



General Assembly

Substitute Bill No. 1439

January Session, 2007

* SB01439PH 051607 *

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

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

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 Section 45a-132a of the general statutes is repealed and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

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

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

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 Section 45a-186 of the general statutes is repealed and the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

26 (a) Any person aggrieved by any order, denial or decree of a court
27 of probate in any matter, unless otherwise specially provided by law,
28 may, not later than forty-five days after the mailing of an order, denial
29 or decree for a matter heard under any provision of section 45a-593, as
30 amended by this act, 45a-594, 45a-595, as amended by this act, or 45a-
31 597, sections 45a-644 to 45a-677, inclusive, as amended by this act, or
32 sections 45a-690 to 45a-705, inclusive, and not later than thirty days
33 after mailing of an order, denial or decree for any other matter in a
34 court of probate, appeal therefrom to the Superior Court. [in
35 accordance with subsection (b) of this section. Except in the case of an
36 appeal by the state, such person shall give security for costs in the
37 amount of one hundred fifty dollars, which may be paid to the clerk,
38 or a recognizance with surety annexed to the appeal and taken before
39 the clerk or a commissioner of the Superior Court or a bond
40 substantially in accordance with the bond provided for appeals to the
41 Supreme Court.] Such an appeal shall be commenced by filing a
42 complaint in the superior court in the judicial district in which such
43 court of probate is located, except that (1) an appeal under subsection
44 (b) of section 12-359, subsection (b) of section 12-367 or subsection (b)
45 of subsection 12-395 shall be filed in the judicial district of Hartford,
46 and (2) an appeal in a matter concerning removal of a parent as
47 guardian, termination of parental rights or adoption shall be filed in
48 the superior court for juvenile matters having jurisdiction over matters
49 arising in such probate district. The complaint shall state the reasons
50 for appeal. A copy of the order, denial or decree appealed from shall
51 be attached to the complaint. Appeals from any decision rendered in
52 any case after a [record] recording is made of the proceedings under
53 [sections] section 17a-498, 17a-685, 45a-650, as amended by this act, 51-

54 72 [and] or 51-73 shall be on the record and shall not be a trial de novo.

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

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

77 (c) Not later than fifteen days after a person files an appeal under
78 this section, the person who filed the appeal shall file or cause to be
79 filed with the clerk of the Superior Court a document containing (1) the
80 name, address and signature of the person making service, and (2) a
81 statement of the date and manner in which a copy of the complaint
82 was served on the court of probate and each interested party.

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

86 (e) A hearing in an appeal from probate proceedings under section
87 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685,
88 45a-650, as amended by this act, 45a-654, as amended by this act, 45a-
89 660, as amended by this act, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699,
90 45a-703 or 45a-717 shall commence, unless a stay has been issued
91 pursuant to subsection (f) of this section, not later than ninety days
92 after the appeal has been filed.

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

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

103 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) In an appeal from an
104 order, denial or decree of a Court of Probate made after a hearing that
105 is on the record, not later than thirty days after service is made of an
106 appeal under section 45a-186 of the general statutes, as amended by
107 this act, or within such further time as may be allowed by the Superior
108 Court, the Court of Probate shall transcribe any portion of the
109 recording of the proceedings that has not been transcribed. The
110 expense for such transcript shall be charged against the person who
111 filed the appeal, except that if the person who filed the appeal is
112 unable to pay such expense and files an affidavit with the court
113 demonstrating the inability to pay, the expense of the transcript shall
114 be paid by the Probate Court Administrator and paid from the Probate
115 Court Administrator Fund.

116 (b) The Court of Probate shall transmit to the Superior Court the
117 original or a certified copy of the entire record of the proceeding from

118 which the appeal was taken. The record shall include, but not be
119 limited to, the findings of fact and conclusions of law, separately
120 stated, of the court of probate.

121 (c) An appeal from an order, denial or decree made after a hearing
122 on the record shall be heard by the Superior Court without a jury, and
123 may be referred to a state referee appointed under section 51-501 of the
124 general statutes. The appeal shall be confined to the record. If alleged
125 irregularities in procedure before the court of probate are not shown in
126 the record or if facts necessary to establish such alleged irregularities in
127 procedure are not shown in the record, proof limited to such alleged
128 irregularities may be taken in the Superior Court. The Superior Court,
129 on request of any party, shall hear oral argument and receive written
130 briefs.

131 Sec. 4. (NEW) (*Effective October 1, 2007*) In an appeal taken under
132 section 45a-186 of the general statutes, as amended by this act, from a
133 matter heard on the record in the Court of Probate, the Superior Court
134 shall not substitute its judgment for that of the court of probate as to
135 the weight of the evidence on questions of fact. The Superior Court
136 shall affirm the decision of the Court of Probate unless the Superior
137 Court finds that substantial rights of the person appealing have been
138 prejudiced because the findings, inferences, conclusions or decisions
139 are: (1) In violation of the federal or state constitution or the general
140 statutes, (2) in excess of the statutory authority of the court of probate,
141 (3) made on unlawful procedure, (4) affected by other error of law, (5)
142 clearly erroneous in view of the reliable, probative and substantial
143 evidence on the whole record, or (6) arbitrary or capricious or
144 characterized by abuse of discretion or clearly unwarranted exercise of
145 discretion. If the Superior Court finds such prejudice, the Superior
146 Court shall sustain the appeal and, if appropriate, may render a
147 judgment that modifies the court of probate's order, denial or decree or
148 remand the case to the court of probate for further proceedings. For the
149 purposes of this section, a remand is a final judgment.

150 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) In an appeal taken under

151 section 45a-186 of the general statutes, as amended by this act, costs
152 may be taxed in favor of the prevailing party in the same manner, and
153 to the same extent, that such costs are allowed in judgments rendered
154 by the Superior Court.

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

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

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

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

181 In connection with trust matters, to the extent there is no conflict of
182 interest between the representative and the person represented or

183 among those being represented with respect to a particular question or
184 dispute: (1) A court-appointed conservator or guardian of the estate
185 may represent and bind the estate that the conservator or guardian
186 controls; (2) a court-appointed conservator or guardian of the person
187 may represent and bind the ward or conserved person if a conservator
188 or guardian of the ward's estate or conserved person's estate has not
189 been appointed; (3) an agent having authority to do so may represent
190 and bind the principal; (4) a trustee may represent and bind the
191 beneficiaries of the trust; (5) an executor or administrator of a
192 decedent's estate may represent and bind persons interested in the
193 estate; and (6) if a conservator or guardian has not been appointed, a
194 parent may represent and bind the parent's minor or unborn child.

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

197 (a) The Administrator of Veterans' Affairs, created by Act of the
198 Congress of the United States, or [his] the administrator's successor,
199 shall be a party in interest in any proceedings brought under any
200 provision of the general statutes for the appointment of a guardian or
201 conservator of a veteran of any war or other beneficiary on whose
202 account benefits of compensation, adjusted compensation, pension or
203 insurance or other benefits are payable by the Veterans'
204 Administration.

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

211 (c) Written notice shall be given by regular mail, unless waived in
212 writing, to the division of the office of the Veterans' Administration
213 having jurisdiction over the area in which the court is located, of the
214 time and place for a hearing on any petition or pleading or in

215 connection with any proceeding pertaining to or affecting in any
216 manner the administration of the estate of any beneficiary of the
217 Veterans' Administration. Notice shall be mailed in time to reach such
218 office not less than ten days before the date of the hearing or other
219 proceeding.

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

222 Upon application of a conservator or the guardian of the estate of a
223 ward, conserved person or other incapable person, the Court of
224 Probate may authorize the conservator or guardian to invest income or
225 principal of the estate, to the extent found reasonable by the court
226 under all the circumstances, in one or more policies of life or
227 endowment insurance or one or more annuity contracts issued by a life
228 insurance company authorized to conduct business in this state, on the
229 life of the ward, conserved person or incapable person, or on the life of
230 a person in whose life the ward, conserved person or incapable person
231 has an insurable interest. Any such policy or contract shall be the sole
232 property of the ward, conserved person or incapable person whose
233 funds are invested in it.

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

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

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

247 the estate appointed under the provisions of section 45a-654, as
248 amended by this act.

249 (b) "Conservator of the person" means a person, a municipal or state
250 official, or a private profit or nonprofit corporation, except a hospital
251 or nursing home as defined in section 19a-521, appointed by the
252 [Probate] Court of Probate under the provisions of sections 45a-644 to
253 [45a-662] 45a-663, inclusive, as amended by this act, to supervise the
254 personal affairs of a person found to be incapable of caring for himself
255 or herself or of a person who voluntarily asks the Court of Probate for
256 the appointment of a conservator of the person, and includes a
257 temporary conservator of the person appointed under the provisions
258 of section 45a-654, as amended by this act.

