temporary conservator shall not be made unless a report is [presented to the judge] filed with the application for appointment of a temporary conservator, signed by a physician licensed to practice medicine or surgery in this state, stating: (1) That the physician has examined the respondent and the date of such examination, which shall not be more than three days prior to the date of presentation to the judge; (2) that it is the opinion of the physician that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself; and (3) the reasons for such opinion. Any physician's report filed with the court pursuant to this subsection shall be confidential. The court [may issue an order] shall provide for the disclosure of the medical information required pursuant to this subsection to the respondent on the respondent's request, the respondent's attorney and to any other party considered appropriate by the court.

(c) Upon receipt of an application for the appointment of a temporary conservator, the court shall issue notice to the respondent, appoint counsel for the respondent and conduct a hearing on the application in the manner set forth in section 15 of this act and sections 45a-649 and 45a-650, as amended by this act, except that (1) notice to the respondent shall be given not less than five days before the hearing, which shall be conducted not later than seven days after the application is filed, excluding Saturdays, Sundays and holidays, or (2) where an application has been made ex parte for the appointment of a temporary conservator, notice shall be given to the respondent not more than forty-eight hours after the ex parte appointment of a temporary conservator, with the hearing on such ex parte appointment to be conducted not later than three days after the ex parte appointment, excluding Saturdays, Sundays and holidays. Service on the respondent of the notice of the application for the appointment of a temporary conservator shall be in hand and shall be made by a state

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marshal, constable or an indifferent person. Notice shall include (A) a copy of the application for appointment of a temporary conservator and any physician's report filed with the application pursuant to subsection (b) of this section, (B) a copy of an ex parte order, if any, appointing a temporary conservator, and (C) the date, time and place of the hearing on the application for the appointment of a temporary conservator. The court may not appoint a temporary conservator until the court has made the findings required in this section and held a hearing on the application, except as provided in subsection (d) of this section. If notice is provided to the next of kin with respect to an application filed under this section, the physician's report shall not be disclosed to the next of kin except by order of the court.

~~[(c)]~~ (d) (1) If the court determines that the delay resulting from giving notice and appointing an attorney to represent the respondent as required in subsection [(d)] (c) of this section would cause immediate and irreparable [injury] harm to the mental or physical health or financial or legal affairs of the respondent, the court may, ex parte and without prior notice to the respondent, appoint a temporary conservator upon receiving evidence and making the findings required in subsection (a) of this section, provided the court makes a specific finding in any decree issued on the application stating the immediate or irreparable [injury] harm that formed the basis for the court's determination and why such hearing and appointment was not required before making an ex parte appointment. If an ex parte order of appointment of a temporary conservator is made, a hearing on the application for appointment of a temporary conservator shall be commenced not later than three days after the ex parte order was issued, excluding Saturdays, Sundays and holidays. An ex parte order shall expire not later than three days after the order was issued unless a hearing on the order that commenced prior to the expiration of the three-day period has been continued for good cause.

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[(2) After making such ex parte appointment, the court shall immediately: (A) Appoint an attorney to represent the respondent, provided if the respondent is unable to pay for the services of such attorney, the reasonable compensation for such attorney shall be established by, and paid from funds appropriated to, the Judicial Department, except that if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund; (B) schedule the date, place and time of a hearing to be held not later than seventy-two hours after the issuance of the court's decree, excluding Saturdays, Sundays and holidays; and (C) give notice by mail, or such other notice as the court deems appropriate, to the respondent, the respondent's next of kin and such attorney, which notice shall include: (i) A copy of the application for appointment of temporary conservator and the accompanying physician's report; (ii) a copy of the decree appointing a temporary conservator; and (iii) the date, place and time of the hearing scheduled pursuant to subparagraph (B) of this subdivision, except that if the court determines that notice to the respondent under this subdivision would be detrimental to the health or welfare of the respondent, the court may give such notice only to the respondent's next of kin and the respondent's attorney.]

[(3)] (2) After [such] a hearing held under this subsection, the court [shall] may appoint a temporary conservator or may confirm or revoke the ex parte appointment of the temporary conservator or may modify the duties [, responsibilities or powers] and authority assigned under such appointment.

[(d) If the court determines that an ex parte appointment of a temporary conservator pursuant to subsection (c) of this section is not appropriate but finds substantial evidence that appointment of a temporary conservator may be necessary, the court shall hold a

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hearing on the application. Unless continued by the court for cause, such hearing shall be held not later than seventy-two hours after receipt of the application, excluding Saturdays, Sundays and holidays. Prior to such hearing, the court shall appoint an attorney to represent the respondent in accordance with subsection (c) of this section and shall give such notice as it deems appropriate to the respondent, the respondent's next of kin and such attorney, which notice shall include a copy of the application for appointment of a temporary conservator and the accompanying physician's report. After hearing and upon making the findings required in subsection (a) of this section, the court may appoint a temporary conservator.]

