



# State of Connecticut

COURT OF PROBATE  
DISTRICT OF HARTFORD

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March 23, 2007

The Honorable Andrew J. McDonald, State Senator  
The Honorable Michael P. Lawlor, State Representative  
Judiciary Committee Co-Chairmen  
Legislative Office Building  
Capitol Avenue  
Hartford, Connecticut 06106

Gentlemen:

Several months ago, at the suggestion of Judge William Lavery, Chief Court Administrator, Probate Court Administrator Jim Lawlor convened a committee to review and recommend changes to Connecticut laws relating to Conservatorships. I have the privilege of chairing that committee and now report to you on the committee's recommendations.

The Committee is composed of respected leaders in various disciplines regularly involved in Conservatorships. Only two committee members, myself and Attorney Cynthia Blair, are employed by the Probate Courts. While I am sure each committee member would prefer some changes to the final work product, I am happy to report that the proposal is unanimously endorsed by all committee members.

The bill has two overriding philosophical underpinnings: (1) Insuring the highest due process safeguards before a court interferes with the civil rights of any person; and, (2) clearly establishing that appointment of a conservator is a last resort and, when deemed necessary, the conservator is limited to surrogate decision-making authority only in those areas in which the conserved individual needs help not available without the appointment of a conservator.

The bill imposes significant new limitations on the Probate Courts. These are specifically evident in time constraints and new hearing requirements whenever an emergency temporary conservator is appointed or there is a plan to relocate a conserved individual to a long term care institution. Additionally, the proposed bill constrains Connecticut jurisdiction over non-domiciliaries. I believe our court system is up to these challenges.

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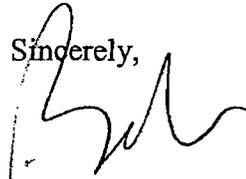
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Finally, the bill clearly establishes the right of an individual whose liberty or access to funds has been constrained to seek expeditious review of the Probate action through habeas corpus reviews before a three judge Probate panel or, at the petitioner's option, in the Superior Court. Appeals are streamlined and would be conducted as an "on the record" review in the Superior Court and not as a trial de novo.

I am very pleased with this report. It does require additional Court hearings which will result in a modest increase in indigency expenditures. These are currently paid by the Probate Administration fund, so until that is exhausted there will be no fiscal impact and, if paid for from an appropriation to the Judicial Department, no significant fiscal impact.

I hope you will give this proposal favorable consideration.

Sincerely,



Robert K. Killian, Jr.  
Judge

RKK:cmz

enclosures

- (1) Committee List
- (2) Proposed Statutory language

cc: The Honorable William J. Lavery, State of Connecticut, Chief Court Administrator  
The Honorable James J. Lawlor, State of Connecticut, Probate Court Administrator  
The Honorable Gerald M. Fox, State Representative

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**Proposed Legislative Revision  
Submitted by the  
Probate Administration's  
Conservator Statutes Revision Committee**

**March 23, 2007**

**Section 1.** Section 45a-132a of the general statutes (**Examination of incapable party. Expense.**) is repealed and the following is substituted in lieu thereof:

In any matter before a court of probate in which the capacity of a party to the action is at issue, the court may order an examination of any allegedly incapable party by a physician or psychiatrist or, where appropriate, a psychologist, licensed to practice in the state. A conserved individual or the respondent to an application for involuntary representation made under section 45a-648, as amended, and temporary representation under section 45a-654, as amended, may refuse to undergo an examination ordered by the court under this section. The expense of such examination may be charged against the petitioner, the respondent, the party who requested such examination or the estate of the alleged incapable in such proportion as the judge of the court determines. If any such party is unable to pay such expense and files an affidavit with the court demonstrating the inability to pay, the reasonable compensation shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

**Sec. 2.** Section 45a-186 of the general statutes (**Appeals from probate.**) is repealed and the following is substituted in lieu thereof:

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

denial or decree appealed from shall be attached thereto. Appeals from any decision rendered in any case after a [record] recording is made of the proceedings under sections 17a-498, 17a-685, 45a-650, 51-72 and 51-73 shall be on the record and shall not be a trial de novo.

(b) [Any such appeal shall be filed in the superior court for the judicial district in which such court of probate is located except that (1) any appeal under subsection (b) of section 12-359 or subsection (b) of section 12-367 or subsection (b) of section 12-395, shall be filed in the judicial district of Hartford and (2) any appeal in a matter concerning removal of a parent as guardian, termination of parental rights or adoption shall be filed in the superior court for juvenile matters having jurisdiction over matters arising in such probate district.] A person appealing pursuant to this section shall serve a copy of the complaint on the Probate Court that rendered the order, denial or decree appealed from and on all interested parties. Failure to make such service shall not deprive the Superior Court of jurisdiction over the appeal. Notwithstanding the provisions of section 52-50 of the general statutes, service of the copy of the complaint shall be by state marshal, constable, or an indifferent person. Service shall be in hand or by leaving a copy at the Probate Court that rendered the order being appealed, or by leaving a copy at the place of residence of the interested party being served or at the address for the interested party on file with said probate court, except that service on a respondent or conserved individual in an appeal from an action under chapter 802h, part IV of the general statutes shall be in hand by a state marshal, constable or an indifferent person.[TB1]

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

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

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

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

(g) Nothing in this section shall prevent use by an individual aggrieved under subsection (a) of this section of a petition for a writ of habeas corpus, a petition for termination of an involuntary conservatorship or other available remedy.