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

272 (d) "Incapable of managing his or her affairs" means that a person
273 has a mental, emotional or physical condition [resulting from mental
274 illness, mental deficiency, physical illness or disability, chronic use of
275 drugs or alcohol, or confinement, which prevents that person from
276 performing] that results in such person being unable to receive and
277 evaluate information or make or communicate decisions to such an
278 extent that the person is unable, even with appropriate assistance, to
279 perform the functions inherent in managing his or her affairs, and the

280 person has property [which] that will be wasted or dissipated unless
281 [proper] adequate property management is provided, or that funds are
282 needed for the support, care or welfare of the person or those entitled
283 to be supported by [that] the person and that the person is unable to
284 take the necessary steps to obtain or provide funds [which are] needed
285 for the support, care or welfare of the person or those entitled to be
286 supported by [such] the person.

287 (e) "Involuntary representation" means the appointment of a
288 conservator of the person or a conservator of the estate, or both, after a
289 finding by the Court of Probate that the respondent is incapable of
290 managing his or her affairs or incapable of caring for himself or herself.

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

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

299 (h) ["Ward"] "Conserved person" means a person for whom
300 involuntary representation is granted under sections 45a-644 to [45a-
301 662] 45a-663, inclusive, as amended by this act.

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

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

308 (k) "Least restrictive means of intervention" means intervention for a
309 conserved person that is sufficient to provide, within the resources

310 available to the conserved person either from the conserved person's
311 own estate or from private or public assistance, for a conserved
312 person's personal needs or property management while affording the
313 conserved person the greatest amount of independence and self-
314 determination.

315 Sec. 11. (NEW) (*Effective October 1, 2007*) Each Court of Probate shall
316 cause a recording to be made of all proceedings held under sections
317 45a-644 to 45a-663, inclusive, of the general statutes, as amended by
318 this act. The recording shall be part of the court record and shall be
319 made and retained in a manner approved by the Probate Court
320 Administrator.

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

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

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

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

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

339 (a) An application for involuntary representation may be filed by

340 any person alleging that a respondent is incapable of managing his or
341 her affairs or incapable of caring for himself or herself and stating the
342 reasons for the alleged incapability. The application shall be filed in the
343 court of probate in the district in which the respondent resides, [or has
344 his domicile] is domiciled or is located at the time of the filing of the
345 application.

346 (b) An application for involuntary representation for a
347 nondomiciliary of the state made pursuant to subsection (a) of this
348 section shall not be granted unless the court finds the (1) respondent is
349 presently located in the probate district in which the application is
350 filed; (2) applicant has made reasonable efforts to provide notice to
351 individuals and applicable agencies listed in subsection (a) of section
352 45a-649, as amended by this act, concerning the respondent; (3)
353 respondent has been provided an opportunity to return to the
354 respondent's place of domicile, and has been provided the financial
355 means to return to the respondent's place of domicile within the
356 respondent's resources, and has declined to return, or the applicant has
357 made reasonable but unsuccessful efforts to return the respondent to
358 such respondent's place of domicile; and (4) requirements of this
359 chapter for the appointment of a conservator pursuant to an
360 application for involuntary representation have been met.

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

365 (d) The court shall review any involuntary representation of a
366 nondomiciliary ordered by the court pursuant to subsection (b) of this
367 section every sixty days. Such involuntary representation shall expire
368 sixty days after the date such involuntary representation was ordered
369 by the court or sixty days after the most recent review ordered by the
370 court, whichever is later, unless the court finds the (1) conserved
371 person is presently located in the state; (2) conservator has made
372 reasonable efforts to provide notice to individuals and applicable

373 agencies listed in subsection (a) of section 45a-649, as amended by this
374 act, concerning the respondent; (3) conserved person has been
375 provided an opportunity to return to the conserved person's place of
376 domicile and has been provided the financial means to return to the
377 conserved person's place of domicile within the conserved person's
378 resources, and has declined to return, or the conservator has made
379 reasonable but unsuccessful efforts to return the conserved person to
380 the conserved person's place of domicile; and (4) requirements of this
381 chapter for the appointment of a conservator pursuant to an
382 application for involuntary representation have been met. As part of its
383 review under this subsection, the court shall receive and consider
384 reports from the conservator and from the attorney for the conserved
385 person regarding the requirements of this subsection.

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

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

400 (a) (1) Upon an application for involuntary representation, the court
401 shall issue a citation to the following enumerated parties to appear
402 before it at a time and place named in the citation, which shall be
403 served on the parties at least [seven] ten days before the hearing date,
404 or in the case of an application made pursuant to section 17a-543 or
405 17a-543a, at least seven days before the hearing date, which date in any

406 event shall not be more than thirty days after the receipt of the
407 application by the Court of Probate unless continued for cause shown.
408 Notice of the hearing shall be sent within thirty days after receipt of
409 the application.

410 [(1)] (2) The court shall direct that personal service of the citation be
411 made, by a state marshal, constable or an indifferent person, upon the
412 following: [(A)] The respondent [, except that if the court finds
413 personal service on the respondent would be detrimental to the health
414 or welfare of the respondent, the court may order that such service be
415 made upon counsel for the respondent, if any, and if none, upon the
416 attorney appointed under subsection (b) of this section; (B)] and the
417 respondent's spouse, if any, if the spouse is not the applicant, except
418 that in cases where the application is for involuntary representation
419 pursuant to section 17b-456, and there is no spouse, the court shall
420 order notice by certified mail to the children of the respondent and if
421 none, the parents of the respondent and if none, the brothers and
422 sisters of the respondent or their representatives, and if none, the next
423 of kin of such respondent.

424 [(2)] (3) The court shall order such notice as it directs to the
425 following: (A) The applicant; (B) the person in charge of welfare in the
426 town where the respondent is domiciled or resident and, if there is no
427 such person, the first selectman or chief executive officer of the town if
428 the respondent is receiving assistance from the town; (C) the
429 Commissioner of Social Services, if the respondent is in a state-
430 operated institution or receiving aid, care or assistance from the state;
431 (D) the Commissioner of Veterans' Affairs if the respondent is
432 receiving veterans' benefits or the Veterans' Home, or both, if the
433 respondent is receiving aid or care from such home, or both; (E) the
434 Commissioner of Administrative Services, if the respondent is
435 receiving aid or care from the state; (F) the children of the respondent
436 and if none, the parents of the respondent and if none, the brothers
437 and sisters of the respondent or their representatives; (G) the person in
438 charge of the hospital, nursing home or some other institution, if the
439 respondent is in a hospital, nursing home or some other institution.

440 [(3)] (4) The court, in its discretion, may order such notice as it
441 directs to other persons having an interest in the respondent and to
442 such persons the respondent requests be notified.

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

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

455 "POSSIBLE CONSEQUENCES OF THE APPOINTMENT OF A
456 CONSERVATOR FOR YOU

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

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

468 You should have an attorney represent you at the hearing on the
469 application. If you are unable to obtain an attorney to represent you at
470 the hearing, the court will appoint an attorney for you. If you are

471 unable to pay for representation by an attorney, the court will pay
472 attorney fees as permitted by the court's rules. Even if you qualify for
473 payment of an attorney on your behalf, you may choose an attorney if
474 the attorney will accept the attorney fees permitted by the court's rules.

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

486 - Accessing and budgeting your money

487 - Deciding where you live

488 - Making medical decisions for you

489 - Paying your bills

490 - Managing your real and personal property

491 You may participate in the selection of your conservator. If you
492 have already designated a conservator or if you inform the court of
493 your choice for a conservator, the court must honor your request
494 unless the court decides that the person designated by you is not
495 appropriate.

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

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

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

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

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

534 the respondent or conserved person is indigent, within the payment
535 guidelines of the Court of Probate.

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

545 (c) An attorney appointed pursuant to this section shall represent
546 the respondent or conserved person in proceedings under sections 45a-
547 644 to section 45a-663, inclusive, of the general statutes, as amended by
548 this act, and shall consult with the conserved person regarding
549 bringing an appeal to the Superior Court under section 45a-186 of the
550 general statutes, as amended by this act. Upon the request of the
551 conserved person, the attorney for the conserved person shall assist in
552 the filing and commencing of an appeal to the Superior Court. An
553 attorney's assistance in filing such an appeal shall not obligate the
554 attorney to appear in or prosecute the appeal. A conservator may not
555 deny the conserved person access to the person's resources needed for
556 an appeal.

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

564 (e) If the respondent or conserved person is indigent, an attorney
565 appointed under this section shall be paid a reasonable rate of

566 compensation. Rates of compensation for such appointed attorneys
567 shall be established by the Office of the Probate Court Administrator.
568 Such compensation shall be paid from funds appropriated to the
569 Judicial Department. If funds have not been included in the budget of
570 the Judicial Department for such purposes, such compensation shall be
571 paid from the Probate Court Administration Fund.

572 (f) An attorney representing a respondent or conserved person
573 subject to proceedings under chapter 802h of the general statutes shall
574 not accept appointment as guardian ad litem or conservator of the
575 person or estate for the same person unless such attorney has been
576 nominated by the respondent or conserved person pursuant to section
577 45a-645 of the general statutes, as amended by this act, or similar
578 instrument, including, but not limited to, a trust or an advance
579 directive pursuant to section 19a-580e of the general statutes, as
580 amended by this act, or section 19a-580g of the general statutes, or is
581 nominated by the respondent or conserved person pursuant to section
582 45a-650 of the general statutes, as amended by this act.