(e) The court may waive the medical evidence requirement under subsection (b) of this section if the court finds that the evidence is impossible to obtain because of the refusal of the respondent to be examined by a physician. In any such case the court may, in lieu of medical evidence, accept other competent evidence. In any case in which the court waives the medical evidence requirement as provided in this subsection, the court may not appoint a temporary conservator unless the court finds, by clear and convincing evidence, that (1) the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself, and (2) immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent will result if a temporary conservator is not appointed pursuant to this section. In any case in which the court waives the requirement of medical evidence as provided in this subsection, the court shall [(1)] make a specific finding in any decree issued on the application stating why medical evidence was not required. [, and (2) schedule a hearing in accordance with subsection (c) or (d) of this section, which hearing shall take place not later than seventy-two hours after the issuance of the court's decree.]

[(f) Except as provided in subsection (g) of this section, a temporary

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conservator may not change the respondent's residence unless a court specifically finds, after a hearing, that such change is necessary.

(g) (1) If the temporary conservator determines it is necessary to cause the respondent to be placed in an institution for long-term care, the temporary conservator may make such placement after the temporary conservator files a report of such intended placement with the probate court that appointed the temporary conservator, except that if the placement results from the respondent's discharge from a hospital or if irreparable injury to the mental or physical health or financial or legal affairs of the respondent would result from filing the report before making such placement, the temporary conservator shall make the placement before filing the report provided the temporary conservator (A) files the report not later than five days after making such placement, and (B) includes in the report a statement as to the hospital discharge or a description of the irreparable injury that the placement averted.

(2) The report shall set forth the basis for the temporary conservator's determination, what community resources have been considered to avoid the placement, and the reasons why the respondent's physical, mental and psychosocial needs cannot be met in a less restrictive and more integrated setting. Such community resources include, but are not limited to, resources provided by the area agencies on aging, the Department of Social Services, the Office of Protection and Advocacy for Persons with Disabilities, the Department of Mental Health and Addiction Services, the Department of Mental Retardation, any center for independent living, as defined in section 17b-613, any residential care home or any congregate or subsidized housing. The temporary conservator shall give notice of the placement and a copy of such report to the respondent and any other interested parties as determined by the court.

(3) Upon the request of the respondent or such interested party, the

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court shall hold a hearing on the report and placement not later than thirty days after the date of the request. The court may also, in its discretion, hold a hearing on the report and placement in any case where no request is made for a hearing. If the court, after such hearing, determines that the respondent's physical, mental and psychosocial needs can be met in a less restrictive and more integrated setting within the limitations of the resources available to the respondent, either through the respondent's own estate or through private or public assistance, the court shall order that the respondent be placed and maintained in such setting.

(4) For purposes of this subsection, an "institution for long-term care" means a facility that has been federally certified as a skilled nursing facility or intermediate care facility.]

[(h)] (f) Upon the termination of the temporary conservatorship, the temporary conservator shall file a written report with the court and, if applicable, a final accounting as directed by the court, of his or her actions as temporary conservator.

Sec. 19. Section 45a-655 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) A conservator of the estate appointed under section 45a-646, 45a-650, as amended by this act, or 45a-654, as amended by this act, shall, within two months after the date of [his or her] the conservator's appointment, make and file in the Court of Probate, an inventory, under penalty of false statement, of the estate of [his or her ward] the conserved person, with the properties thereof appraised or caused to be appraised, by such conservator, at fair market value as of the date of [his or her] the conservator's appointment. Such inventory shall include the value of the [ward's] conserved person's interest in all property in which the [ward] conserved person has a legal or equitable present interest, including, but not limited to, the [ward's] conserved

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person's interest in any joint bank accounts or other jointly held property. The conservator shall manage all the estate and apply so much of the net income thereof, and, if necessary, any part of the principal of the property, which is required to support the [ward] conserved person and those members of the [ward's] conserved person's family whom [he or she] the conserved person has the legal duty to support and to pay the [ward's] conserved person's debts, and may sue for and collect all debts due the [ward] conserved person. The conservator shall use the least restrictive means of intervention in the exercise of the conservator's duties and authority.

(b) Any conservator of the estate of a married person may apply such portion of the property of the [ward] conserved person to the support, maintenance and medical treatment of the [ward's] conserved person's spouse which the Court of Probate, upon hearing after notice, decides to be proper under the circumstances of the case.

