



General Assembly

January Session, 2009

Committee Bill No. 576

LCO No. 4407

04407SB00576JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE CONNECTICUT UNIFORM PROTECTIVE
PROCEEDINGS JURISDICTION ACT.***

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

1 Section 1. (NEW) (*Effective October 1, 2009*) Sections 1 to 23,
2 inclusive, of this act may be cited as the "Connecticut Uniform
3 Protective Proceedings Jurisdiction Act."

4 Sec. 2. (NEW) (*Effective October 1, 2009*) As used in sections 1 to 23,
5 inclusive, of this act:

6 (1) "Adult" means an individual who is at least eighteen years of
7 age.

8 (2) "Conservator" means a person, except a hospital or nursing home
9 facility as defined in section 19a-521 of the general statutes, appointed
10 by the court to administer the property of an adult and includes a
11 conservator of the estate, as defined in section 45a-644 of the general
12 statutes, as amended by this act.

13 (3) "Guardian" means a person, except a hospital or nursing home
14 facility as defined in section 19a-521 of the general statutes, appointed

15 by the court to make decisions regarding the person of an adult and
16 includes a conservator of the person, as defined in section 45a-644 of
17 the general statutes, as amended by this act. "Guardian" does not
18 include a guardian, as defined in section 45a-604 of the general
19 statutes.

20 (4) "Guardianship order" means an order by a court appointing a
21 guardian.

22 (5) "Guardianship proceeding" means a judicial proceeding in which
23 an order for the appointment of a guardian is sought or has been
24 issued.

25 (6) "Incapacitated person" means an adult for whom a guardian has
26 been appointed.

27 (7) "Party" means the respondent, petitioner, guardian, conservator
28 or any other person allowed by a court to participate in a guardianship
29 proceeding or protective proceeding.

30 (8) "Person", except as used in the term "incapacitated person" or
31 "protected person", means an individual, corporation, business trust,
32 estate, trust, partnership, limited liability company, association, joint
33 venture, public corporation, government or governmental subdivision,
34 agency or instrumentality, or any other legal or commercial entity.

35 (9) "Protected person" means an adult for whom a protective order
36 has been issued.

37 (10) "Protective order" means an order by a court appointing a
38 conservator or other order by a court related to management of an
39 adult's property.

40 (11) "Protective proceeding" means a judicial proceeding in which a
41 protective order is sought or has been issued.

42 (12) "Record" means information that is inscribed on a tangible

43 medium or that is stored in an electronic or other medium and is
44 retrievable in perceivable form.

45 (13) "Respondent" means an adult for whom a protective order or
46 the appointment of a guardian is sought.

47 (14) "State" means a state of the United States, the District of
48 Columbia, Puerto Rico, the United States Virgin Islands, a federally
49 recognized Indian tribe or any territory or insular possession subject to
50 the jurisdiction of the United States.

51 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) Sections 1 to 23, inclusive,
52 of this act, section 45a-644 of the general statutes, as amended by this
53 act, section 45a-648 of the general statutes, as amended by this act, and
54 section 45a-649 of the general statutes, as amended by this act, apply to
55 guardianship proceedings and protective proceedings begun on or
56 after October 1, 2009.

57 (b) Sections 1 to 7, inclusive, of this act and sections 17 to 23,
58 inclusive, of this act apply to guardianship proceedings and protective
59 proceedings begun before October 1, 2009, regardless of whether a
60 guardianship order or protective order has been issued.

61 Sec. 4. (NEW) (*Effective October 1, 2009*) A court of probate may treat
62 a foreign country as if it were a state for the purpose of applying
63 sections 1 to 18, inclusive, and sections 22 and 23 of this act.

64 Sec. 5. (NEW) (*Effective October 1, 2009*) (a) A court of probate may
65 communicate with a court in another state concerning a proceeding
66 arising under sections 1 to 23, inclusive, of this act, section 45a-644 of
67 the general statutes, as amended by this act, section 45a-648 of the
68 general statutes, as amended by this act, and section 45a-649 of the
69 general statutes, as amended by this act. The court may allow the
70 parties to participate in the communication. Except as otherwise
71 provided in subsection (b) of this section, the court shall make a record
72 of the communication. The record may be limited to the fact that the

73 communication occurred.

74 (b) Courts may communicate concerning schedules, calendars, court
75 records and other administrative matters without making a record.