**Sec. 3. (NEW) (Section 45a-186a. Record. Hearing.)** (a) In an appeal from an order, denial or decree of the Probate Court made after a hearing that is on the record, the Probate Court, not later than thirty days after service of the appeal under section 45a-186, as amended by this act, or within such further time as may be allowed by the Superior Court, shall transcribe any portion of the recording of the proceedings that has not been transcribed. The Probate Court shall transmit to the Superior Court the original or a certified copy of the entire record of the proceeding from which the appeal was taken. The record shall include, but not be limited to, the findings of fact and conclusions of law, separately stated, of the Probate Court.

(b) An appeal from an order, denial or decree made after a hearing on the record shall be conducted by the Superior Court, including a state referee appointed under section 51-507 of the general statutes, without a jury. Such an appeal shall be confined to the record. If alleged irregularities in procedure before the Probate Court are not shown in the record or if facts necessary to establish aggrievement are not shown in the record, proof limited thereto may be taken in the Superior Court. The court, on request, shall hear oral argument and receive written briefs.

**Sec. 4. (NEW) (Section 45a-186b. Action of Superior Court on appeal)** In an appeal taken under section 45a-186, as amended, from a matter heard on the record in the Probate Court, the Superior Court shall not substitute its judgment for that of the Probate Court as to the weight of the evidence on questions of fact. The Superior Court shall affirm the decision of the Probate Court unless the court finds that substantial rights of the person appealing have been prejudiced because the findings, inferences, conclusions, or decisions are: (1) in violation of the federal or state constitutions or statutes of this state, (2) in excess of the statutory authority of the probate court, (3) made on unlawful procedure, (4) affected by other error of law, (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. If the Superior Court finds such prejudice, it shall sustain the appeal and, if appropriate, may render a judgment that modifies the Probate Court order, denial or decree or remand the case for further proceedings. For purposes of this section, a remand is a final judgment.

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

(b) If the appellant claims that such appellant cannot pay the costs of an appeal taken under section 45a-186, as amended, the appellant shall, within the time permitted for filing the appeal, file with the clerk of the court to which the appeal is to be taken an application for waiver of payment of such costs, including the requirement of bond, if

any. The application shall conform to the requirements prescribed by rule of the judges of the Superior Court. After such hearing as the court determines is necessary, the court shall render judgment on the application for waiver, which judgment shall contain a statement of the facts found by the court and the court's conclusions based on the facts found. The filing of the application for the waiver shall toll the time limit for the filing of an appeal until such time as a judgment on such application is rendered. A fiduciary acting on an order of the court made after expiration of the period of appeal shall not be liable for actions made in good faith unless such fiduciary has actual notice of the tolling of the appeal period.

**Sec. 6.** Section 45a-199 of the general statutes ("**Fiduciary" defined.**) is repealed the following is substituted in lieu thereof:

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

**Sec. 7.** Section 45a-487c of the general statutes (**Representation by court-appointed conservator or guardian, agent, trustee, executor or administrator, or parent.**) is repealed and the following is substituted in lieu thereof:

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

**Sec. 8.** Subsection (b) of section 45a-593 of the general statutes (**Administrator of Veterans' Affairs to be party in interest.**) is repealed and the following is substituted in lieu thereof:

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

**Sec. 9.** Section 45a-595 of the general statutes (**Investment of funds in insurance and annuity contracts by conservator or guardian of estate.**) is repealed and the following is substituted in lieu thereof:

Upon application of a conservator or the guardian of the estate of a ward or conserved individual, the [court of probate] Court of Probate may authorize the conservator or guardian to invest income or principal of the estate, to the extent found reasonable by the court under all the circumstances, in one or more policies of life or endowment insurance or one or more annuity contracts issued by a life insurance company authorized to conduct business in this state, on the life of the ward or incapable person, or on the life of a person in whose life the ward or incapable person has an insurable interest. Any such policy or contract shall be the sole property of the ward or incapable person whose funds are invested in it.

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

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

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

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

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

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

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

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

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

(h) ["Ward"] "Conserved individual" means [a person] an individual for whom involuntary representation [is granted] or voluntary representation is appointed under sections 45a-644 to [45a-662] 45a-663, inclusive.

(i) "Personal needs" means needs for an individual such as, but not limited to, food, clothing, shelter, health care and safety.

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

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

**Sec. 11. (NEW) (Section 45a-644a. Recording of probate proceedings.)** A Court of Probate shall cause a recording to be made of all proceedings held under

sections 45a-644 to 45a-663, inclusive. The recording shall be part of the court record and shall be made and retained in a manner approved by the Probate Court Administrator.

**Sec. 12.** Section 45a-645 of the general statutes (**Naming of own conservator for future incapacity.**) is repealed and the following is substituted in lieu thereof:

(a) Any [person] individual who has attained at least eighteen years of age, and who is of sound mind, may designate in writing a person or persons whom [he] such individual desires to be appointed as conservator of his person or estate or both, if [he] such individual is thereafter found to be incapable of managing his affairs or incapable of caring for one's self.

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

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

**Sec. 13.** Section 45a-648 of the general statutes (**Application for involuntary representation. Penalty for fraudulent or malicious application or false testimony.**) is repealed and the following is substituted in lieu thereof:

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

(b)<sup>[TB2]</sup> An application for appointment of a conservator for a non-domiciliary of the state made pursuant to subsection (a) of this section, shall not be granted unless the court finds (1) the respondent is presently located in the probate district in which the application is filed; (2) the petitioner has made reasonable efforts to notify or contact individuals and agencies listed in subsection (a) of section 45a-649, as amended, concerning the respondent; (3) the respondent has been provided with an opportunity to return to the respondent's place of domicile, including providing the financial means as available to the conserved individual to return to such individual's place of domicile and has declined to return or the petitioner has made reasonable but unsuccessful efforts to return the respondent or conserved individual to such respondent's or such individual's place of domicile; and (4) the requirements of this chapter for the appointment of an involuntary conservator are met.