(c) Notwithstanding the provisions of section 45a-177, the court may, and at the request of any interested party shall, require annual accountings from any conservator of the estate and the court shall hold a hearing on any such account with notice to all persons entitled to notice under section 45a-649, as amended by this act.

(d) In the case of any person receiving public assistance, state-administered general assistance or Medicaid, the conservator of the estate shall apply toward the cost of care of such person any assets exceeding limits on assets set by statute or regulations adopted by the Commissioner of Social Services. Notwithstanding the provisions of subsections (a) and (b) of this section, in the case of an institutionalized person who has applied for or is receiving such medical assistance, no conservator shall apply and no court shall approve the application of (1) the net income of the [ward] conserved person to the support of the [ward's] conserved person's spouse in an amount that exceeds the monthly income allowed a community spouse as determined by the

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Department of Social Services pursuant to 42 USC 1396r-5(d)(2)-(4), or (2) any portion of the property of the [ward] conserved person to the support, maintenance and medical treatment of the [ward's] conserved person's spouse in an amount that exceeds the amount determined allowable by the department pursuant to 42 USC 1396r-5(f)(1) and (2), notwithstanding the provisions of 42 USC 1396r-5(f)(2)(A)(iv), unless such limitations on income would result in significant financial duress.

(e) Upon application of a conservator of the estate, after hearing with notice to the Commissioner of Administrative Services, the Commissioner of Social Services and to all parties who may have an interest as determined by the court, the court may authorize the conservator to make gifts or other transfers of income and principal from the estate of the [ward] conserved person in such amounts and in such form, outright or in trust, whether to an existing trust or a court-approved trust created by the conservator, as the court orders to or for the benefit of individuals, including the [ward] conserved person, and to or for the benefit of charities, trusts or other institutions described in Sections 2055(a) and 2522(a) of the Internal Revenue Code of 1986, or any corresponding internal revenue code of the United States, as from time to time amended. Such gifts or transfers shall be authorized only if the court finds that: (1) In the case of individuals not related to the [ward] conserved person by blood or marriage, the [ward] conserved person had made a previous gift to that unrelated individual prior to being declared incapable; (2) in the case of a charity, either (A) the [ward] conserved person had made a previous gift to such charity, had pledged a gift in writing to such charity, or had otherwise demonstrated support for such charity prior to being declared incapable; or (B) the court determines that the gift to the charity is in the best interests of the [ward] conserved person, is consistent with proper estate planning, and there is no reasonable objection by a party having an interest in the [ward's] conserved person's estate as determined by the court; (3) the estate of the [ward] conserved person

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and any proposed trust of which the [ward] conserved person is a beneficiary is more than sufficient to carry out the duties of the conservator as set forth in subsections (a) and (b) of this section, both for the present and foreseeable future, including due provision for the continuing proper care, comfort and maintenance of such [ward] conserved person in accordance with such [ward's] conserved person's established standard of living and for the support of persons the [ward] conserved person is legally obligated to support; (4) the purpose of the gifts is not to diminish the estate of the [ward] conserved person so as to qualify the [ward] conserved person for federal or state aid or benefits; and (5) in the case of a [ward] conserved person capable of making an informed decision, the [ward] conserved person has no objection to such gift. The court shall give consideration to the following: (A) The medical condition of the [ward] conserved person, including the prospect of restoration to capacity; (B) the size of the [ward's] conserved person's estate; (C) the provisions which, in the judgment of the court, such [ward] conserved person would have made if [he or she] such conserved person had been capable, for minimization of income and estate taxes consistent with proper estate planning; and (D) in the case of a trust, whether the trust should be revocable or irrevocable, existing or created by the conservator and court approved. The court should also consider the provisions of an existing estate plan, if any. In the case of a gift or transfer in trust, any transfer to a court-approved trust created by the conservator shall be subject to continuing probate court jurisdiction in the same manner as a testamentary trust including periodic rendering of accounts pursuant to section 45a-177. Notwithstanding any other provision of this section, the court may authorize the creation and funding of a trust that complies with section 1917(d)(4) of the Social Security Act, 42 USC 1396p(d)(4), as from time to time amended. The provisions of this subsection shall not be construed to validate or invalidate any gifts made by a conservator of the estate prior to October 1, 1998.