583 (g) An attorney for the respondent or conserved person, on
584 presentation of proof of authority, shall have access to all information
585 pertinent to proceedings under title 45a of the general statutes,
586 including immediate access to medical records available to the
587 respondent's or conserved person's treating physician.

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

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

598 represented by an attorney. The respondent shall have the right to
599 attend any hearing held under this section.

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

604 (c) After making the findings required under subsection (a) of this
605 section, the court shall receive evidence regarding the respondent's
606 condition, the capacity of the respondent [, including a written report
607 or testimony by] to care for himself or herself or to manage his or her
608 affairs, and the ability of the respondent to meet his or her needs
609 without the appointment of a conservator. Unless waived by the court
610 pursuant to this subsection, evidence shall be introduced from one or
611 more physicians licensed to practice medicine in the state who have
612 examined the respondent within [thirty] forty-five days preceding the
613 hearing. The [report or testimony] evidence shall contain specific
614 information regarding the [disability and the extent of its
615 incapacitating effect] respondent's condition and the effect of the
616 respondent's condition on the respondent's ability to care for himself
617 or herself or to manage his or her affairs. The court may also consider
618 such other evidence as may be available and relevant, including, but
619 not limited to, a summary of the physical and social functioning level
620 or ability of the respondent, and the availability of support services
621 from the family, neighbors, community or any other appropriate
622 source. Such evidence may include, if available, reports from the social
623 work service of a general hospital, municipal social worker, director of
624 social service, public health nurse, public health agency, psychologist,
625 coordinating assessment and monitoring agencies, or such other
626 persons as the court [deems] considers qualified to provide such
627 evidence. The court may waive the requirement that medical evidence
628 be presented if it is shown that the evidence is impossible to obtain
629 because of the absence of the respondent or [his or her] the
630 respondent's refusal to be examined by a physician or that the alleged
631 incapacity is not medical in nature. If such requirement is waived, the

632 court shall make a specific finding in any decree issued on the
633 [petition] application stating why medical evidence was not required.
634 [In any matter in which the Commissioner of Social Services seeks the
635 appointment of a conservator pursuant to chapter 319dd and
636 represents to the court that an examination by an independent
637 physician, psychologist or psychiatrist is necessary to determine
638 whether the elderly person is capable of managing his or her personal
639 or financial affairs, the court shall order such examination unless the
640 court determines that such examination is not in the best interests of
641 the elderly person. The court shall order such examination
642 notwithstanding any medical report submitted to the court by the
643 elderly person or the caretaker of such elderly person. Any medical]
644 Any hospital, psychiatric or medical record or report filed with the
645 court pursuant to this subsection shall be confidential.

646 [(b)] (d) Upon the filing of an application for involuntary
647 representation pursuant to section 45a-648, as amended by this act, the
648 court [may] shall issue an order for the disclosure of the medical
649 information required pursuant to [subsection (a) of] this section to the
650 respondent's attorney and, upon request, to the respondent. The court
651 may issue an order for the disclosure of such medical information to
652 any other person as the court determines necessary.

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

657 [(d)] (f) (1) If the court finds by clear and convincing evidence that
658 the respondent is incapable of managing [his or her] the respondent's
659 affairs, that the respondent's affairs cannot be managed adequately
660 without the appointment of a conservator and that the appointment of
661 a conservator is the least restrictive means of intervention available to
662 assist the respondent in managing the respondent's affairs, the court
663 [shall] may appoint a conservator of his or her estate [unless it appears
664 to the court that such affairs are being managed properly without the

665 appointment of a conservator] after considering the factors set forth in
666 subsection (g) of this section.

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

677 (3) No conservator may be appointed if the respondent's personal
678 needs and property management are being met adequately by an
679 agency or individual appointed pursuant to section 1-43, 19a-575a, 19a-
680 577, 19a-580e, as amended by this act, or 19a-580g.

681 [(e)] (g) When determining whether a conservator should be
682 appointed [and in selecting a conservator to be appointed for the
683 respondent, the court shall be guided by the best interests of the
684 respondent. In making such determination, the court shall consider
685 whether the respondent had previously made alternative
686 arrangements for the care of his or her person or for the management
687 of his or her affairs, including, but not limited to, the execution of a
688 valid durable power of attorney, the appointment of a health-care
689 agent or other similar document] the court shall consider the following
690 factors: (1) The abilities of the respondent; (2) the respondent's capacity
691 to understand and articulate an informed preference regarding the
692 care of his or her person or the management of his or her affairs; (3)
693 any relevant and material information obtained from the respondent;
694 (4) evidence of the respondent's past preferences and life style choices;
695 (5) the respondent's cultural background; (6) the desirability of
696 maintaining continuity in the respondent's life and environment; (7)
697 whether the respondent had previously made adequate alternative

698 arrangements for the care of his or her person or for the management
699 of his or her affairs, including, but not limited to, the execution of a
700 durable power of attorney, springing power of attorney, the
701 appointment of a health care representative or health care agent, the
702 execution of a living will or trust or the execution of any other similar
703 document; (8) any relevant and material evidence from the
704 respondent's family and any other person regarding the respondent's
705 past practices and preferences; and (9) any supportive services,
706 technologies or other means that are available to assist the respondent
707 in meeting his or her needs.

708 (h) The respondent or conserved person may [, by oral or written
709 request, if at the time of the request he or she has sufficient capacity to
710 form an intelligent preference,] appoint, designate or nominate a
711 conservator pursuant to section 19a-580e, as amended by this act, 19a-
712 580g or 45a-645, as amended by this act, or may, orally or in writing,
713 nominate a conservator who shall be appointed unless the court finds
714 that the [appointment of the] appointee, designee or nominee is [not in
715 the best interests of the respondent. In such case, or in the absence of
716 any such nomination] unwilling or unable to serve or there is
717 substantial evidence to disqualify such person. If there is no such
718 appointment, designation or nomination or if the court does not
719 appoint the person appointed, designated or nominated by the
720 respondent or conserved person, the court may appoint any qualified
721 person, authorized public official or corporation in accordance with
722 subsections (a) and (b) of section 45a-644, as amended by this act. In
723 considering who to appoint as conservator, the court shall consider (1)
724 the extent to which a proposed conservator has knowledge of the
725 respondent's or conserved person's preferences regarding the care of
726 his or her person or the management of his or her affairs, (2) the ability
727 of the proposed conservator to carry out the duties, responsibilities
728 and powers of a conservator, (3) the cost of the proposed
729 conservatorship to the estate of the respondent or conserved person,
730 (4) the proposed conservator's commitment to promoting the
731 respondent's or conserved person's welfare and independence, and (5)

732 any existing or potential conflicts of interest of the proposed
733 conservator.

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

737 [(g)] (i) If the court appoints a conservator of the estate of the
738 respondent, [it] the court shall require a probate bond. The court may,
739 if it [deems] considers it necessary for the protection of the respondent,
740 require a bond of any conservator of the person appointed under this
741 section.

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

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

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

761 (l) The court shall assign to a conservator appointed under this
762 section only the duties and authority that are the least restrictive

763 means of intervention necessary to meet the needs of the conserved
764 person. The court shall find by clear and convincing evidence that such
765 duties and authority restrict the decision-making authority of the
766 conserved person only to the extent necessary to provide for the
767 personal needs or property management of the conserved person. Such
768 personal needs and property management shall be provided in a
769 manner appropriate to the conserved person. The court shall make a
770 finding of the clear and convincing evidence that supports the need for
771 each duty and authority assigned to the conservator.

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

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

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

794 (b) If, during the pendency of the application, the applicant lodges

795 with any bank, trust company or other depository a notice of the
796 application certified by the court, such bank, trust company or
797 depository shall not allow any funds of the [alleged] allegedly
798 incapable person to be withdrawn, between the time the notice of the
799 application is lodged and the time of the adjudication of the court
800 upon the application, without the approval of the court.