76 Sec. 6. (NEW) (*Effective October 1, 2009*) (a) In a guardianship
77 proceeding or protective proceeding in this state, a court of probate
78 may request the appropriate court of another state to do any of the
79 following:

80 (1) Hold an evidentiary hearing;

81 (2) Order a person in that state to produce evidence or give
82 testimony pursuant to procedures of that state;

83 (3) Order that an evaluation or assessment be made of the
84 respondent;

85 (4) Order any appropriate investigation of a person involved in a
86 proceeding;

87 (5) Forward to the Court of Probate a certified copy of the transcript
88 or other record of a hearing under subdivision (1) of this subsection, or
89 any other proceeding, any evidence otherwise produced under
90 subdivision (2) of this subsection, and any evaluation or assessment
91 prepared in compliance with an order issued under subdivision (3) or
92 (4) of this subsection;

93 (6) Issue any order necessary to assure the appearance in the
94 proceeding of a person whose presence is necessary for the court to
95 make a determination, including the respondent or the incapacitated
96 person or protected person; or

97 (7) Issue an order authorizing the release of medical, financial,
98 criminal or other relevant information in that state, including protected
99 health information as defined in 45 CFR 164.504, as amended from
100 time to time.

101 (b) If a court of another state in which a guardianship proceeding or
102 protective proceeding is pending requests assistance of the kind
103 provided in subsection (a) of this section, a court of probate has
104 jurisdiction for the limited purpose of granting the request or making
105 reasonable efforts to comply with the request.

106 Sec. 7. (NEW) (*Effective October 1, 2009*) (a) In a guardianship
107 proceeding or protective proceeding, in addition to other procedures
108 that may be available, testimony of a witness who is located in another
109 state may be offered by deposition or other means allowable in this
110 state for testimony taken in another state. A court of probate on its
111 own motion may order that the testimony of a witness be taken in
112 another state and may prescribe the manner in which and the terms
113 upon which the testimony is to be taken.

114 (b) In a guardianship proceeding or protective proceeding, a court
115 of probate may permit a witness located in another state to be deposed
116 or to testify by telephone or audiovisual or other electronic means. A
117 court of probate shall cooperate with the court of the other state in
118 designating an appropriate location for the deposition or testimony.

119 (c) Documentary evidence transmitted from another state to a court
120 of probate by technological means that do not produce an original
121 writing may not be excluded from evidence on an objection based on
122 the best evidence rule.

123 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) As used in this section
124 and sections 9 to 16, inclusive, of this act:

125 (1) "Emergency" means a circumstance that likely will result in
126 substantial harm to a respondent's health, safety or welfare, and for
127 which the appointment of a guardian is necessary and includes a
128 circumstance in which a temporary conservator may be appointed
129 under subsection (a) of section 45a-654 of the general statutes;

130 (2) "Home state" means the state in which the respondent was

131 physically present, including any period of temporary absence, for at
132 least six consecutive months immediately before the filing of a petition
133 for a protective order or the appointment of a guardian, or if none, the
134 state in which the respondent was physically present, including any
135 period of temporary absence, for at least six consecutive months
136 ending within the six months prior to the filing of the petition.

137 (3) "Significant-connection state" means a state, other than the home
138 state, with which a respondent has a significant connection other than
139 mere physical presence and in which substantial evidence concerning
140 the respondent is available.

141 (b) In determining under section 10 of this act and subsection (e) of
142 section 17 of this act whether a respondent has a significant connection
143 with a particular state, the court shall consider:

144 (1) The location of the respondent's family and other persons
145 required to be notified of the guardianship proceeding or protective
146 proceeding;

147 (2) The length of time the respondent at any time was physically
148 present in the state and the duration of any absence;

149 (3) The location of the respondent's property; and

150 (4) The extent to which the respondent has ties to the state such as
151 voter registration, state or local tax return filing, vehicle registration,
152 driver's license, social relationship and receipt of services.

153 Sec. 9. (NEW) (*Effective October 1, 2009*) Sections 8 to 16, inclusive, of
154 this act provide the exclusive jurisdictional basis for a court of probate
155 to appoint a guardian or issue a protective order for an adult.