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Sec. 20. Section 45a-656 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) The conservator of the person shall have the duties and authority expressly assigned by the court pursuant to section 45a-650, as amended by this act, which duties and authority may include: (1) The duty and responsibility for the general custody of the [respondent] conserved person; (2) the [power] authority to establish [his or her place of abode] the conserved person's residence within the state, subject to the provisions of section 21 of this act; (3) the [power] authority to give consent for [his or her] the conserved person's medical or other professional care, counsel, treatment or service; (4) the duty to provide for the care, comfort and maintenance of the [ward;] conserved person; and (5) the duty to take reasonable care of the [respondent's] conserved person's personal effects. [; and (6) the duty to]

(b) In carrying out the duties and authority assigned by the court, the conservator of the person shall exercise such duties and authority in a manner that is the least restrictive means of intervention and shall (1) assist the conserved person in removing obstacles to independence, (2) assist the conserved person in achieving self-reliance, (3) ascertain the conserved person's views, (4) make decisions in conformance with the conserved person's reasonable and informed expressed preferences, (5) make all reasonable efforts to ascertain the health care instructions and other wishes of the conserved person, and (6) make decisions in conformance with (A) the conserved person's expressed health care preferences, including health care instructions and other wishes, if any, described in section 19a-580e, as amended by this act, or validly executed health care instructions described in section 19a-580g, or (B) a health care decision of a health care representative described in subsection (b) of section 19a-580e, as amended by this act, except under a circumstance set forth in subsection (b) of section 19a-580e, as

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amended by this act. The conservator shall afford the conserved person the opportunity to participate meaningfully in decision-making in accordance with the conserved person's abilities and shall delegate to the conserved person reasonable responsibility for decisions affecting such conserved person's well-being.

(c) The conservator shall report at least annually to the probate court [which] that appointed the conservator regarding the condition of the [respondent] conserved person, the efforts made to encourage the independence of the conserved person and the conservator's statement on whether the appointment of the conservator is the least restrictive means of intervention for managing the conserved person's needs. The [preceding] duties, responsibilities and [powers] authority assigned pursuant to section 45a-650, as amended by this act, or set forth in this section shall be carried out within the [limitations of the] resources available to the [ward] conserved person, either through the [ward's] conserved person's own estate or through private or public assistance.

~~[(b)]~~ (d) The conservator of the person shall not have the power or authority to cause the respondent to be committed to any institution for the treatment of the mentally ill except under the provisions of sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, 17a-615 to 17a-618, inclusive, and 17a-621 to 17a-664, inclusive, and chapter 359.

~~[(c)]~~ (1) If the conservator of the person determines it is necessary to cause the ward to be placed in an institution for long-term care, the conservator may make such placement after the conservator files a report of such intended placement with the probate court that appointed the conservator, except that if the placement results from the ward's discharge from a hospital or if irreparable injury to the mental or physical health or financial or legal affairs of the ward would result from filing the report before making such placement, the

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conservator shall make the placement before filing the report provided the conservator (A) files the report not later than five days after making such placement, and (B) includes in the report a statement as to the hospital discharge or a description of the irreparable injury that the placement averted.

(2) The report shall set forth the basis for the conservator's determination, what community resources have been considered to avoid the placement, and the reasons why the ward's physical, mental and psychosocial needs cannot be met in a less restrictive and more integrated setting. Such community resources include, but are not limited to, resources provided by the area agencies on aging, the Department of Social Services, the Office of Protection and Advocacy for Persons with Disabilities, the Department of Mental Health and Addiction Services, the Department of Mental Retardation, any center for independent living, as defined in section 17b-613, any residential care home or any congregate or subsidized housing. The conservator shall give notice of the placement and a copy of such report to the ward and any other interested parties as determined by the court.

(3) Upon the request of the ward or such interested party, the court shall hold a hearing on the report and placement not later than thirty days after the date of the request. The court may also, in its discretion, hold a hearing on the report and placement in any case where no request is made for a hearing. If the court, after such hearing, determines that the ward's physical, mental and psychosocial needs can be met in a less restrictive and more integrated setting within the limitations of the resources available to the ward, either through the ward's own estate or through private or public assistance, the court shall order that the ward be placed and maintained in such setting.

(4) For purposes of this subsection, an "institution for long-term care" means a facility that has been federally certified as a skilled nursing facility or intermediate care facility.]

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Sec. 21. (NEW) (*Effective October 1, 2007*) (a) Except as provided in subsections (b), (c), (d), (e) and (f) of this section, a conservator may not terminate a tenancy or lease of a conserved person, as defined in section 45a-644 of the general statutes, as amended by this act, sell or dispose of any real property or household furnishings of the conserved person, or change the conserved person's residence unless a Court of Probate finds, after a hearing, that such termination, sale, disposal or change is necessary or that the conserved person agrees to such termination, sale, disposal or change.