(c) If, subsequent to the appointment of a conservator for a non-domiciliary of the state, the non-domiciliary becomes domiciled in this state, the provisions of this section no longer apply.

(d) Appointment of a conservator for a non-domiciliary made under subsection (b) of this section shall be reviewed by the court every sixty days. The appointment of such a conservator shall expire sixty days after the date of such appointment or the most recent review ordered by the court, whichever is later, unless the court finds (1) the conserved individual is presently located in the state; (2) the conservator has made reasonable efforts to notify or contact individuals and agencies listed in subsection (a) of section 45a-649, as amended, concerning the respondent; (3) the conserved individual has been provided with an opportunity to return to such individual's place of domicile and has declined to return or the conservator has made reasonable, but unsuccessful efforts, to return the conserved individual to such individual's place of domicile including providing the financial means as available to the conserved individual to return to such individual's place of domicile; and (4) all other requirements of this chapter for the appointment of an involuntary conservator are met. As part of its review, the court shall receive and consider reports from the conservator and from the attorney for the conserved individual regarding the requirements of this subsection.

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

**Sec. 14.** Section 45a-649 of the general statutes (**Notice of hearing. [Appointment of attorney.]**) is repealed and following is substituted in lieu thereof:

(a) Upon an application for involuntary representation, the court shall issue a citation to the following enumerated parties to appear before it at a time and place named in the citation, which shall be served on the parties at least [seven] ten days before the hearing date, or in the case of applications made pursuant to sections 17a-543 and 17a-543a at least seven days before the hearing[TB3], which date shall not be more than thirty days after the receipt of the application by the Court of Probate unless continued for cause shown. Notice of the hearing shall be sent within thirty days after receipt of the application. (1) The court shall direct that personal service be made, by a state marshal, constable or an indifferent person, upon the following: [(A)] The respondent, [except that if the court finds personal service on the respondent would be detrimental to the health or welfare of the respondent, the court may order that such service be made upon counsel for the respondent, if any, and if none, upon the attorney appointed under subsection (b) of this section; (B)] the respondent's spouse, if any, if the spouse is not the applicant, except that in cases where the application is for involuntary representation pursuant to section 17b-456, and there is no spouse, the court shall order notice by certified mail to the children of the respondent and if none, the parents of the respondent and if none, the brothers and sisters of the respondent or their representatives, and if none, the next of kin

of such respondent. (2) The court shall order such notice as it [directs] considers appropriate, including to the following: (A) The applicant; (B) the person in charge of welfare in the town where the respondent is domiciled or resident and if there is no such person, the first selectman or chief executive officer of the town if the respondent is receiving assistance from the town; (C) the Commissioner of Social Services, if the respondent is in a state-operated institution or receiving aid, care or assistance from the state; (D) the Commissioner of Veterans' Affairs if the respondent is receiving veterans' benefits or the Veterans' Home, or both, if the respondent is receiving aid or care from such home, or both; (E) the Commissioner of Administrative Services, if the respondent is receiving aid or care from the state; (F) the children of the respondent and if none, the parents of the respondent and if none, the brothers and sisters of the respondent or their representatives; (G) the person in charge of the hospital, nursing home or some other institution, if the respondent is in a hospital, nursing home or some other institution. (3) The court, in its discretion, may order such notice as it directs to other persons having an interest in the respondent and to such persons the respondent requests be notified. (4) Failure to give notice to the respondent under the provisions of subdivision (1) of this subsection and of subsection (b) of this section shall deprive the court of jurisdiction to consider such application.

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

#### **“Possible consequences of the appointment of a conservator**

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

A permanent conservator can be appointed only after a court hearing. You have a right to attend the hearing. If you are not able to get to the court, the hearing can be moved to a convenient location, even to where you are residing.

You should get an attorney to represent you at the hearing. If you are unable to obtain an attorney to represent you, the court will appoint an attorney for you. If you are unable to afford the attorney, the court will pay attorney fees as allowed by court regulation. Even if you qualify for payment of an attorney, you may choose your own attorney if she or he will accept the fee rate approved by the state of Connecticut.

If, after a hearing, the court decides that you lack the ability to care for yourself or pay your own bills, the court may review any alternative plans you have to get assistance to handle your own affairs. If the court decides that there are no adequate alternatives, the court may appoint a conservator and assign the conservator some or all of the duties listed below. While the purpose of a conservator is to help you, you should be aware that appointment of a conservator limits your rights. Among the areas that may be affected are:

- Accessing your money
- Deciding where you live
- Making medial decisions
- Paying your bills
- Planning a budget
- Managing your property

You also have a right to participate in the selection of your conservator. If you have already designated a conservator or if you inform the court of your choice for a conservator, the court must honor your request. The court may refuse your request only if the court decides that the person designated by you is not appropriate.

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

(c) The notice required by subdivision (2) of subsection (a) of this section shall state only that appointment of a conservator is being sought, the nature of involuntary representation sought, the legal consequences thereof and the time and place of the hearing.

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

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

**Sec. 15. (NEW) (Section 45a-649a. Right to attorney.)** (a) An individual subject to an application for involuntary representation or subject to proceedings subsequent to an appointment of an involuntary conservator shall have the right to be represented by an attorney of the individual's choice at the expense of the individual or, if the individual is indigent, within the payment guidelines of the Probate Court.

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

(c) An attorney appointed pursuant to this section shall represent the respondent or conserved individual in proceedings under sections 45a-644 to section 45a-663, inclusive, of the general statutes, and shall consult with the conserved individual regarding bringing an appeal to the Superior Court under title 45a of the general statutes. If requested to do so by the conserved individual, the attorney shall assist in the filing and commencing of an appeal to the superior court. Assistance in filing an appeal shall not obligate the attorney to appear in or prosecute the appeal. A conservator may not deny the conserved individual access to the individual's resources needed for an appeal.