156 Sec. 10. (NEW) (*Effective October 1, 2009*) A court of probate has
157 jurisdiction to appoint a guardian or issue a protective order for a
158 respondent if:

159 (1) This state is the respondent's home state;

160 (2) On the date a petition for an appointment or order is filed, this
161 state is a significant-connection state, and:

162 (A) The respondent does not have a home state or a court of the
163 respondent's home state has declined to exercise jurisdiction because
164 this state is a more appropriate forum; or

165 (B) The respondent has a home state, a petition for an appointment
166 or order is not pending in a court of that state or another significant-
167 connection state, and, before the court makes the appointment or
168 issues the order:

169 (i) A petition for an appointment or order is not filed in the
170 respondent's home state;

171 (ii) An objection to the court's jurisdiction is not filed by a person
172 required to be notified of the proceeding; and

173 (iii) The Court of Probate concludes that it is an appropriate forum
174 under the factors set forth in subsection (c) of section 13 of this act;

175 (3) This state does not have jurisdiction under either subdivision (1)
176 or (2) of this subsection, the respondent's home state and all
177 significant-connection states have declined to exercise jurisdiction
178 because this state is the more appropriate forum, and jurisdiction in
179 this state is consistent with the Constitutions of this state and the
180 United States; or

181 (4) The requirements for special jurisdiction under section 11 of this
182 act are met.

183 Sec. 11. (NEW) (*Effective October 1, 2009*) (a) A court of probate
184 lacking jurisdiction under section 10 of this act has special jurisdiction
185 to do any of the following:

186 (1) Appoint a guardian or temporary conservator of the person or

187 estate in an emergency pursuant to subsection (a) of section 45a-654 of
188 the general statutes for a term not exceeding ninety days for a
189 respondent who is physically present in this state;

190 (2) Issue a protective order with respect to real or tangible personal
191 property located in this state; or

192 (3) Appoint a guardian or conservator for an incapacitated person or
193 protected person for whom a provisional order to transfer the
194 proceeding from another state has been issued under procedures
195 similar to those in section 17 of this act.

196 (b) If a petition for the appointment of a guardian or temporary
197 conservator in an emergency is brought in this state and this state was
198 not the respondent's home state on the date the petition was filed, the
199 court shall dismiss the proceeding at the request of the court of the
200 home state, if any, whether dismissal is requested before or after the
201 emergency appointment.

202 Sec. 12. (NEW) (*Effective October 1, 2009*) Except as otherwise
203 provided in section 11 of this act, a court that has appointed a guardian
204 or issued a protective order consistent with the requirements of
205 sections 1 to 23, inclusive, of this act, section 45a-644 of the general
206 statutes, as amended by this act, section 45a-648 of the general statutes,
207 as amended by this act, and section 45a-649 of the general statutes, as
208 amended by this act, has exclusive and continuing jurisdiction over the
209 proceeding until it is terminated by the court or the appointment or
210 order expires by its own terms.

211 Sec. 13. (NEW) (*Effective October 1, 2009*) (a) A court of probate
212 having jurisdiction under section 10 of this act to appoint a guardian or
213 issue a protective order may decline to exercise its jurisdiction if it
214 determines at any time that a court of another state is a more
215 appropriate forum.

216 (b) If a court of probate declines to exercise its jurisdiction under

217 subsection (a) of this section, it shall either dismiss or stay the
218 proceeding. The court may impose any condition the court considers
219 just and proper, including the condition that a petition for the
220 appointment of a guardian or issuance of a protective order be filed
221 promptly in another state.

222 (c) In determining whether it is an appropriate forum, the Court of
223 Probate shall consider all relevant factors, including:

224 (1) Any expressed preference of the respondent;

225 (2) Whether abuse, neglect or exploitation of the respondent has
226 occurred or is likely to occur and which state could best protect the
227 respondent from the abuse, neglect or exploitation;

228 (3) The length of time the respondent was physically present in or
229 was a legal resident of this or another state;

230 (4) The distance of the respondent from the court in each state;

231 (5) The financial circumstances of the respondent's estate;

232 (6) The nature and location of the evidence;

233 (7) The ability of the court in each state to decide the issue
234 expeditiously and the procedures necessary to present evidence;

235 (8) The familiarity of the court of each state with the facts and issues
236 in the proceeding; and

237 (9) If an appointment were made, the court's ability to monitor the
238 conduct of the guardian or conservator.