(b) If the conservator determines it is necessary to cause the conserved person to be placed in an institution for long-term care or to change the conserved person's residence, the conservator shall file a report of the intended placement in an institution for long-term care or change of residence with the court of probate that appointed the conservator. The court shall hold a hearing to consider the report. If, after the hearing, the conservator obtains permission of the court for the intended placement or change of residence, the conservator may make such a placement or implement such a change of residence. The hearing shall be held not less than five days after the filing of the report, excluding Saturdays, Sundays and holidays, and not less than seventy-two hours before the placement in the institution for long-term care or the change of residence, except that if the placement in an institution for long-term care results from the conserved person's discharge from a hospital, the conservator may make the placement before filing the report, provided the conservator (1) files the report not later than five days after making such placement, and (2) includes in the report a statement as to the hospital discharge and related circumstances requiring the placement of the conserved person in the institution for long-term care. No such placement made before the filing of the report of the conservator shall continue unless ordered by the Court of Probate after a hearing held pursuant to this section.

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(c) A report filed under subsection (b) of this section with respect to placement in an institution for long-term care shall set forth the basis for the conservator's determination, what community resources are available and have been considered to avoid the placement, and the reasons why the conserved person's physical, mental and psychosocial needs cannot be met in a less restrictive and more integrated setting. Such community resources include, but are not limited to, resources provided by the area agencies on aging, the Department of Social Services, the Office of Protection and Advocacy for Persons with Disabilities, the Department of Mental Health and Addiction Services, the Department of Mental Retardation, any center for independent living, as defined in section 17b-613 of the general statutes, any residential care home or any congregate or subsidized housing. The conservator shall give notice of the placement of the conserved person in an institution for long-term care and a copy of such report to the conserved person, the conserved person's attorney and any interested parties as determined by the court. Service shall be by first-class mail. The conservator shall provide a certification to the court that service was made in the manner prescribed by this subsection.

(d) The conserved person may, at any time, request a hearing by the court on the person's placement in an institution for long-term care which hearing may determine the availability of a less restrictive alternative for the person's placement. On request of the conserved person made after the initial hearing held under subsection (b) of this section, the court shall hold a hearing on the placement not later than ten days, excluding Saturdays, Sundays and holidays, after receipt by the court of such request. The court shall not be required to conduct a hearing under this subsection more than three times in any twelve-month period following the hearing held under subsection (b) of this section authorizing the initial placement, except that the court shall conduct a hearing whenever information not previously available to the court is submitted with a request for a hearing.

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(e) After the initial hearing held under subsection (b) of this section, the court may hold a hearing on a conservator's report and the placement of the conserved person in an institution for long-term care in any case even if no request for a hearing is made.

(f) If the court, after a hearing on the placement of the conserved person in an institution for long-term care, determines that the conserved person's physical, mental and psychosocial needs can be met in a less restrictive and more integrated setting within the resources available to the conserved person, either through the conserved person's own estate or through private or public assistance, the court shall order that the conserved person be placed and maintained in a less restrictive and more integrated setting.

(g) A conserved person may waive the right to a hearing required under this section if the conserved person's attorney has consulted with the conserved person and the attorney has filed with the court a record of the waiver. Such a waiver shall be invalid if the waiver does not represent the conserved person's own wishes.

(h) For purposes of this section, an "institution for long-term care" means a facility that has been federally-certified as a skilled nursing facility, an intermediate care facility, a residential care home, an extended care facility, a nursing home, a rest home and a rehabilitation hospital or facility.

Sec. 22. Section 45a-659 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) If any person not domiciled [out of] in this state and owning real property or tangible personal property in this state is incapable of managing his or her affairs, the court of probate for the district in which the property or some part of it is situated may, on the written application of a husband, wife or relative or of a conservator,

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committee or guardian having charge of the person or estate of the incapable person in the state where the incapable person is domiciled and after notice pursuant to section 45a-649, as amended by this act, or such reasonable notice as the court may order, and a hearing as required pursuant to section 45a-650, as amended by this act, appoint a conservator of the estate for the real property and tangible personal property in this state of the incapable person pursuant to section 45a-650, as amended by this act. If an application for appointment of a conservator is made pursuant to this section, the court of probate may not act on the application until an attorney is appointed to represent the person in the manner set forth in section 15 of this act.

(b) If a conservator of the estate has been appointed for such an incapable person in the state of such person's domicile, (1) the court may, on application of the out-of-state conservator to act as conservator for real or tangible personal property of the incapable person in this state, appoint such person as conservator of the estate without a hearing, on presentation to the court of a certified copy of the conservator's appointment in the state of the incapable person's domicile, and (2) if the application is for the appointment of a person other than the out-of-state conservator to act as conservator of the estate, the court, at its hearing on the application, may accept a certified copy of the out-of-state appointment of a conservator as evidence of incapacity. As used in this subsection, a "conservator of the estate" in an out-of-state jurisdiction includes any person serving in the equivalent capacity in such state.