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

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

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

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

**Sec. 16. Section. 45a-650 of the general statutes (Hearing. [Medical information.] Evidence. Appointment of conservator. Limitation re powers and duties.)** is repealed and the following is substituted in lieu thereof:

(a) At any hearing for involuntary representation, the court shall require clear and convincing evidence that (1) it has jurisdiction, (2) the respondent has been given notice as required by section 45a-648, as amended by this act, and (3) before receiving evidence regarding the condition of the respondent, the respondent is represented by an attorney or the respondent has waived the right to be represented by an attorney.

(b) The rules of evidence promulgated for the Superior Court shall<sup>[ddb4]</sup><sup>[ddb5]</sup> apply to proceedings pursuant to chapter 802h, part IV of the general statutes. Testimony at a hearing held pursuant to this section shall be given under oath or affirmation. The respondent has the right to attend any hearing held under this section.

(c) After making the findings required by subsection (a) of this section, the court shall receive evidence regarding the respondent's condition, the capacity of the respondent to care for one's self or manage the respondent's affairs, and the ability of the respondent to meet his or her needs without appointment of a conservator. [, including a written report or testimony by] Unless waived<sup>[TB6]</sup> by the court pursuant to this subsection, evidence shall be introduced from one or more physicians licensed to practice medicine in the state who have examined the respondent within [thirty] ~~forty-five~~ days preceding the hearing. The [report or testimony] evidence shall contain specific information regarding the [disability and the extent of its incapacitating effect] respondent's condition, and the effect of the condition on the respondent's ability to care for one's self or to manage the respondent's affairs. The court may also consider such other evidence as may be available and relevant, including, but not limited to, a summary of the physical and social functioning level or ability of the respondent, and the availability of support services from the family, neighbors, community or any other appropriate source. Such evidence may include, if available, reports from the social work service of a general hospital, municipal social worker, director of social service, public health nurse, public health agency, psychologist, coordinating assessment and monitoring agencies, or such other persons as the court [deems] considers qualified to provide such evidence. The court may waive the requirement that medical evidence be presented if it is

shown that the evidence is impossible to obtain because of the absence of the respondent or [his or her] the respondent's refusal to be examined by a physician or that the alleged incapacity is not medical in nature. If such requirement is waived, the court shall make a specific finding in any decree issued on the [petition] application stating why medical evidence was not required. [In any matter in which the Commissioner of Social Services seeks the appointment of a conservator pursuant to chapter 319dd and represents to the court that an examination by an independent physician, psychologist or psychiatrist is necessary to determine whether the elderly person is capable of managing his or her personal or financial affairs, the court shall order such examination unless the court determines that such examination is not in the best interests of the elderly person. The court shall order such examination notwithstanding any medical report submitted to the court by the elderly person or the caretaker of such elderly person.] Any [medical report] hospital, psychiatric and medical record or report filed with the court pursuant to this subsection shall be confidential.

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

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

[(d)] (f) If the court finds by clear and convincing evidence that the respondent is incapable of managing [his or her] the respondent's affairs and that the appointment of a conservator is the least restrictive means of intervention available to assist the respondent in managing the respondent's affairs, the court [shall] may appoint a conservator of [his or her] the respondent's estate unless it appears to the court that such affairs are being managed [properly] adequately or can be managed adequately without the appointment of a conservator. If the court finds by clear and convincing evidence that the respondent is incapable of caring for himself or herself and that appointment of a conservator is the least restrictive means of intervention available to assist the respondent in caring for himself or herself, the court [shall] may appoint a conservator of his or her person unless it appears to the court that the respondent is being cared for [properly] adequately or can be cared for adequately without the appointment of a conservator.

(g) The court shall assign to a conservator appointed under this section only those duties and authorities that are the least restrictive means of intervention necessary for the conserved individual. The court shall find by clear and convincing evidence that such duties and authorities shall restrict the decision-making authority of the conserved individual only to the extent necessary to provide for such personal needs or property management. Such needs and management shall be provided in a manner appropriate to the individual. The court shall make a finding of the clear and convincing evidence that supports the need for each duty and authority assigned to the conservator.

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

(i) A conserved individual retains all rights and authority not otherwise assigned to a conservator.

[(e)] (j) When determining whether a conservator should be appointed [and in selecting a conservator to be appointed for the respondent, the court shall be guided by the best interests of the respondent. In making such determination, the court shall consider whether the respondent had previously made alternative arrangements for the care of his or her person or for the management of his or her affairs, including, but not limited to, the execution of a valid durable power of attorney, the appointment of a health-care agent or other similar document.] for the respondent, the court shall consider the following: (1) the abilities of the respondent, (2) the capacity of the respondent to understand and articulate an informed preference, (3) relevant and material information obtained from the respondent, (4) evidence of the respondent's past preferences and life style choices, (5) the respondent's cultural background, (6) the desirability of maintaining continuity in the respondent's life and environment, (7) whether the respondent has made adequate alternative arrangements for the care of his or her person or for the management of the individual's affairs, including, but not limited to, execution of a durable power of attorney, springing durable power of attorney, living will, trust or similar instrument or appointment of a health-care representative or health care agent, (8) any relevant and material evidence from the respondent's family or from a person regarding the respondent's past practices and preferences and (9) supportive services, technology or other means that are available to assist in meeting the respondent's needs. No conservator may be appointed if the respondent's personal needs and property management are being met adequately by an agency or individual appointed pursuant to section 1-43, 19a-575a, 19a-577, 19a-580e or 19a-580g of the general statutes.