239 Sec. 14. (NEW) (*Effective October 1, 2009*) (a) If at any time a court of
240 probate determines that it acquired jurisdiction to appoint a guardian
241 or issue a protective order because of unjustifiable conduct, the court
242 may:

243 (1) Decline to exercise jurisdiction;

244 (2) Exercise jurisdiction for the limited purpose of fashioning an
245 appropriate remedy to ensure the health, safety and welfare of the
246 respondent or the protection of the respondent's property or prevent a
247 repetition of the unjustifiable conduct, including staying the
248 proceeding until a petition for the appointment of a guardian or for
249 issuance of a protective order is filed in a court of another state having
250 jurisdiction; or

251 (3) Continue to exercise jurisdiction after considering:

252 (A) The extent to which the respondent and all persons required to
253 be notified of the proceedings have acquiesced in the exercise of the
254 court's jurisdiction;

255 (B) Whether it is a more appropriate forum than the court of any
256 other state under the factors set forth in subsection (c) of section 13 of
257 this act; and

258 (C) Whether the court of any other state would have jurisdiction
259 under factual circumstances in substantial conformity with the
260 jurisdictional standards of section 10 of this act.

261 (b) If a court of probate determines that it acquired jurisdiction to
262 appoint a guardian or issue a protective order because a party seeking
263 to invoke its jurisdiction engaged in unjustifiable conduct, it may
264 assess against that party necessary and reasonable expenses, including
265 attorney's fees, investigative fees, court costs, communication
266 expenses, witness fees and expenses, and travel expenses. The court
267 may not assess fees, costs or expenses of any kind against this state or a
268 governmental subdivision, agency or instrumentality of this state
269 unless authorized by law other than sections 1 to 23, inclusive, of this
270 act.

271 Sec. 15. (NEW) (*Effective October 1, 2009*) If a petition for the
272 appointment of a guardian or issuance of a protective order is brought

273 in this state and this state was not the respondent's home state on the
274 date the petition was filed, in addition to complying with the notice
275 requirements of section 45a-649 of the general statutes, as amended by
276 this act, notice of the petition shall be given to those persons who
277 would be entitled to notice of the petition if a proceeding were brought
278 in the respondent's home state. The notice shall be given in the same
279 manner as notice is required to be given in this state.

280 Sec. 16. (NEW) (*Effective October 1, 2009*) Except for a petition for the
281 appointment of a guardian or conservator in an emergency under
282 subdivision (1) of subsection (a) of section 11 of this act or issuance of a
283 protective order limited to property located in this state under
284 subdivision (2) of subsection (a) of section 11 of this act, if a petition for
285 the appointment of a guardian or issuance of a protective order is filed
286 in this state and in another state and neither petition has been
287 dismissed or withdrawn, the following rules apply:

288 (1) If the Court of Probate has jurisdiction under section 10 of this
289 act, it may proceed with the case unless a court in another state
290 acquires jurisdiction under provisions similar to those in section 10 of
291 this act before the appointment or issuance of the order.

292 (2) If the Court of Probate does not have jurisdiction under section
293 10 of this act, whether at the time the petition is filed or at any time
294 before the appointment or issuance of the order, the court shall stay
295 the proceeding and communicate with the court in the other state. If
296 the court in the other state has jurisdiction, the Court of Probate shall
297 dismiss the petition unless the court in the other state determines that
298 the Court of Probate is a more appropriate forum.

299 Sec. 17. (NEW) (*Effective October 1, 2009*) (a) Except for an individual
300 under voluntary representation as provided in section 45a-647 of the
301 general statutes, a guardian or conservator appointed in this state may
302 petition a court of probate to transfer the guardianship or
303 conservatorship to another state.

304 (b) Notice of a petition under subsection (a) of this section shall be
305 given to the persons that would be entitled to notice of a petition in
306 this state for the appointment of a guardian or conservator.

307 (c) On the court's own motion or on request of the guardian or
308 conservator, the incapacitated person or protected person, or other
309 person required to be notified of the petition, the court shall hold a
310 hearing on a petition filed pursuant to subsection (a) of this section.

311 (d) The court shall issue an order provisionally granting a petition
312 to transfer a guardianship and shall direct the guardian to petition for
313 guardianship in the other state if the court is satisfied that the
314 guardianship will be accepted by the court in the other state and the
315 court finds that:

316 (1) The incapacitated person is physically present in or is reasonably
317 expected to move permanently to the other state;

318 (2) An objection to the transfer has not been made or, if an objection
319 has been made, the objector has not established that the transfer would
320 be contrary to the interests of the incapacitated person; and

321 (3) Plans for care and services for the incapacitated person in the
322 other state are reasonable and sufficient.