(c) The conservator of the estate for the property in this state shall give a probate bond, and shall, within two months after the date of his or her appointment, make and file in the court of probate, under penalty of false statement, an inventory of all the real property and tangible personal property in this state of the incapable person, appraised or caused to be appraised, by such conservator, at fair

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market value as of the date of the conservator's appointment.

(d) The proceeds of any sale of [either] the real or tangible personal property, or [both] the tangible personal property itself, may be transferred to the conservator, committee or guardian having charge of the person and estate of the incapable person in the state where the incapable person is domiciled, following the application and proceedings which are required by section 45a-635.

Sec. 23. Section 45a-660 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) (1) A conserved person may, at any time, petition the court of probate having jurisdiction for the termination of a conservatorship. A petition for termination of a conservatorship shall be determined by a preponderance of the evidence. The conserved person shall not be required to present medical evidence at such a hearing. A hearing on the petition shall be held not later than thirty days after the date the petition was filed in the Court of Probate, unless the hearing is continued for good cause. If such hearing is not held within such thirty-day period or continuance period, if applicable, the conservatorship shall terminate. If the court of probate having jurisdiction finds a [ward] conserved person to be capable of caring for himself or herself, the court shall, upon hearing and after notice, order that the conservatorship of the person be terminated. If the court finds upon hearing and after notice which the court prescribes, that a [ward] conserved person is capable of managing his or her own affairs, the court shall order that the conservatorship of the estate be terminated and that the remaining portion of [his or her] the conserved person's property be restored to the [ward] conserved person. (2) If the court finds upon hearing and after notice which the court prescribes[,] that a [ward] conserved person has no assets of any kind remaining except for that amount allowed by subsection (c) of section 17b-80, the court may order that the conservatorship of the estate be terminated. The

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court shall thereupon order distribution of the remaining assets to the conservator of the person or, if there is no conservator or the conservator declines or is unable to accept or the conservator is the Commissioner of Social Services, to some suitable person, to be determined by the court, to hold for the benefit of the [ward] conserved person, upon such conservator or person giving such probate bond, if any, as the court orders. (3) If any [ward] conserved person having a conservator dies, [his or her] the conserved person's property other than property which has accrued from the sale of [his or her] the conserved person's real property shall be delivered to [his or her] the conserved person's executor or administrator. The unexpended proceeds of [his or her] the conserved person's real property sold as aforesaid shall go into the hands of the executor or administrator, to be distributed as such real property would have been.

(b) (1) In any case under subsection (a) of this section the conservator shall file in the court [his or her] the conservator's final account, and the court shall audit the account and allow the account if it is found to be correct. If the [ward] conserved person is living, the [ward] conserved person and [his or her] the conserved person's attorney, if any, shall be entitled to notice by [regular] first class mail of any hearing held on the final account. (2) The court of probate having jurisdiction shall send written notice annually to the [ward] conserved person and [his or her] the conserved person's attorney that the [ward] conserved person has a right to a hearing under this section. Upon receipt of request for such hearing the court shall set a time and date for the hearing, which date shall not be more than thirty days from the receipt of the [application] request unless continued for cause shown.

(c) The court shall review each conservatorship [at least] not later than one year after the conservatorship was ordered, and not less than every three years [and shall either] after such initial one-year review.

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After each such review, the court shall continue, modify or terminate the order for conservatorship. The court shall receive and review written evidence as to the condition of the [ward] conserved person. The conservator [, the attorney for the ward] and a physician licensed to practice medicine in this state shall each submit a written report to the court within forty-five days of the court's request for such report. On receipt of a written report from the conservator or a physician, the court shall provide a copy of the report to the conserved person and the attorney for the conserved person. If the [ward] conserved person is unable to request or obtain an attorney, the court shall appoint an attorney. If the [ward] conserved person is unable to pay for the services of the attorney, the reasonable rates of compensation of such attorney shall be established by, and the attorney shall be paid from funds appropriated to, the Judicial Department. If funds have not been included in the budget of the Judicial Department for such purposes, such rates of compensation shall be established by the Probate Court Administrator and the attorney shall be paid from the Probate Court Administration Fund. The physician shall examine the [ward] conserved person within the forty-five-day period preceding the date of submission of the physician's report. Any physician's report filed with the court pursuant to this subsection shall be confidential. The court may issue an order for the disclosure of medical information required pursuant to this subsection, except that the court shall issue an order for the disclosure of medical information to the conserved person's attorney. Not later than thirty days after receipt of the conservator's report and the physician's report, the attorney for the conserved person shall notify the court that the attorney has met with the conserved person and shall inform the court as to whether a hearing is being requested. Nothing in this section shall prevent the conserved person or the conserved person's attorney from requesting a hearing at any other time as permitted by law.