(k) The respondent or conserved individual may[, by oral or written request, if at the time of the request he or she has sufficient capacity to form an intelligent preference,] appoint, designate or nominate a conservator pursuant to sections 19a-580e, 19a-580g or 45a-645 of the general statutes or may, orally or in writing, nominate a conservator who shall be appointed unless the court finds [the appointment of] that the appointee, designee or nominee is [not in the best interests of the respondent. In such case, or in the absence of any such nomination, the court] unwilling or unable to serve or there is substantial evidence to disqualify such person. If there is no such appointment, designation or nomination or if the court does not appoint the person appointed, designated or nominated by the respondent or conserved individual, the court may appoint any qualified person, authorized public official or corporation in accordance with subsections (a) and (b) of section 45a-644. In considering whom to appoint as conservator under this subsection, the court shall consider (1) the extent to which a proposed conservator has knowledge of the respondent's or conserved individual's preferences, (2) the ability of the proposed conservator to carry out the duties and authorities of the office, (3) the cost to the estate of the respondent or conserved individual, (4) the commitment of the

proposed conservator to promoting the respondent's or conserved individual's welfare and independence, and (5) any existing or potential conflicts of interest.

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

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

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

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

**Sec. 17. Section 45a-653 of the general statutes (Contracts and funds of alleged incapable person pending application for appointment of conservator. Notice of application.) is repealed and following is substituted in lieu thereof:**

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

(b) If, during the pendency of the application, the applicant lodges with any bank, trust company or other depository a notice of the application certified by the court, such bank, trust company or depository shall not allow any funds of the alleged incapable

person to be withdrawn, between the time the notice of the application is lodged and the time of the adjudication of the court upon the application, without the approval of the court.

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

**Sec. 18.** Section 45a-654 of the general statutes (**Appointment of temporary conservator. Duties.**) is repealed and the following is substituted in lieu thereof:

(a) Upon written application for appointment of a temporary conservator brought by any person [deemed] considered by the court to have sufficient interest in the welfare of the respondent, including, but not limited to, the spouse or any relative of the respondent, the first selectman, chief executive officer or head of the department of welfare of the town of residence or domicile of any respondent, the Commissioner of Social Services, the board of directors of any charitable organization, as defined in section 21a-190a, or the chief administrative officer of any nonprofit hospital or such officer's designee, the court may appoint a temporary conservator if the court finds by clear and convincing evidence that: (1) The respondent is incapable of managing his or her affairs or incapable of caring for himself or herself, [and] (2) immediate and irreparable [injury] harm to the mental or physical health or financial or legal affairs of the respondent will result if a temporary conservator is not appointed [pursuant to this section] and (3) appointment of a temporary conservator is the least restrictive means of intervention available to prevent such harm. The court [may, in its discretion,] shall require the temporary conservator to give a probate bond. The court shall limit the duties[, responsibilities] and [powers] authorities of the temporary conservator to the circumstances that gave rise to the application and shall make specific findings [to justify such limitation] by clear and convincing evidence of the immediate and irreparable harm that must be prevented by appointment of a temporary conservator and that support appointment of a temporary conservator. In making such findings, the court shall consider the present and previously expressed wishes of the respondent, the abilities of the respondent, any prior appointment of an attorney-in-fact, health care representative, trustee or other fiduciary acting on behalf of the respondent, any support service otherwise available to the respondent and any other relevant evidence. The court shall set forth each duty and authority of the temporary conservator. The temporary conservator shall have charge of the property or of the person of the [respondent] conserved individual or both for such period [of time] or for such specific occasion as the court finds to be necessary, provided a temporary appointment shall not be valid for more than thirty days, unless at any time while the appointment of a temporary conservator is in effect, an application is filed for appointment of a conservator of the person or estate under section 45a-650. The court may (A) extend the appointment of the temporary

conservator until the disposition of such application under section 45a-650, or for an additional thirty days, whichever occurs first, or (B) terminate the appointment of a temporary conservator upon a showing that the circumstances that gave rise to the application for appointment of a temporary conservator no longer exist. A temporary conservator shall have charge of the property or of the person of the conserved individual for not more than sixty days from the date of the initial appointment.

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

(c) On receipt of the application for the appointment of a temporary conservator, the court shall issue notice to the respondent, appoint counsel and conduct a hearing on the application in the manner pursuant to sections 45a-649 to 45a-650, inclusive<sup>[TB7]</sup>, of the general statutes, as amended, except that (1) notice to the respondent shall be given not less than five days before the hearing, which shall be conducted not later than seven days after the application is filed, excluding Saturdays, Sundays, and holidays or (2) notice to the respondent, where an application has been made ex parte for a temporary conservator, shall be given not more than forty-eight hours after the ex parte appointment of a temporary conservator, with the hearing on such ex parte appointment being conducted not later than three days after the ex parte appointment, excluding Saturdays, Sundays and holidays. Service on the respondent of the notice of the application for the appointment of a temporary conservator shall be in hand and shall be made by a state marshal, constable or an indifferent person. Notice shall include (A) a copy of the application for appointment of temporary conservator and accompanying physician's report, (B) a copy of an ex parte decree, if any, appointing a temporary conservator, and (C) the date, place and time of the hearing on the application for the appointment of a temporary conservator. After hearing and on making the findings required in this section, the court may appoint a temporary conservator. If notice is provided to the next of kin under this section, such report of the physician shall not be disclosed to the next of kin except by order of the court.