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

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

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

828 appointed, [pursuant to this section] and (3) appointment of a
829 temporary conservator is the least restrictive means of intervention
830 available to prevent such harm. The court [may, in its discretion,] shall
831 require the temporary conservator to give a probate bond. The court
832 shall limit the duties [, responsibilities and powers] and authority of
833 the temporary conservator to the circumstances that gave rise to the
834 application and shall make specific findings, [to justify such limitation]
835 by clear and convincing evidence, of the immediate and irreparable
836 harm that will be prevented by the appointment of a temporary
837 conservator and that support the appointment of a temporary
838 conservator. In making such specific findings, the court shall consider
839 the present and previously expressed wishes of the respondent, the
840 abilities of the respondent, any prior appointment of an attorney-in-
841 fact, health care representative, trustee or other fiduciary acting on
842 behalf of the respondent, any support service otherwise available to
843 the respondent and any other relevant evidence. In appointing a
844 temporary conservator pursuant to this section, the court shall set forth
845 each duty or authority of the temporary conservator. The temporary
846 conservator shall have charge of the property or of the person of the
847 [respondent] conserved person, or both, for such period [of time] or for
848 such specific occasion as the court finds to be necessary, provided a
849 temporary appointment shall not be valid for more than thirty days,
850 unless at any time while the appointment of a temporary conservator
851 is in effect, an application is filed for appointment of a conservator of
852 the person or estate under section 45a-650, as amended by this act. The
853 court may (A) extend the appointment of the temporary conservator
854 until the disposition of such application under section 45a-650, as
855 amended by this act, or for an additional thirty days, whichever occurs
856 first, or (B) terminate the appointment of a temporary conservator
857 upon a showing that the circumstances that gave rise to the application
858 for appointment of a temporary conservator no longer exist. No
859 appointment of a temporary conservator under this section may be in
860 effect for more than sixty days from the date of the initial appointment.

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

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

878 (c) Upon receipt of an application for the appointment of a
879 temporary conservator, the court shall issue notice to the respondent,
880 appoint counsel for the respondent and conduct a hearing on the
881 application in the manner set forth in section 15 of this act and sections
882 45a-649 and 45a-650, as amended by this act, except that (1) notice to
883 the respondent shall be given not less than five days before the
884 hearing, which shall be conducted not later than seven days after the
885 application is filed, excluding Saturdays, Sundays and holidays, or (2)
886 where an application has been made ex parte for a temporary
887 conservator, notice shall be given to the respondent not more than
888 forty-eight hours after the ex parte appointment of a temporary
889 conservator, with the hearing on such ex parte appointment to be
890 conducted not later than three days after the ex parte appointment,
891 excluding Saturdays, Sundays and holidays. Service on the respondent
892 of the notice of the application for the appointment of a temporary
893 conservator shall be in hand and shall be made by a state marshal,
894 constable or an indifferent person. Notice shall include (A) a copy of
895 the application for appointment of a temporary conservator and any

896 physician's report filed with the application pursuant to subsection (b)
897 of this section, (B) a copy of an ex parte decree, if any, appointing a
898 temporary conservator, and (C) the date, place and time of the hearing
899 on the application for the appointment of a temporary conservator.
900 The court may not appoint a temporary conservator until the court has
901 made the findings required in this section and held a hearing on the
902 application, except as provided in subsection (d) of this section. If
903 notice is provided to the next of kin with respect to an application filed
904 under this section, the physician's report shall not be disclosed to the
905 next of kin except by order of the court.

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

925 [(2) After making such ex parte appointment, the court shall
926 immediately: (A) Appoint an attorney to represent the respondent,
927 provided if the respondent is unable to pay for the services of such
928 attorney, the reasonable compensation for such attorney shall be
929 established by, and paid from funds appropriated to, the Judicial

930 Department, except that if funds have not been included in the budget
931 of the Judicial Department for such purposes, such compensation shall
932 be established by the Probate Court Administrator and paid from the
933 Probate Court Administration Fund; (B) schedule the date, place and
934 time of a hearing to be held not later than seventy-two hours after the
935 issuance of the court's decree, excluding Saturdays, Sundays and
936 holidays; and (C) give notice by mail, or such other notice as the court
937 deems appropriate, to the respondent, the respondent's next of kin and
938 such attorney, which notice shall include: (i) A copy of the application
939 for appointment of temporary conservator and the accompanying
940 physician's report; (ii) a copy of the decree appointing a temporary
941 conservator; and (iii) the date, place and time of the hearing scheduled
942 pursuant to subparagraph (B) of this subdivision, except that if the
943 court determines that notice to the respondent under this subdivision
944 would be detrimental to the health or welfare of the respondent, the
945 court may give such notice only to the respondent's next of kin and the
946 respondent's attorney.]

947 [(3)] (2) After [such] a hearing held under this subsection, the court
948 [shall] may appoint a temporary conservator or may confirm or revoke
949 the ex parte appointment of the temporary conservator or may modify
950 the duties [, responsibilities or powers] and authority assigned under
951 such appointment.

952 [(d) If the court determines that an ex parte appointment of a
953 temporary conservator pursuant to subsection (c) of this section is not
954 appropriate but finds substantial evidence that appointment of a
955 temporary conservator may be necessary, the court shall hold a
956 hearing on the application. Unless continued by the court for cause,
957 such hearing shall be held not later than seventy-two hours after
958 receipt of the application, excluding Saturdays, Sundays and holidays.
959 Prior to such hearing, the court shall appoint an attorney to represent
960 the respondent in accordance with subsection (c) of this section and
961 shall give such notice as it deems appropriate to the respondent, the
962 respondent's next of kin and such attorney, which notice shall include
963 a copy of the application for appointment of a temporary conservator

964 and the accompanying physician's report. After hearing and upon
965 making the findings required in subsection (a) of this section, the court
966 may appoint a temporary conservator.]

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

986 [(f) Except as provided in subsection (g) of this section, a temporary
987 conservator may not change the respondent's residence unless a court
988 specifically finds, after a hearing, that such change is necessary.

989 (g) (1) If the temporary conservator determines it is necessary to
990 cause the respondent to be placed in an institution for long-term care,
991 the temporary conservator may make such placement after the
992 temporary conservator files a report of such intended placement with
993 the probate court that appointed the temporary conservator, except
994 that if the placement results from the respondent's discharge from a
995 hospital or if irreparable injury to the mental or physical health or
996 financial or legal affairs of the respondent would result from filing the

997 report before making such placement, the temporary conservator shall
998 make the placement before filing the report provided the temporary
999 conservator (A) files the report not later than five days after making
1000 such placement, and (B) includes in the report a statement as to the
1001 hospital discharge or a description of the irreparable injury that the
1002 placement averted.

1003 (2) The report shall set forth the basis for the temporary
1004 conservator's determination, what community resources have been
1005 considered to avoid the placement, and the reasons why the
1006 respondent's physical, mental and psychosocial needs cannot be met in
1007 a less restrictive and more integrated setting. Such community
1008 resources include, but are not limited to, resources provided by the
1009 area agencies on aging, the Department of Social Services, the Office of
1010 Protection and Advocacy for Persons with Disabilities, the Department
1011 of Mental Health and Addiction Services, the Department of Mental
1012 Retardation, any center for independent living, as defined in section
1013 17b-613, any residential care home or any congregate or subsidized
1014 housing. The temporary conservator shall give notice of the placement
1015 and a copy of such report to the respondent and any other interested
1016 parties as determined by the court.

1017 (3) Upon the request of the respondent or such interested party, the
1018 court shall hold a hearing on the report and placement not later than
1019 thirty days after the date of the request. The court may also, in its
1020 discretion, hold a hearing on the report and placement in any case
1021 where no request is made for a hearing. If the court, after such hearing,
1022 determines that the respondent's physical, mental and psychosocial
1023 needs can be met in a less restrictive and more integrated setting
1024 within the limitations of the resources available to the respondent,
1025 either through the respondent's own estate or through private or
1026 public assistance, the court shall order that the respondent be placed
1027 and maintained in such setting.

1028 (4) For purposes of this subsection, an "institution for long-term
1029 care" means a facility that has been federally certified as a skilled

1030 nursing facility or intermediate care facility.]

1031 [(h)] (f) Upon the termination of the temporary conservatorship, the
1032 temporary conservator shall file a written report with the court and, if
1033 applicable, a final accounting as directed by the court, of his or her
1034 actions as temporary conservator.

1035 Sec. 19. Section 45a-655 of the general statutes is repealed and the
1036 following is substituted in lieu thereof (*Effective October 1, 2007*):

1037 (a) A conservator of the estate appointed under section 45a-646,
1038 45a-650, as amended by this act, or 45a-654, as amended by this act,
1039 shall, within two months after the date of [his or her] the conservator's
1040 appointment, make and file in the Court of Probate, an inventory,
1041 under penalty of false statement, of the estate of [his or her ward] the
1042 conserved person, with the properties thereof appraised or caused to
1043 be appraised, by such conservator, at fair market value as of the date of
1044 [his or her] the conservator's appointment. Such inventory shall
1045 include the value of the [ward's] conserved person's interest in all
1046 property in which the [ward] conserved person has a legal or equitable
1047 present interest, including, but not limited to, the [ward's] conserved
1048 person's interest in any joint bank accounts or other jointly held
1049 property. The conservator shall manage all the estate and apply so
1050 much of the net income thereof, and, if necessary, any part of the
1051 principal of the property, which is required to support the [ward]
1052 conserved person and those members of the [ward's] conserved
1053 person's family whom [he or she] the conserved person has the legal
1054 duty to support and to pay the [ward's] conserved person's debts, and
1055 may sue for and collect all debts due the [ward] conserved person. The
1056 conservator shall use the least restrictive means of intervention in the
1057 exercise of the conservator's duties and authority.