323 (e) The court shall issue a provisional order granting a petition to
324 transfer a conservatorship and shall direct the conservator to petition
325 for conservatorship in the other state if the court is satisfied that the
326 conservatorship will be accepted by the court of the other state and the
327 court finds that:

328 (1) The protected person is physically present in or is reasonably
329 expected to move permanently to the other state, or the protected
330 person has a significant connection to the other state considering the
331 factors set forth in subsection (b) of section 8 of this act;

332 (2) An objection to the transfer has not been made or, if an objection

333 has been made, the objector has not established that the transfer would
334 be contrary to the interests of the protected person; and

335 (3) Adequate arrangements will be made for management of the
336 protected person's property.

337 (f) The court shall issue a final order confirming the transfer and
338 terminating the guardianship or conservatorship on its receipt of:

339 (1) A provisional order accepting the proceeding from the court to
340 which the proceeding is to be transferred which is issued under
341 provisions similar to those in section 18 of this act; and

342 (2) The documents required to terminate a guardianship or
343 conservatorship in this state.

344 Sec. 18. (NEW) (*Effective October 1, 2009*) (a) To confirm transfer of a
345 guardianship or conservatorship transferred to this state under
346 provisions similar to those in section 17 of this act, the guardian or
347 conservator shall petition the Court of Probate to accept the
348 guardianship or conservatorship. The petition shall include a certified
349 copy of the other state's provisional order of transfer.

350 (b) Notice of a petition under subsection (a) of this section shall be
351 given to those persons that would be entitled to notice if the petition
352 were a petition for the appointment of a guardian or issuance of a
353 protective order in both the transferring state and this state. The notice
354 shall be given in the same manner as notice is required to be given
355 under section 45a-649 of the general statutes, as amended by this act.

356 (c) On the court's own motion or on request of the guardian or
357 conservator, the incapacitated person or protected person, or other
358 person required to be notified of the proceeding, the court shall hold a
359 hearing on a petition filed pursuant to subsection (a) of this section.

360 (d) The court shall issue an order provisionally granting a petition
361 filed under subsection (a) of this section unless:

362 (1) An objection is made and the objector establishes that transfer of
363 the proceeding would be contrary to the interests of the incapacitated
364 person or protected person; or

365 (2) The guardian or conservator is ineligible for appointment in this
366 state.

367 (e) The court shall issue a final order accepting the proceeding and
368 appointing the guardian or conservator as guardian or conservator in
369 this state on its receipt from the court from which the proceeding is
370 being transferred of a final order issued under provisions similar to
371 those in section 17 of this act transferring the proceeding to this state.

372 (f) Not later than ninety days after issuance of a final order
373 accepting transfer of a guardianship or conservatorship, the court shall
374 determine whether the guardianship or conservatorship needs to be
375 modified to conform to the law of this state.

376 (g) In granting a petition under this section, the court shall
377 recognize a guardianship or conservatorship order from the other
378 state, including the determination of the incapacitated person or
379 protected person's incapacity and the appointment of the guardian or
380 conservator.

381 (h) The denial by a court of probate of a petition to accept a
382 guardianship or conservatorship transferred from another state does
383 not affect the ability of the guardian or conservator to seek involuntary
384 representation under section 45a-648 of the general statutes, as
385 amended by this act, if the court has jurisdiction to grant the
386 involuntary representation other than by reason of the provisional
387 order of transfer.

388 Sec. 19. (NEW) (*Effective October 1, 2009*) (a) If a guardian has been
389 appointed in another state and a petition for the appointment of a
390 guardian is not pending in this state, the guardian appointed in the
391 other state, after giving notice to the appointing court of an intent to

392 register, may register the guardianship order in this state by filing as a
393 foreign judgment in the Office of the Probate Court Administrator
394 certified copies of the order and letters of office.

395 (b) The Office of the Probate Court Administrator shall maintain a
396 registry, accessible by the public, of guardianships registered under
397 subsection (a) of this section.

398 Sec. 20. (NEW) (*Effective October 1, 2009*) (a) If a conservator has been
399 appointed in another state and a petition for a protective order is not
400 pending in this state, the conservator appointed in the other state, after
401 giving notice to the appointing court of an intent to register, may
402 register the protective order in this state by filing as a foreign judgment
403 in the Office of the Probate Court Administrator, certified copies of the
404 order and letters of office and of any bond and may submit certified
405 copies for recordation on the land records in a town in which real
406 property belonging to the protected person is located.