(d)(1) If the court determines that the delay resulting from giving notice and appointing an attorney to represent the respondent as required in subsection [(d)] (c) of this section would cause immediate and irreparable injury to the mental or physical health or financial or legal affairs of the respondent, the court may, ex parte and without prior notice to the respondent, appoint a temporary conservator upon receiving the evidence and making the findings required in subsection (a) of this section, provided the court

makes a specific finding in any decree issued on the application stating the immediate or irreparable [injury] harm that formed the basis for the court's determination and why such hearing and appointment was not required before issuance of the ex parte order of appointment. If an ex parte order of appointment of a conservator is made, a hearing on the application for appointment of a temporary conservator shall be commenced not later than three days, excluding Saturdays, Sundays and holidays, after the ex parte order was issued. An ex parte order shall expire not later than three days after the order was issued, unless a hearing on the order commenced before expiration of the three-day period has been continued for good cause.

[(2[~~TB8~~])] After making such ex parte appointment, the court shall immediately: (A) Appoint an attorney to represent the respondent, provided if the respondent is unable to pay for the services of such attorney, the reasonable compensation for such attorney shall be established by, and paid from funds appropriated to, the Judicial Department, except that if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund; (B) schedule the date, place and time of a hearing to be held not later than seventy-two hours after the issuance of the court's decree, excluding Saturdays, Sundays and holidays; and (C) give notice by [mail, or such other notice as the court deems appropriate, on the respondent, the respondent's next of kin and such attorney, which notice shall include: (i) A copy of the application for appointment of temporary conservator and the accompanying physician's report; (ii) a copy of the decree appointing a temporary conservator; and (iii) the date, place and time of the hearing scheduled pursuant to subparagraph (B) of this subdivision, except that if the court determines that notice to the respondent under this subdivision would be detrimental to the health or welfare of the respondent, the court may give such notice only to the respondent's next of kin and the respondent's attorney.]

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

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

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

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

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

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

(3) Upon the request of the respondent or such interested party, the court shall hold a hearing on the report and placement not later than thirty days after the date of the request. The court may also, in its discretion, hold a hearing on the report and placement in any case where no request is made for a hearing. If the court, after such hearing,

determines that the respondent's physical, mental and psychosocial needs can be met in a less restrictive and more integrated setting within the limitations of the resources available to the respondent, either through the respondent's own estate or through private or public assistance, the court shall order that the respondent be placed and maintained in such setting.

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

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

**Sec. 19.** Section 45a-655 of the general statutes (**Duties of conservator of the estate. Application for distribution of gifts of income and principal from the estate.**) is repealed and the following is substituted in lieu thereof:

(a) A conservator of the estate appointed under section 45a-646, 45a-650 or 45a-654 shall, within two months after the date of [his or her] the conservator's appointment, make and file in the Court of Probate, an inventory under penalty of false statement of [his or her ward] the estate of the conserved individual, with the properties thereof appraised or caused to be appraised, by such conservator, at fair market value as of the date of [his or her] the conservator's appointment. Such inventory shall include the value of the [ward's] conserved individual's interest in all property in which the [ward] such individual has a legal or equitable present interest, including, but not limited to, the [ward's] the conserved individual's interest in any joint bank accounts or other jointly held property. The conservator shall manage all the estate and apply so much of the net income thereof, and, if necessary, any part of the principal of the property, which is required to support the [ward] conserved individual and those members of the [ward's] conserved individual's family whom [he or she] the conserved individual has the legal duty to support and to pay the [ward's] debts, and may sue for and collect all debts due the [ward] conserved individual. The conservator shall use the least restrictive means of intervention in the exercise of its duties and authorities.

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

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

(d) In the case of any person receiving public assistance, state-administered general assistance or Medicaid, the conservator of the estate shall apply toward the cost of care of such person any assets exceeding limits on assets set by statute or regulations adopted by

the Commissioner of Social Services. Notwithstanding the provisions of subsections (a) and (b) of this section, in the case of an institutionalized person who has applied for or is receiving such medical assistance, no conservator shall apply and no court shall approve the application of (1) the net income of the [ward] conserved individual to the support of the [ward's] conserved individual's spouse in an amount that exceeds the monthly income allowed a community spouse as determined by the Department of Social Services pursuant to 42 USC 1396r-5(d)(2)-(4), or (2) any portion of the property of the [ward] conserved individual to the support, maintenance and medical treatment of the [ward's] conserved individual's spouse in an amount that exceeds the amount determined allowable by the department pursuant to 42 USC 1396r-5(f)(1) and (2), notwithstanding the provisions of 42 USC 1396r-5(f)(2)(A)(iv), unless such limitations on income would result in significant financial duress.

(e) Upon application of a conservator of the estate, after hearing with notice to the Commissioner of Administrative Services, the Commissioner of Social Services and to all parties who may have an interest as determined by the court, the court may authorize the conservator to make gifts or other transfers of income and principal from the estate of the [ward] conserved individual in such amounts and in such form, outright or in trust, whether to an existing trust or a court-approved trust created by the conservator, as the court orders to or for the benefit of individuals, including the [ward] conserved individual, and to or for the benefit of charities, trusts or other institutions described in Sections 2055(a) and 2522(a) of the Internal Revenue Code of 1986, or any corresponding internal revenue code of the United States, as from time to time amended. Such gifts or transfers shall be authorized only if the court finds that: (1) In the case of individuals not related to the [ward] conserved individual by blood or marriage, the [ward] conserved individual had made a previous gift to that unrelated individual prior to being declared incapable; (2) in the case of a charity, either (A) the [ward] conserved individual had made a previous gift to such charity, had pledged a gift in writing to such charity, or had otherwise demonstrated support for such charity prior to being declared incapable; or (B) the court determines that the gift to the charity is in the best interests of the [ward] conserved individual, is consistent with proper estate planning, and there is no reasonable objection by a party having an interest in the [ward's] conserved individual's estate as determined by the court; (3) the estate of the [ward] conserved individual and any proposed trust of which the [ward] conserved individual is a beneficiary is more than sufficient to carry out the duties of the conservator as set forth in subsections (a) and (b) of this section, both for the present and foreseeable future, including due provision for the continuing proper care, comfort and maintenance of such [ward] conserved individual in accordance with such [ward's] conserved individual's established standard of living and for the support of persons the [ward] conserved individual is legally obligated to support; (4) the purpose of the gifts is not to diminish the estate of the [ward] conserved individual so as to qualify the [ward] conserved individual for federal or state aid or benefits; and (5) in the case of a [ward] conserved individual capable of making an informed decision, the [ward] conserved individual has no objection to such gift. The court shall give consideration to the following: (A) The medical condition of the [ward] conserved individual, including the prospect of restoration to capacity; (B) the size of the [ward's] conserved individual's estate; (C) the provisions which, in the judgment of the court, such [ward] conserved individual would have made if [he or she] conserved individual