1058 (b) Any conservator of the estate of a married person may apply
1059 such portion of the property of the [ward] conserved person to the
1060 support, maintenance and medical treatment of the [ward's] conserved
1061 person's spouse which the Court of Probate, upon hearing after notice,

1062 decides to be proper under the circumstances of the case.

1063 (c) Notwithstanding the provisions of section 45a-177, the court
1064 may, and at the request of any interested party shall, require annual
1065 accountings from any conservator of the estate and the court shall hold
1066 a hearing on any such account with notice to all persons entitled to
1067 notice under section 45a-649, as amended by this act.

1068 (d) In the case of any person receiving public assistance, state-
1069 administered general assistance or Medicaid, the conservator of the
1070 estate shall apply toward the cost of care of such person any assets
1071 exceeding limits on assets set by statute or regulations adopted by the
1072 Commissioner of Social Services. Notwithstanding the provisions of
1073 subsections (a) and (b) of this section, in the case of an institutionalized
1074 person who has applied for or is receiving such medical assistance, no
1075 conservator shall apply and no court shall approve the application of
1076 (1) the net income of the [ward] conserved person to the support of the
1077 [ward's] conserved person's spouse in an amount that exceeds the
1078 monthly income allowed a community spouse as determined by the
1079 Department of Social Services pursuant to 42 USC 1396r-5(d)(2)-(4), or
1080 (2) any portion of the property of the [ward] conserved person to the
1081 support, maintenance and medical treatment of the [ward's] conserved
1082 person's spouse in an amount that exceeds the amount determined
1083 allowable by the department pursuant to 42 USC 1396r-5(f)(1) and (2),
1084 notwithstanding the provisions of 42 USC 1396r-5(f)(2)(A)(iv), unless
1085 such limitations on income would result in significant financial duress.

1086 (e) Upon application of a conservator of the estate, after hearing
1087 with notice to the Commissioner of Administrative Services, the
1088 Commissioner of Social Services and to all parties who may have an
1089 interest as determined by the court, the court may authorize the
1090 conservator to make gifts or other transfers of income and principal
1091 from the estate of the [ward] conserved person in such amounts and in
1092 such form, outright or in trust, whether to an existing trust or a court-
1093 approved trust created by the conservator, as the court orders to or for
1094 the benefit of individuals, including the [ward] conserved person, and

1095 to or for the benefit of charities, trusts or other institutions described in
1096 Sections 2055(a) and 2522(a) of the Internal Revenue Code of 1986, or
1097 any corresponding internal revenue code of the United States, as from
1098 time to time amended. Such gifts or transfers shall be authorized only
1099 if the court finds that: (1) In the case of individuals not related to the
1100 [ward] conserved person by blood or marriage, the [ward] conserved
1101 person had made a previous gift to that unrelated individual prior to
1102 being declared incapable; (2) in the case of a charity, either (A) the
1103 [ward] conserved person had made a previous gift to such charity, had
1104 pledged a gift in writing to such charity, or had otherwise
1105 demonstrated support for such charity prior to being declared
1106 incapable; or (B) the court determines that the gift to the charity is in
1107 the best interests of the [ward] conserved person, is consistent with
1108 proper estate planning, and there is no reasonable objection by a party
1109 having an interest in the [ward's] conserved person's estate as
1110 determined by the court; (3) the estate of the [ward] conserved person
1111 and any proposed trust of which the [ward] conserved person is a
1112 beneficiary is more than sufficient to carry out the duties of the
1113 conservator as set forth in subsections (a) and (b) of this section, both
1114 for the present and foreseeable future, including due provision for the
1115 continuing proper care, comfort and maintenance of such [ward]
1116 conserved person in accordance with such [ward's] conserved person's
1117 established standard of living and for the support of persons the
1118 [ward] conserved person is legally obligated to support; (4) the
1119 purpose of the gifts is not to diminish the estate of the [ward]
1120 conserved person so as to qualify the [ward] conserved person for
1121 federal or state aid or benefits; and (5) in the case of a [ward]
1122 conserved person capable of making an informed decision, the [ward]
1123 conserved person has no objection to such gift. The court shall give
1124 consideration to the following: (A) The medical condition of the [ward]
1125 conserved person, including the prospect of restoration to capacity; (B)
1126 the size of the [ward's] conserved person's estate; (C) the provisions
1127 which, in the judgment of the court, such [ward] conserved person
1128 would have made if [he or she] such conserved person had been
1129 capable, for minimization of income and estate taxes consistent with

1130 proper estate planning; and (D) in the case of a trust, whether the trust
1131 should be revocable or irrevocable, existing or created by the
1132 conservator and court approved. The court should also consider the
1133 provisions of an existing estate plan, if any. In the case of a gift or
1134 transfer in trust, any transfer to a court-approved trust created by the
1135 conservator shall be subject to continuing probate court jurisdiction in
1136 the same manner as a testamentary trust including periodic rendering
1137 of accounts pursuant to section 45a-177. Notwithstanding any other
1138 provision of this section, the court may authorize the creation and
1139 funding of a trust that complies with section 1917(d)(4) of the Social
1140 Security Act, 42 USC 1396p(d)(4), as from time to time amended. The
1141 provisions of this subsection shall not be construed to validate or
1142 invalidate any gifts made by a conservator of the estate prior to
1143 October 1, 1998.

1144 Sec. 20. Section 45a-656 of the general statutes is repealed and the
1145 following is substituted in lieu thereof (*Effective October 1, 2007*):

1146 (a) The conservator of the person shall have the duties and authority
1147 expressly assigned by the court pursuant to section 45a-650, as
1148 amended by this act, which duties and authority may include: (1) The
1149 duty and responsibility for the general custody of the [respondent]
1150 conserved person; (2) the [power] authority to establish [his or her
1151 place of abode] the conserved person's residence within the state,
1152 subject to the provisions of section 21 of this act; (3) the [power]
1153 authority to give consent for [his or her] the conserved person's
1154 medical or other professional care, counsel, treatment or service; (4) the
1155 duty to provide for the care, comfort and maintenance of the [ward;]
1156 conserved person; and (5) the duty to take reasonable care of the
1157 [respondent's] conserved person's personal effects. [; and (6) the duty
1158 to]

1159 (b) In carrying out the duties and authority assigned by the court,
1160 the conservator of the person shall exercise such duties and authority
1161 in a manner that is the least restrictive means of intervention and shall
1162 (1) assist the conserved person in removing obstacles to independence,

1163 (2) assist the conserved person in achieving self-reliance, (3) ascertain
1164 the conserved person's views, (4) make decisions in conformance with
1165 the conserved person's reasonable and informed expressed
1166 preferences, (5) make all reasonable efforts to ascertain the health care
1167 instructions and other wishes of the conserved person, and (6) make
1168 decisions in conformance with the conserved person's expressed health
1169 care preferences, including health care instructions and other wishes
1170 authorized in section 19a-580e, as amended by this act, except as
1171 otherwise provided in subsection (b) of section 19a-580e, as amended
1172 by this act, and section 19a-580g. The conservator shall afford the
1173 conserved person the opportunity to participate meaningfully in
1174 decision-making in accordance with the conserved person's abilities
1175 and shall delegate to the conserved person reasonable responsibility
1176 for decisions affecting such conserved person's well-being.

1177 (c) The conservator shall report at least annually to the probate court
1178 [which] that appointed the conservator regarding the condition of the
1179 [respondent] conserved person, the efforts made to encourage the
1180 independence of the conserved person and the conservator's statement
1181 on whether the appointment of the conservator is the least restrictive
1182 means of intervention for managing the conserved person's needs. The
1183 [preceding] duties, responsibilities and [powers] authority assigned
1184 pursuant to section 45a-650, as amended by this act, or set forth in this
1185 section shall be carried out within the [limitations of the] resources
1186 available to the [ward] conserved person, either through the [ward's]
1187 conserved person's own estate or through private or public assistance.

1188 [(b)] (d) The conservator of the person shall not have the power or
1189 authority to cause the respondent to be committed to any institution
1190 for the treatment of the mentally ill except under the provisions of
1191 sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive, 17a-
1192 495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-
1193 576, inclusive, 17a-615 to 17a-618, inclusive, and 17a-621 to 17a-664,
1194 inclusive, and chapter 359.

1195 [(c) (1) If the conservator of the person determines it is necessary to

1196 cause the ward to be placed in an institution for long-term care, the
1197 conservator may make such placement after the conservator files a
1198 report of such intended placement with the probate court that
1199 appointed the conservator, except that if the placement results from
1200 the ward's discharge from a hospital or if irreparable injury to the
1201 mental or physical health or financial or legal affairs of the ward
1202 would result from filing the report before making such placement, the
1203 conservator shall make the placement before filing the report provided
1204 the conservator (A) files the report not later than five days after
1205 making such placement, and (B) includes in the report a statement as
1206 to the hospital discharge or a description of the irreparable injury that
1207 the placement averted.