(d) If the court [determines] finds, after receipt of the reports from

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the attorney for the [ward] conserved person, the physician and the conservator, [that there has been no change in the condition of the ward since the last preceding review by the court, a hearing on the condition of the ward shall not be required, but the court, in its discretion, may hold such hearing. If the attorney for the ward, the physician] by clear and convincing evidence, that the conserved person continues to be incapable of managing his or her affairs or continues to be incapable of caring for himself or herself, as the case may be, and that there are no less restrictive means available to assist the conserved person in managing his or her affairs or caring for himself or herself, as the case may be, the court shall continue or modify the conservatorship under the terms and conditions of the appointment of the conservator under section 45a-650, as amended by this act. If the court does not make such a finding of continued incapacity by clear and convincing evidence, the court shall terminate the conservatorship. A hearing on the condition of the conserved person shall not be required under this subsection, except that the court may hold a hearing in its discretion and shall hold a hearing if the conserved person, conserved person's attorney or conservator requests a hearing, in which case the court shall hold a hearing within thirty days of such request.

Sec. 24. (NEW) (*Effective October 1, 2007*) (a) An individual subject to a guardianship or involuntary representation under chapter 802h of the general statutes may apply for and is entitled to the benefit of the writ of habeas corpus without having previously exhausted other available remedies including, but not limited to, the right to appeal the order of guardianship or involuntary representation. The question of the legality of such guardianship or involuntary representation shall be determined by the court or judge issuing such writ.

(b) A writ of habeas corpus shall be directed to the guardian of the person or the estate of the ward or to the conservator of the conserved

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person and if illegality or invalidity of the guardianship or involuntary representation is alleged in such writ, a copy shall also be directed to the judge of the court that issued the order as to such claim.

(c) An application for a writ of habeas corpus under this section shall be brought to either the Superior Court or the Court of Probate.

(d) If such application has been brought in the Court of Probate, the Probate Court Administrator shall appoint a three-judge court to hear such application from among the judges of probate who are approved to hear such applications by the Chief Justice of the Supreme Court. The judge of the court of probate who issued the order shall not be a member of the three-judge court. No such application shall be denied without the vote of at least two judges of the three-judge court. The judges of such three-judge court shall designate a chief judge from among their members. The three-judge court shall cause a recording to be made of all proceeding held under this section. The recording shall be part of the court record and shall be made and retained in a manner approved by the Probate Court Administrator. All records for any case before the three-judge court shall be maintained in the court of probate in which the conservator or guardian was appointed.

(e) Hearing under this section shall be heard not later than ten days, excluding Saturdays, Sundays and holidays, after return of service of the writ.

(f) If the court or judge before whom such a writ is brought decides that the guardianship or involuntary representation is not illegal, such decision shall be considered a final judgment and subject to appeal.

(g) If the court or judge before whom such case is brought decides that the guardianship or involuntary representation is not illegal, such decision shall not bar issuance of such a writ again, provided it is claimed that such person is no longer subject to the condition for

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which the person was conserved or such application is based on a ground different from that relied on in an earlier application. Such writ may be applied for by an individual subject to guardianship or involuntary representation or on the behalf of such individual by any relative, friend or person interested in such individual's welfare.

(h) An appeal to the Superior Court of a decision rendered by a three-judge court under this section shall be filed in the judicial district in which the court of probate that issued the order appointing a guardian or conservator is located. Such appeal shall be heard not later than thirty days of the return of service of the appeal.

Sec. 25. (NEW) (*Effective October 1, 2007*) An individual confined in a hospital or inpatient treatment facility for treatment of alcohol or drug dependency in this state may seek a writ of habeas corpus in the Superior Court. The question of the legality of such confinement shall be determined by the court or judge issuing such writ. The writ shall be directed to the superintendent or director of the hospital or treatment facility and, if illegality or invalidity of the commitment is alleged in such writ, a copy shall also be directed to the judge of the committing court as to such claim. Such judge shall be represented by the state's attorney for the judicial district in which such committing court is located. If the court or judge before whom such case is brought decides that the confinement is not illegal, such decision shall not bar issuance of such writ again, provided it is claimed that such individual is no longer subject to the condition for which the individual was confined. Such writ may be sought by the confined individual or on behalf of the individual by any relative, friend or person interested in the individual's welfare. Court fees may not be charged against the superintendent or director of the hospital or the judge.