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

**Sec. 20.** Section 45a-656 of the general statutes (**Duties and authorities of conservator of the person**) is repealed and the following is substituted in lieu thereof:

(a) The conservator of the person shall have only those authorities and duties expressly assigned pursuant to section 45a-650 of the general statutes and may have: (1) The duty and responsibility for the general custody of the [respondent] conserved individual; (2) the [power] authority to establish [his or her] the conserved individual's [place of abode] residence within the state, subject to the provisions of section 45a-656a of this act; (3) the [power] authority to give consent for [his or her] such individual's medical or other professional care, counsel, treatment or service; (4) the duty to provide for the care, comfort and maintenance of the [ward] conserved individual; and (5) the duty to take reasonable care of the [respondent's'] personal effects of such individual.; and (6) the duty to]

(b) In carrying out the authorities and duties assigned by the Probate Court, the conservator of the person shall exercise such authorities and duties in a manner that is the least restrictive means of intervention and shall (1) assist the conserved individual in removing obstacles to independence, (2) assist the such individual in achieving self-reliance, (3) ascertain the conserved individual's views, (4) make decisions in conformance with the conserved individual's reasonable and informed expressed preferences, (5) make all reasonable efforts to ascertain the health care instructions and other wishes of the conserved individual, and (6) make decisions in conformance with such individual's expressed health care preferences, including health care instructions and other wishes authorized in sections 19a-580e, unless otherwise provided in subsection (b) of section 19a-580e and section 19a-580g of the general statutes. The conservator shall afford the conserved individual the opportunity to participate meaningfully in decision-making in accordance with the conserved individual's abilities and shall delegate to the conserved individual reasonable responsibility for decisions affecting such individual's well-being..

(c) The conservator shall report at least annually to the [probate court which] Probate Court that appointed the conservator regarding the condition of the [respondent] conserved individual, the efforts made to encourage independence and whether appointment of a conservator is the least restrictive means of intervention for managing the conserved individual's needs. The [preceding] duties, responsibilities and [powers]

authorities under this section shall be carried out within the [limitations of the] resources available to the [ward] conserved individual, either through [the ward's] the individual's own estate or through private or public assistance.

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

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

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

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

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

**Sec. 21. (NEW) (Section 45a-656a. Restriction on placement of conserved individual in institution for long-term care.)** (a) Except as provided in subsections (b), (c), (d), (e) and (f) of this section, a conservator may not terminate a tenancy or lease of the conserved individual, sell or dispose of any real property or household furnishings of the conserved individual, or change the individual's residence unless a court finds, after a hearing, that such change is necessary or that the conserved individual agrees to such action.

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

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

(d) The conserved individual may, at any time, request a hearing by the court on the individual's placement in an institution for long-term care, including the availability of a less restrictive alternative for the individual's placement. On ~~written~~ request<sup>[TB9]</sup> of the conserved individual made after the initial hearing held under subsection (b), the court shall hold a hearing on the placement not later than ten days, excluding Saturdays, Sundays, and holidays, after receipt by the court of such request. The court is not required

to conduct a hearing more than three times in any twelve-month period following the hearing held under subsection (b) authorizing the initial placement, except that the court shall conduct a hearing whenever information not previously available to the court is submitted with a request for a hearing. **(Does this exception swallow the rule? Can't an individual always claim that a placement, because of the passage of time etc., is no longer appropriate? If so, wouldn't this be new "information not previously available"?** DB)

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

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

(g) A conserved individual may waive the right to a hearing required under this section only after the individual's attorney has consulted with the individual and the attorney files with the court a record of the waiver. Such a waiver must represent the individual's own wishes.

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

**Sec. 22.** Section 45a-659 of the general statutes (**Conservator of nonresident's property.**) is repealed and the following is substituted in lieu thereof:

(a) If any [person] individual not domiciled [out of] in this state, and owning real property or tangible personal property in this state is incapable of managing his or her affairs, the [court of probate] Court of Probate for the district in which the property or some part of it is situated may, on the written application of a husband, wife or relative or of a conservator, committee or guardian having charge of the person or estate of the incapable person in the state where the incapable person is domiciled and after notice pursuant to section 45a-649 or such reasonable notice as the court may order, and a hearing as required pursuant to section 45a-650 appoint a conservator of the estate for the real property and tangible personal property in this state of the incapable person pursuant to section 45a-650.

(b) If a conservator of the estate has been appointed for such an incapable person in the state of such person's domicile, (1) the court may, on application of the out-of-state conservator to act as conservator for real or tangible personal property of the incapable

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

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

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

(e) If an application for a conservator is made pursuant to this section, the Probate Court may not proceed to act on the application until an attorney is appointed to represent the individual. An attorney shall be appointed in the manner provided in section 15 of this act.