1208 (2) The report shall set forth the basis for the conservator's
1209 determination, what community resources have been considered to
1210 avoid the placement, and the reasons why the ward's physical, mental
1211 and psychosocial needs cannot be met in a less restrictive and more
1212 integrated setting. Such community resources include, but are not
1213 limited to, resources provided by the area agencies on aging, the
1214 Department of Social Services, the Office of Protection and Advocacy
1215 for Persons with Disabilities, the Department of Mental Health and
1216 Addiction Services, the Department of Mental Retardation, any center
1217 for independent living, as defined in section 17b-613, any residential
1218 care home or any congregate or subsidized housing. The conservator
1219 shall give notice of the placement and a copy of such report to the
1220 ward and any other interested parties as determined by the court.

1221 (3) Upon the request of the ward or such interested party, the court
1222 shall hold a hearing on the report and placement not later than thirty
1223 days after the date of the request. The court may also, in its discretion,
1224 hold a hearing on the report and placement in any case where no
1225 request is made for a hearing. If the court, after such hearing,
1226 determines that the ward's physical, mental and psychosocial needs
1227 can be met in a less restrictive and more integrated setting within the
1228 limitations of the resources available to the ward, either through the
1229 ward's own estate or through private or public assistance, the court

1230 shall order that the ward be placed and maintained in such setting.

1231 (4) For purposes of this subsection, an "institution for long-term
1232 care" means a facility that has been federally certified as a skilled
1233 nursing facility or intermediate care facility.]

1234 Sec. 21. (NEW) (*Effective October 1, 2007*) (a) Except as provided in
1235 subsections (b), (c), (d), (e) and (f) of this section, a conservator may not
1236 terminate a tenancy or lease of a conserved person, as defined in
1237 section 45a-644 of the general statutes, as amended by this act, sell or
1238 dispose of any real property or household furnishings of the conserved
1239 person, or change the conserved person's residence unless a Court of
1240 Probate finds, after a hearing, that such change is necessary or that the
1241 conserved person agrees to such action.

1242 (b) If the conservator determines it is necessary to cause the
1243 conserved person to be placed in an institution for long-term care or to
1244 change the conserved person's residence, the conservator shall file a
1245 report of the intended placement in an institution for long-term care or
1246 change of residence with the court of probate that appointed the
1247 conservator. The court shall hold a hearing to consider the report. If,
1248 after the hearing, the conservator obtains permission of the court for
1249 the intended placement or change of residence, the conservator may
1250 make such a placement. The hearing shall be held not less than five
1251 days after the filing of the report, excluding Saturdays, Sundays and
1252 holidays, and not less than seventy-two hours before the placement in
1253 the institution for long-term care or the change of residence, except
1254 that if the placement in an institution for long-term care results from
1255 the conserved person's discharge from a hospital, the conservator may
1256 make the placement before filing the report, provided the conservator
1257 (1) files the report not later than forty-eight hours, excluding
1258 Saturdays, Sundays and holidays, after making such placement, and
1259 (2) includes in the report a statement as to the hospital discharge and
1260 related circumstances requiring the placement of the conserved person
1261 in the institution for long-term care. No such placement made before
1262 the filing of the report of the conservator shall continue unless ordered

1263 by the Court of Probate after a hearing held pursuant to this section.

1264 (c) A report filed under subsection (b) of this section with respect to
1265 placement in an institution for long-term care shall set forth the basis
1266 for the conservator's determination, what community resources are
1267 available and have been considered to avoid the placement, and the
1268 reasons why the conserved person's physical, mental and psychosocial
1269 needs cannot be met in a less restrictive and more integrated setting.
1270 Such community resources include, but are not limited to, resources
1271 provided by the area agencies on aging, the Department of Social
1272 Services, the Office of Protection and Advocacy for Persons with
1273 Disabilities, the Department of Mental Health and Addiction Services,
1274 the Department of Mental Retardation, any center for independent
1275 living, as defined in section 17b-613 of the general statutes, any
1276 residential care home or any congregate or subsidized housing. The
1277 conservator shall give notice of the placement of the conserved person
1278 in an institution for long-term care and a copy of such report to the
1279 conserved person, the conserved person's attorney and any interested
1280 parties as determined by the court. Service shall be by first-class mail.
1281 The conservator shall provide a certification to the court that service
1282 was made in the manner prescribed by this subsection.

1283 (d) The conserved person may, at any time, request a hearing by the
1284 court on the person's placement in an institution for long-term care
1285 which hearing may determine the availability of a less restrictive
1286 alternative for the person's placement. On request of the conserved
1287 person made after the initial hearing held under subsection (b) of this
1288 section, the court shall hold a hearing on the placement not later than
1289 ten days, excluding Saturdays, Sundays and holidays, after receipt by
1290 the court of such request. The court shall not be required to conduct a
1291 hearing under this subsection more than three times in any twelve-
1292 month period following the hearing held under subsection (b) of this
1293 section authorizing the initial placement, except that the court shall
1294 conduct a hearing whenever information not previously available to
1295 the court is submitted with a request for a hearing.

1296 (e) After the initial hearing held under subsection (b) of this section,
1297 the court may hold a hearing on a conservator's report and the
1298 placement of the conserved person in an institution for long-term care
1299 in any case even if no request for a hearing is made.

1300 (f) If the court, after a hearing on the placement of the conserved
1301 person in an institution for long-term care, determines that the
1302 conserved person's physical, mental and psychosocial needs can be
1303 met in a less restrictive and more integrated setting within the
1304 resources available to the conserved person, either through the
1305 conserved person's own estate or through private or public assistance,
1306 the court shall order that the conserved person be placed and
1307 maintained in a less restrictive and more integrated setting.

1308 (g) A conserved person may waive the right to a hearing required
1309 under this section if the conserved person's attorney has consulted
1310 with the conserved person and the attorney has filed with the court a
1311 record of the waiver. Such a waiver shall be invalid if the waiver does
1312 not represent the conserved person's own wishes.

1313 (h) For purposes of this section, an "institution for long-term care"
1314 means a facility that has been federally-certified as a skilled nursing
1315 facility, an intermediate care facility, a residential care home, an
1316 extended care facility, a nursing home, a rest home and a rehabilitation
1317 hospital or facility.

1318 Sec. 22. Section 45a-659 of the general statutes is repealed and the
1319 following is substituted in lieu thereof (*Effective October 1, 2007*):

1320 (a) If any person not domiciled [out of] in this state and owning real
1321 property or tangible personal property in this state is incapable of
1322 managing his or her affairs, the court of probate for the district in
1323 which the property or some part of it is situated may, on the written
1324 application of a husband, wife or relative or of a conservator,
1325 committee or guardian having charge of the person or estate of the
1326 incapable person in the state where the incapable person is domiciled
1327 and after notice pursuant to section 45a-649, as amended by this act, or

1328 such reasonable notice as the court may order, and a hearing as
1329 required pursuant to section 45a-650, as amended by this act, appoint a
1330 conservator of the estate for the real property and tangible personal
1331 property in this state of the incapable person pursuant to section
1332 45a-650, as amended by this act. If an application for appointment of a
1333 conservator is made pursuant to this section, the court of probate may
1334 not act on the application until an attorney is appointed to represent
1335 the person in the manner set forth in section 15 of this act.

1336 (b) If a conservator of the estate has been appointed for such an
1337 incapable person in the state of such person's domicile, (1) the court
1338 may, on application of the out-of-state conservator to act as
1339 conservator for real or tangible personal property of the incapable
1340 person in this state, appoint such person as conservator of the estate
1341 without a hearing, on presentation to the court of a certified copy of
1342 the conservator's appointment in the state of the incapable person's
1343 domicile, and (2) if the application is for the appointment of a person
1344 other than the out-of-state conservator to act as conservator of the
1345 estate, the court, at its hearing on the application, may accept a
1346 certified copy of the out-of-state appointment of a conservator as
1347 evidence of incapacity. As used in this subsection, a "conservator of the
1348 estate" in an out-of-state jurisdiction includes any person serving in the
1349 equivalent capacity in such state.

1350 (c) The conservator of the estate for the property in this state shall
1351 give a probate bond, and shall, within two months after the date of his
1352 or her appointment, make and file in the court of probate, under
1353 penalty of false statement, an inventory of all the real property and
1354 tangible personal property in this state of the incapable person,
1355 appraised or caused to be appraised, by such conservator, at fair
1356 market value as of the date of the conservator's appointment.

1357 (d) The proceeds of any sale of [either] the real or tangible personal
1358 property, or [both] the tangible personal property itself, may be
1359 transferred to the conservator, committee or guardian having charge of
1360 the person and estate of the incapable person in the state where the

1361 incapable person is domiciled, following the application and
1362 proceedings which are required by section 45a-635.