407 (b) Each court of probate shall maintain a registry, accessible by the
408 public, of protective orders registered under subsection (a) of this
409 section.

410 Sec. 21. (NEW) (*Effective October 1, 2009*) (a) On registration in this
411 state under section 19 of this act of a guardianship or under section 20
412 of this act of a protective order from another state, the guardian or
413 conservator may exercise in this state all powers authorized in the
414 order of appointment, except as prohibited under the laws of this state,
415 including maintaining actions and proceedings in this state and, if the
416 guardian or conservator is not a resident of this state, subject to any
417 conditions imposed on nonresident parties.

418 (b) A court of probate or, to the extent it lacks jurisdiction, the
419 Superior Court may grant any relief available under sections 1 to 23,
420 inclusive, of this act, section 45a-644 of the general statutes, as
421 amended by this act, section 45a-648 of the general statutes, as
422 amended by this act, and section 45a-649 of the general statutes, as

423 amended by this act, and other law of this state to enforce a registered
424 order.

425 Sec. 22. (NEW) (*Effective October 1, 2009*) In applying and construing
426 the provisions of sections 1 to 23, inclusive, of this act, section 45a-644
427 of the general statutes, as amended by this act, section 45a-648 of the
428 general statutes, as amended by this act, and section 45a-649 of the
429 general statutes, as amended by this act, consideration shall be given to
430 the need to promote uniformity of the law with respect to its subject
431 matter among states that enact such uniform provisions.

432 Sec. 23. (NEW) (*Effective October 1, 2009*) Sections 1 to 23, inclusive,
433 of this act, section 45a-644 of the general statutes, as amended by this
434 act, section 45a-648 of the general statutes, as amended by this act, and
435 section 45a-649 of the general statutes, as amended by this act, modify,
436 limit and supersede the Electronic Signatures in Global and National
437 Commerce Act, 15 USC Section 7001 et seq., but do not modify, limit or
438 supersede Section 101 of said act, 15 USC Section 7001(a), or authorize
439 electronic delivery of any of the notices described in Section 103 of said
440 act, 15 USC Section 7003(b).

441 Sec. 24. Section 45a-644 of the general statutes is repealed and the
442 following is substituted in lieu thereof (*Effective October 1, 2009*):

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

446 (a) "Conservator of the estate" means a person, a municipal or state
447 official, or a private profit or nonprofit corporation except a hospital or
448 nursing home facility as defined in section 19a-521, appointed by the
449 Court of Probate under the provisions of sections 45a-644 to 45a-663,
450 inclusive, as amended by this act, to supervise the financial affairs of a
451 person found to be incapable of managing his or her own affairs or of a
452 person who voluntarily asks the Court of Probate for the appointment
453 of a conservator of the estate, and includes (1) a temporary conservator

454 of the estate appointed under the provisions of section 45a-654, and (2)
455 a conservator, as defined in section 2 of this act.

456 (b) "Conservator of the person" means a person, a municipal or state
457 official, or a private profit or nonprofit corporation, except a hospital
458 or nursing home facility as defined in section 19a-521, appointed by
459 the Court of Probate under the provisions of sections 45a-644 to 45a-
460 663, inclusive, as amended by this act, to supervise the personal affairs
461 of a person found to be incapable of caring for himself or herself or of a
462 person who voluntarily asks the Court of Probate for the appointment
463 of a conservator of the person, and includes (1) a temporary
464 conservator of the person appointed under the provisions of section
465 45a-654, and (2) a guardian, as defined in section 2 of this act.

466 (c) "Incapable of caring for one's self" or "incapable of caring for
467 himself or herself" means that a person has a mental, emotional or
468 physical condition that results in such person being unable to receive
469 and evaluate information or make or communicate decisions to such
470 an extent that the person is unable, even with appropriate assistance,
471 to meet essential requirements for personal needs.

472 (d) "Incapable of managing his or her affairs" means that a person
473 has a mental, emotional or physical condition that results in such
474 person being unable to receive and evaluate information or make or
475 communicate decisions to such an extent that the person is unable,
476 even with appropriate assistance, to perform the functions inherent in
477 managing his or her affairs, and the person has property that will be
478 wasted or dissipated unless adequate property management is
479 provided, or that funds are needed for the support, care or welfare of
480 the person or those entitled to be supported by the person and that the
481 person is unable to take the necessary steps to obtain or provide funds
482 needed for the support, care or welfare of the person or those entitled
483 to be supported by the person.