**Sec. 23.** Section 45a-660 of the general statutes (**Termination of conservatorship. Review by court.**) is repealed and the following is substituted in lieu thereof:[TB10]

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

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

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

(c) The court shall review each conservatorship [at least every three years and] no later than one year after the conservatorship was ordered and no less than every three years after such initial review. After such a review, the court shall continue, modify or terminate the order for conservatorship. The court shall receive and review written evidence as to the condition of the [ward] conserved individual. The conservator and a physician licensed to practice medicine in this state shall each submit a written report to the court within forty-five days of the court's request for such report. On receipt of a written report, the court shall provide a copy to the conserved individual and attorney for the conserved individual. If the [ward] conserved individual is unable to request or obtain an attorney, the court shall appoint an attorney. If the [ward] conserved individual is unable to pay for the services of the attorney, the rates of reasonable compensation of such attorney shall be established by, and the attorney shall be paid from funds appropriated to, the Judicial Department. If funds have not been included in the budget of the Judicial Department for such purposes, such rates of compensation shall be established by the Probate Court Administrator and the attorney shall be paid from the Probate Court Administration Fund. The physician shall examine the [ward] conserved individual within the forty-five-day period preceding the date of submission of the physician's report. Any physician's report filed with the court pursuant to this subsection shall be confidential. The court may issue an order for the disclosure of medical information required pursuant to this subsection but shall issue such an order of disclosure for the conserved individual's attorney. No later than thirty days after receipt of the conservator's report and physician's evaluation, the attorney for the conserved individual shall notify the court that the attorney has met with the conserved individual and shall inform the court whether a hearing is being requested. Nothing in this section

shall prevent the conserved individual or the individual's attorney from requesting a hearing at any other time as allowed by law.

(d) If the court [determines] finds, after receipt of the reports from the attorney for the [ward] conserved individual, the physician and the conservator, [that there has been no change in the condition of the ward since the last preceding review by the court, a hearing on the condition of the ward shall not be required, but the court, in its discretion, may hold such hearing. If the attorney for the ward, the physician] by clear and convincing evidence, that the conserved individual continues to be incapable of managing the conserved individual's affairs and that there are no less restrictive means available to assist the conserved individual in managing the individual's affairs, the court shall continue or modify the conservatorship under the terms and conditions of appointment of a conservator under section 45a-650, as amended by this act. If the court does not make such a finding of continuing incapacity by clear and convincing evidence, the court shall terminate the conservatorship. A hearing on the condition of the conserved individual shall not be required, but the court, in its discretion, may hold such hearing. If the conserved individual, attorney or conservator requests a hearing, the court shall hold a hearing within thirty days of such request.

**Sec. 24.** Section 45a-662 of the general statutes (**Conveyance of property by order of court.**) of the general statutes is repealed and the following is substituted in lieu thereof:

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

**Sec 25.** Section 45a-679 of the general statutes (**Conflicts between plenary guardian, limited guardian, conservator of the estate or person and temporary conservator to be resolved by Probate Court.**) is repealed and the following is substituted in lieu thereof:

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

**Sec. 26. (NEW) (Section 45a-701. Application for writ of habeas corpus.)** (a) An individual subject to guardianship or involuntary conservatorship under chapter 802h may apply for and is entitled to the benefit of the writ of habeas corpus without having previously exhausted other available remedies including, but not limited to, the right to appeal the order of guardianship or involuntary conservatorship. The question of the

legality of such guardianship or involuntary conservatorship shall be determined by the court or judge issuing such writ.

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

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

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

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

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

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

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

**Sec. 27.** Section 45a-663 of the general statutes (**Compensation of conservator if [ward] conserved individual unable to pay.**) is repealed and the following is substituted in lieu thereof:

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

**Sec. 28. (NEW) (Sec. 17a-716. Writ of habeas corpus.)** An individual confined in a hospital or inpatient treatment facility for treatment of alcohol or drug dependency in this state may seek a writ of habeas corpus in the Superior Court. The question of the legality of such confinement shall be determined by the court or judge issuing such writ. The writ shall be directed to the superintendent or director of the hospital or treatment facility and, if illegality or invalidity of the commitment is alleged in such writ, a copy shall also be directed to the judge of the committing court as to such claim. Such judge shall be represented by the state's attorney for the judicial district in which such committing court is located. If the court or judge before whom such case is brought decides that the confinement is not illegal, such decision shall not bar issuance of such writ again, provided that it is claimed that such individual is no longer subject to the condition for which the individual was confined. Such writ may be sought by the confined individual or on behalf of the individual by any relative, friend or person interested in the individual's welfare. Court fees may not be charged against the superintendent or director of the hospital or the judge.

**Sec. 29.** Section 49-11 of the general statutes (**Release of mortgage by executor, administrator, spouse, next of kin, guardian, conservator or other suitable person.**) is repealed and the following is substituted in lieu thereof:

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

**Sec. 30.** Section 12-45 of the general statutes (**Return to assessors of personalty in trust.**) is repealed and the following is substituted in lieu thereof:

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

conservator's conserved individual to the assessors of the town in which such ward or conserved individual resides.

**Sec. 31** Section 19a-580e of the general statutes (**Conservator's duty to comply with [ward's] conserved individual's health care instructions. Precedence of health care representative's decisions. Exceptions.**) is repealed and the following is substituted in lieu thereof:

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

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

**Sec. 32.** Sections 45a-191 (**Interest of appellant to be stated.**) and 45a-192 (**Order of notice.**) of the general statutes are repealed.

**Sec. 33.** This act shall take effect on October 1, 2007.