1363 Sec. 23. Section 45a-660 of the general statutes is repealed and the
1364 following is substituted in lieu thereof (*Effective October 1, 2007*):

1365 (a) (1) A conserved person may, at any time, petition the court of
1366 probate having jurisdiction for the termination of a conservatorship. A
1367 petition for termination of a conservatorship shall be determined by a
1368 preponderance of the evidence. The conserved person shall not be
1369 required to present medical evidence at such a hearing. A hearing on
1370 the petition shall be held not later than thirty days after the date the
1371 petition was filed in the Court of Probate, unless the hearing is
1372 continued for good cause. If such hearing is not held within such
1373 thirty-day period, the conservatorship shall terminate. If the court of
1374 probate having jurisdiction finds a [ward] conserved person to be
1375 capable of caring for himself or herself, the court shall, upon hearing
1376 and after notice, order that the conservatorship of the person be
1377 terminated. If the court finds upon hearing and after notice which the
1378 court prescribes, that a [ward] conserved person is capable of
1379 managing his or her own affairs, the court shall order that the
1380 conservatorship of the estate be terminated and that the remaining
1381 portion of [his or her] the conserved person's property be restored to
1382 the [ward] conserved person. (2) If the court finds upon hearing and
1383 after notice which the court prescribes[,] that a [ward] conserved
1384 person has no assets of any kind remaining except for that amount
1385 allowed by subsection (c) of section 17b-80, the court may order that
1386 the conservatorship of the estate be terminated. The court shall
1387 thereupon order distribution of the remaining assets to the conservator
1388 of the person or, if there is no conservator or the conservator declines
1389 or is unable to accept or the conservator is the Commissioner of Social
1390 Services, to some suitable person, to be determined by the court, to
1391 hold for the benefit of the [ward] conserved person, upon such
1392 conservator or person giving such probate bond, if any, as the court
1393 orders. (3) If any [ward] conserved person having a conservator dies,
1394 [his or her] the conserved person's property other than property which

1395 has accrued from the sale of [his or her] the conserved person's real
1396 property shall be delivered to [his or her] the conserved person's
1397 executor or administrator. The unexpended proceeds of [his or her] the
1398 conserved person's real property sold as aforesaid shall go into the
1399 hands of the executor or administrator, to be distributed as such real
1400 property would have been.

1401 (b) (1) In any case under subsection (a) of this section the
1402 conservator shall file in the court [his or her] the conservator's final
1403 account, and the court shall audit the account and allow the account if
1404 it is found to be correct. If the [ward] conserved person is living, the
1405 [ward] conserved person and [his or her] the conserved person's
1406 attorney, if any, shall be entitled to notice by [regular] first class mail of
1407 any hearing held on the final account. (2) The court of probate having
1408 jurisdiction shall send written notice annually to the [ward] conserved
1409 person and [his or her] the conserved person's attorney that the [ward]
1410 conserved person has a right to a hearing under this section. Upon
1411 receipt of request for such hearing the court shall set a time and date
1412 for the hearing, which date shall not be more than thirty days from the
1413 receipt of the [application] request unless continued for cause shown.

1414 (c) The court shall review each conservatorship [at least] not later
1415 than one year after the conservatorship was ordered, and not less than
1416 every three years [and shall either] after such initial one-year review.
1417 After each such review, the court shall continue, modify or terminate
1418 the order for conservatorship. The court shall receive and review
1419 written evidence as to the condition of the [ward] conserved person.
1420 The conservator [, the attorney for the ward] and a physician licensed
1421 to practice medicine in this state shall each submit a written report to
1422 the court within forty-five days of the court's request for such report.
1423 On receipt of a written report from the conservator or a physician, the
1424 court shall provide a copy of the report to the conserved person and
1425 the attorney for the conserved person. If the [ward] conserved person
1426 is unable to request or obtain an attorney, the court shall appoint an
1427 attorney. If the [ward] conserved person is unable to pay for the
1428 services of the attorney, the reasonable rates of compensation of such

1429 attorney shall be established by, and the attorney shall be paid from
1430 funds appropriated to, the Judicial Department. If funds have not been
1431 included in the budget of the Judicial Department for such purposes,
1432 such rates of compensation shall be established by the Probate Court
1433 Administrator and the attorney shall be paid from the Probate Court
1434 Administration Fund. The physician shall examine the [ward]
1435 conserved person within the forty-five-day period preceding the date
1436 of submission of the physician's report. Any physician's report filed
1437 with the court pursuant to this subsection shall be confidential. The
1438 court may issue an order for the disclosure of medical information
1439 required pursuant to this subsection, except that the court shall issue
1440 an order for the disclosure of medical information to the conserved
1441 person's attorney. Not later than thirty days after receipt of the
1442 conservator's report and the physician's report, the attorney for the
1443 conserved person shall notify the court that the attorney has met with
1444 the conserved person and shall inform the court as to whether a
1445 hearing is being requested. Nothing in this section shall prevent the
1446 conserved person or the conserved person's attorney from requesting a
1447 hearing at any other time as permitted by law.

1448 (d) If the court [determines] finds, after receipt of the reports from
1449 the attorney for the [ward] conserved person, the physician and the
1450 conservator, [that there has been no change in the condition of the
1451 ward since the last preceding review by the court, a hearing on the
1452 condition of the ward shall not be required, but the court, in its
1453 discretion, may hold such hearing. If the attorney for the ward, the
1454 physician] by clear and convincing evidence, that the conserved
1455 person continues to be incapable of managing his or her affairs and
1456 that there are no less restrictive means available to assist the conserved
1457 person in managing his or her affairs, the court shall continue or
1458 modify the conservatorship under the terms and conditions of the
1459 appointment of the conservator under section 45a-650, as amended by
1460 this act. If the court does not make such a finding of continued
1461 incapacity by clear and convincing evidence, the court shall terminate
1462 the conservatorship. A hearing on the condition of the conserved

1463 person shall not be required under this subsection, except that the
1464 court may hold a hearing in its discretion and shall hold a hearing if
1465 the conserved person, conserved person's attorney or conservator
1466 requests a hearing, in which case the court shall hold a hearing within
1467 thirty days of such request.

1468 Sec. 24. (NEW) (*Effective October 1, 2007*) (a) An individual subject to
1469 a guardianship or involuntary representation under chapter 802h of
1470 the general statutes may apply for and is entitled to the benefit of the
1471 writ of habeas corpus without having previously exhausted other
1472 available remedies including, but not limited to, the right to appeal the
1473 order of guardianship or involuntary representation. The question of
1474 the legality of such guardianship or involuntary representation shall be
1475 determined by the court or judge issuing such writ.

1476 (b) A writ of habeas corpus shall be directed to the guardian of the
1477 person or the estate of the ward or to the conservator of the conserved
1478 person and if illegality or invalidity of the guardianship or involuntary
1479 representation is alleged in such writ, a copy shall also be directed to
1480 the judge of the court that issued the order as to such claim.

1481 (c) An application for a writ of habeas corpus under this section
1482 shall be brought to either the Superior Court or the Court of Probate.

1483 (d) If such application has been brought in the Court of Probate, the
1484 Probate Court Administrator shall appoint a three-judge court to hear
1485 such application from among the judges of probate who are approved
1486 to hear such applications by the Chief Justice of the Supreme Court.
1487 The judge of the court of probate who issued the order shall not be a
1488 member of the three-judge court. No such application shall be denied
1489 without the vote of at least two judges of the three-judge court. The
1490 judges of such three-judge court shall designate a chief judge from
1491 among their members. The three-judge court shall cause a recording to
1492 be made of all proceeding held under this section. The recording shall
1493 be part of the court record and shall be made and retained in a manner
1494 approved by the Probate Court Administrator. All records for any case

1495 before the three-judge court shall be maintained in the court of probate
1496 in which the conservator or guardian was appointed.

1497 (e) Hearing under this section shall be heard not later than ten days,
1498 excluding Saturdays, Sundays and holidays, after return of service of
1499 the writ.

1500 (f) If the court or judge before whom such a writ is brought decides
1501 that the guardianship or involuntary representation is not illegal, such
1502 decision shall be considered a final judgment and subject to appeal.

1503 (g) If the court or judge before whom such case is brought decides
1504 that the guardianship or involuntary representation is not illegal, such
1505 decision shall not bar issuance of such a writ again, provided it is
1506 claimed that such person is no longer subject to the condition for
1507 which the person was conserved or such application is based on a
1508 ground different from that relied on in an earlier application. Such writ
1509 may be applied for by an individual subject to guardianship or
1510 involuntary representation or on the behalf of such individual by any
1511 relative, friend or person interested in such individual's welfare.

1512 (h) An appeal to the Superior Court of a decision rendered by a
1513 three-judge court under this section shall be filed in the judicial district
1514 in which the court of probate that issued the order appointing a
1515 guardian or conservator is located. Such appeal shall be heard not later
1516 than thirty days of the return of service of the appeal.