Sec. 26. Section 45a-151 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

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(a) Upon application by executors, guardians, conservators, administrators and trustees appointed, or whose appointment has been approved, by the Court of Probate, the court may, after such notice as the court shall direct and hearing, authorize such fiduciaries to compromise and settle any doubtful or disputed claims or actions, or any appeal from probate in favor of or against the estates or persons represented by them.

(b) In order to accomplish such compromise or settlement, the court may, after deduction of attorney's fees and costs, authorize such settlement as proposed by the fiduciary in a lump sum or in periodic payments to the estate, to an existing trust or to a newly created trust for the benefit of those represented by the fiduciary. Such trusts may include those created in compliance with Section 1917(d)(4) of the Social Security Act, 42 USC 1396p(d)(4), as from time to time amended. In the case of a gift or transfer in trust, any transfer to a court-approved trust created by a fiduciary shall be subject to continuing Probate Court jurisdiction as if it were a testamentary trust. In deciding whether the net settlement as proposed by the fiduciary is beneficial, the court shall consider the best interests of those represented by the fiduciary, and in the case of a decedent's estate, the intention of the decedent. The court may also authorize the conveyance, with or without requiring a bond, of the whole or any part of, or any easement or other interest in, any real property situated in this state forming part of the trust estate or owned by any such trustee, executor or administrator or owned by any deceased person, ward, conserved person or incapable person for whom such an executor, guardian, conservator or administrator was appointed.

Sec. 27. Section 45a-662 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

The court of probate in which [the] a conservator [of any incapable person] has been appointed may, concurrently with courts of equity,

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order such conservator to convey the interest of [his ward] the conserved person in any real property which ought in equity to be conveyed to another person.

Sec. 28. Section 45a-663 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

If a [ward] conserved person is unable to pay for the services of a conservator appointed pursuant to the provisions of sections 45a-593 to 45a-700, inclusive, as amended by this act, the reasonable compensation of such conservator shall be paid from the Probate Court Administration Fund established under section 45a-82, pursuant to rules and regulations and at rates established by the Probate Court Administrator.

Sec. 29. Section 45a-679 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

If a ward or conserved person has both a plenary guardian or limited guardian of the person with mental retardation and a conservator of the estate or person or a temporary conservator who are not the same person and a conflict arises between the two concerning the duties and responsibilities or authority of either, the matter shall be submitted to the court of probate making the appointment of such guardian or conservator and such court shall, after a hearing, order the course of action which in its discretion is in the best interest of the ward or conserved person.

Sec. 30. Section 49-11 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

The executor of the will or administrator of the estate of any deceased mortgagee, or the spouse or next of kin, or other suitable person whom the court [deems] considers to have a sufficient interest, to whom a decree is issued under section 45a-273, and any guardian

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[or conservator] whose ward, or conservator whose conserved person, as defined in section 45a-644, as amended by this act, is a mortgagee, may, on the payment, satisfaction or sale of the mortgage debt, release the legal title to the party entitled thereto.

Sec. 31. Section 12-45 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

Each sole trustee residing in this state, having in his hands personal property liable to taxation belonging to the trust estate, shall make return thereof to the assessors of the town where he resides. If such personal property is in the hands of more than one trustee, if they all reside in the same town, they shall cause such return to be made by one of their number in such town; if they do not all reside in the same town, they shall cause such return to be made by one of their number, residing in the town in which the affairs of such trust are managed and administered, to the assessors of such town; but, if none of such trustees resides in such town, they shall designate one of their number who shall make such return to the assessors of the town where he resides. Each guardian or conservator shall make return of the personal estate of [his] the guardian's ward or the conservator's conserved person to the assessors of the town in which such ward or conserved person resides.

Sec. 32. Section 19a-580e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Except as authorized by a court of competent jurisdiction, a conservator shall comply with a [ward's] conserved person's individual health care instructions and other wishes, if any, expressed while the [ward] conserved person had capacity and to the extent known to the conservator, and the conservator may not revoke the [ward's] conserved person's advance health care directive unless the appointing court expressly so authorizes.

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(b) Absent a court order to the contrary, a health care decision of a health care representative takes precedence over that of a conservator, except under the following circumstances: (1) When the health care decision concerns a person who is subject to the provisions of section 17a-566, 17a-587, 17a-588 or 54-56d; (2) when a conservator has been appointed [to a ward] for a conserved person who is subject to an order authorized under subsection (e) of section 17a-543, for the duration of the [ward's] conserved person's hospitalization; or (3) when a conservator has been appointed [to a ward] for a conserved person subject to an order authorized under section 17a-543a.

Sec. 33. Sections 45a-191 and 45a-192 of the general statutes are repealed. (*Effective October 1, 2007*)

Approved June 11, 2007