1517 Sec. 25. (NEW) (*Effective October 1, 2007*) An individual confined in a
1518 hospital or inpatient treatment facility for treatment of alcohol or drug
1519 dependency in this state may seek a writ of habeas corpus in the
1520 Superior Court. The question of the legality of such confinement shall
1521 be determined by the court or judge issuing such writ. The writ shall
1522 be directed to the superintendent or director of the hospital or
1523 treatment facility and, if illegality or invalidity of the commitment is
1524 alleged in such writ, a copy shall also be directed to the judge of the
1525 committing court as to such claim. Such judge shall be represented by
1526 the state's attorney for the judicial district in which such committing

1527 court is located. If the court or judge before whom such case is brought
1528 decides that the confinement is not illegal, such decision shall not bar
1529 issuance of such writ again, provided it is claimed that such individual
1530 is no longer subject to the condition for which the individual was
1531 confined. Such writ may be sought by the confined individual or on
1532 behalf of the individual by any relative, friend or person interested in
1533 the individual's welfare. Court fees may not be charged against the
1534 superintendent or director of the hospital or the judge.

1535 Sec. 26. Section 45a-151 of the general statutes is repealed and the
1536 following is substituted in lieu thereof (*Effective October 1, 2007*):

1537 (a) Upon application by executors, guardians, conservators,
1538 administrators and trustees appointed, or whose appointment has
1539 been approved, by the Court of Probate, the court may, after such
1540 notice as the court shall direct and hearing, authorize such fiduciaries
1541 to compromise and settle any doubtful or disputed claims or actions,
1542 or any appeal from probate in favor of or against the estates or persons
1543 represented by them.

1544 (b) In order to accomplish such compromise or settlement, the court
1545 may, after deduction of attorney's fees and costs, authorize such
1546 settlement as proposed by the fiduciary in a lump sum or in periodic
1547 payments to the estate, to an existing trust or to a newly created trust
1548 for the benefit of those represented by the fiduciary. Such trusts may
1549 include those created in compliance with Section 1917(d)(4) of the
1550 Social Security Act, 42 USC 1396p(d)(4), as from time to time amended.
1551 In the case of a gift or transfer in trust, any transfer to a court-approved
1552 trust created by a fiduciary shall be subject to continuing Probate
1553 Court jurisdiction as if it were a testamentary trust. In deciding
1554 whether the net settlement as proposed by the fiduciary is beneficial,
1555 the court shall consider the best interests of those represented by the
1556 fiduciary, and in the case of a decedent's estate, the intention of the
1557 decedent. The court may also authorize the conveyance, with or
1558 without requiring a bond, of the whole or any part of, or any easement
1559 or other interest in, any real property situated in this state forming part

1560 of the trust estate or owned by any such trustee, executor or
1561 administrator or owned by any deceased person, ward, conserved
1562 person or incapable person for whom such an executor, guardian,
1563 conservator or administrator was appointed.

1564 Sec. 27. Section 45a-662 of the general statutes is repealed and the
1565 following is substituted in lieu thereof (*Effective October 1, 2007*):

1566 The court of probate in which [the] a conservator [of any incapable
1567 person] has been appointed may, concurrently with courts of equity,
1568 order such conservator to convey the interest of [his ward] the
1569 conserved person in any real property which ought in equity to be
1570 conveyed to another person.

1571 Sec. 28. Section 45a-663 of the general statutes is repealed and the
1572 following is substituted in lieu thereof (*Effective October 1, 2007*):

1573 If a [ward] conserved person is unable to pay for the services of a
1574 conservator appointed pursuant to the provisions of sections 45a-593
1575 to 45a-700, inclusive, as amended by this act, the reasonable
1576 compensation of such conservator shall be paid from the Probate Court
1577 Administration Fund established under section 45a-82, pursuant to
1578 rules and regulations and at rates established by the Probate Court
1579 Administrator.

1580 Sec. 29. Section 45a-679 of the general statutes is repealed and the
1581 following is substituted in lieu thereof (*Effective October 1, 2007*):

1582 If a ward or conserved person has both a plenary guardian or
1583 limited guardian of the person with mental retardation and a
1584 conservator of the estate or person or a temporary conservator who are
1585 not the same person and a conflict arises between the two concerning
1586 the duties and responsibilities or authority of either, the matter shall be
1587 submitted to the court of probate making the appointment of such
1588 guardian or conservator and such court shall, after a hearing, order the
1589 course of action which in its discretion is in the best interest of the
1590 ward or conserved person.

1591 Sec. 30. Section 49-11 of the general statutes is repealed and the
1592 following is substituted in lieu thereof (*Effective October 1, 2007*):

1593 The executor of the will or administrator of the estate of any
1594 deceased mortgagee, or the spouse or next of kin, or other suitable
1595 person whom the court [deems] considers to have a sufficient interest,
1596 to whom a decree is issued under section 45a-273, and any guardian
1597 [or conservator] whose ward, or conservator whose conserved person,
1598 as defined in section 45a-644, as amended by this act, is a mortgagee,
1599 may, on the payment, satisfaction or sale of the mortgage debt, release
1600 the legal title to the party entitled thereto.

1601 Sec. 31. Section 12-45 of the general statutes is repealed and the
1602 following is substituted in lieu thereof (*Effective October 1, 2007*):

1603 Each sole trustee residing in this state, having in his hands personal
1604 property liable to taxation belonging to the trust estate, shall make
1605 return thereof to the assessors of the town where he resides. If such
1606 personal property is in the hands of more than one trustee, if they all
1607 reside in the same town, they shall cause such return to be made by
1608 one of their number in such town; if they do not all reside in the same
1609 town, they shall cause such return to be made by one of their number,
1610 residing in the town in which the affairs of such trust are managed and
1611 administered, to the assessors of such town; but, if none of such
1612 trustees resides in such town, they shall designate one of their number
1613 who shall make such return to the assessors of the town where he
1614 resides. Each guardian or conservator shall make return of the
1615 personal estate of [his] the guardian's ward or the conservator's
1616 conserved person to the assessors of the town in which such ward or
1617 conserved person resides.

1618 Sec. 32. Section 19a-580e of the general statutes is repealed and the
1619 following is substituted in lieu thereof (*Effective October 1, 2007*):

1620 (a) Except as authorized by a court of competent jurisdiction, a
1621 conservator shall comply with a [ward's] conserved person's
1622 individual health care instructions and other wishes, if any, expressed

1623 while the [ward] conserved person had capacity and to the extent
 1624 known to the conservator, and the conservator may not revoke the
 1625 [ward's] conserved person's advance health care directive unless the
 1626 appointing court expressly so authorizes.

1627 (b) Absent a court order to the contrary, a health care decision of a
 1628 health care representative takes precedence over that of a conservator,
 1629 except under the following circumstances: (1) When the health care
 1630 decision concerns a person who is subject to the provisions of section
 1631 17a-566, 17a-587, 17a-588 or 54-56d; (2) when a conservator has been
 1632 appointed [to a ward] for a conserved person who is subject to an
 1633 order authorized under subsection (e) of section 17a-543, for the
 1634 duration of the [ward's] conserved person's hospitalization; or (3)
 1635 when a conservator has been appointed [to a ward] for a conserved
 1636 person subject to an order authorized under section 17a-543a.

1637 Sec. 33. Sections 45a-191 and 45a-192 of the general statutes are
 1638 repealed. (*Effective October 1, 2007*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	45a-132a
Sec. 2	<i>October 1, 2007</i>	45a-186
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	45a-199
Sec. 7	<i>October 1, 2007</i>	45a-487c
Sec. 8	<i>October 1, 2007</i>	45a-593
Sec. 9	<i>October 1, 2007</i>	45a-595
Sec. 10	<i>October 1, 2007</i>	45a-644
Sec. 11	<i>October 1, 2007</i>	New section
Sec. 12	<i>October 1, 2007</i>	45a-645
Sec. 13	<i>October 1, 2007</i>	45a-648
Sec. 14	<i>October 1, 2007</i>	45a-649
Sec. 15	<i>October 1, 2007</i>	New section
Sec. 16	<i>October 1, 2007</i>	45a-650
Sec. 17	<i>October 1, 2007</i>	45a-653

Sec. 18	<i>October 1, 2007</i>	45a-654
Sec. 19	<i>October 1, 2007</i>	45a-655
Sec. 20	<i>October 1, 2007</i>	45a-656
Sec. 21	<i>October 1, 2007</i>	New section
Sec. 22	<i>October 1, 2007</i>	45a-659
Sec. 23	<i>October 1, 2007</i>	45a-660
Sec. 24	<i>October 1, 2007</i>	New section
Sec. 25	<i>October 1, 2007</i>	New section
Sec. 26	<i>October 1, 2007</i>	45a-151
Sec. 27	<i>October 1, 2007</i>	45a-662
Sec. 28	<i>October 1, 2007</i>	45a-663
Sec. 29	<i>October 1, 2007</i>	45a-679
Sec. 30	<i>October 1, 2007</i>	49-11
Sec. 31	<i>October 1, 2007</i>	12-45
Sec. 32	<i>October 1, 2007</i>	19a-580e
Sec. 33	<i>October 1, 2007</i>	Repealer section

JUD *Joint Favorable Subst.*

PH *Joint Favorable*