484 (e) "Involuntary representation" means the appointment of a
485 conservator of the person or a conservator of the estate, or both, after a

486 finding by the Court of Probate that the respondent is incapable of
487 managing his or her affairs or incapable of caring for himself or herself.

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

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

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

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

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

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

512 Sec. 25. Section 45a-648 of the general statutes is repealed and the
513 following is substituted in lieu thereof (*Effective October 1, 2009*):

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

515 any person alleging that a respondent is incapable of managing his or
516 her affairs or incapable of caring for himself or herself and stating the
517 reasons for the alleged incapability. The application shall be filed in the
518 court of probate in the district in which the respondent resides, is
519 domiciled or is located at the time of the filing of the application.

520 (b) An application for involuntary representation for a
521 nondomiciliary of the state [made pursuant to subsection (a) of this
522 section shall not be granted unless the court finds the (1) respondent is
523 presently located in the probate district in which the application is
524 filed; (2) applicant has made reasonable efforts to provide notice to
525 individuals and applicable agencies listed in subsection (a) of section
526 45a-649 concerning the respondent; (3) respondent has been provided
527 an opportunity to return to the respondent's place of domicile, and has
528 been provided the financial means to return to the respondent's place
529 of domicile within the respondent's resources, and has declined to
530 return, or the applicant has made reasonable but unsuccessful efforts
531 to return the respondent to such respondent's place of domicile; and
532 (4) requirements of this chapter for the appointment of a conservator
533 pursuant to an application for involuntary representation have been
534 met] shall be made pursuant to the provisions of sections 8 to 16,
535 inclusive, of this act.

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

540 (d) The court shall review any involuntary representation of a
541 nondomiciliary ordered by the court pursuant to subsection (b) of this
542 section every sixty days. Such involuntary representation shall expire
543 sixty days after the date such involuntary representation was ordered
544 by the court or sixty days after the most recent review ordered by the
545 court, whichever is later, unless the court finds the (1) conserved
546 person is presently located in the state; (2) conservator has made

547 reasonable efforts to provide notice to individuals and applicable
548 agencies listed in subsection (a) of section 45a-649 concerning the
549 conserved person; (3) conserved person has been provided an
550 opportunity to return to the conserved person's place of domicile and
551 has been provided the financial means to return to the conserved
552 person's place of domicile within the conserved person's resources,
553 and has declined to return, or the conservator has made reasonable but
554 unsuccessful efforts to return the conserved person to the conserved
555 person's place of domicile; and (4) requirements of this chapter for the
556 appointment of a conservator pursuant to an application for
557 involuntary representation have been met. As part of its review under
558 this subsection, the court shall receive and consider reports from the
559 conservator and from the attorney for the conserved person regarding
560 the requirements of this subsection.]

561 [(e)] (c) A person is guilty of fraudulent or malicious application or
562 false testimony when such person (1) wilfully files a fraudulent or
563 malicious application for involuntary representation or appointment of
564 a temporary conservator, (2) conspires with another person to file or
565 cause to be filed such an application, or (3) wilfully testifies either in
566 court or by report to the court falsely to the incapacity of any person in
567 any proceeding provided for in sections 45a-644 to 45a-663, inclusive.
568 Fraudulent or malicious application or false testimony is a class D
569 felony.

570 Sec. 26. Section 45a-649 of the general statutes is repealed and the
571 following is substituted in lieu thereof (*Effective October 1, 2009*):

572 (a) (1) Upon an application for involuntary representation, the court
573 shall issue a citation to the following enumerated parties to appear
574 before it at a time and place named in the citation, which shall be
575 served on the parties at least ten days before the hearing date, or in the
576 case of an application made pursuant to section 17a-543 or 17a-543a, at
577 least seven days before the hearing date, which date in any event shall
578 not be more than thirty days after the receipt of the application by the

579 Court of Probate unless continued for cause shown. Notice of the
580 hearing shall be sent within thirty days after receipt of the application.
581 In addition to such notice, (A) notice for a matter brought under
582 sections 8 to 16, inclusive, of this act shall be given in the manner
583 provided in section 15 of this act, and (B) notice for a matter brought
584 under section 17 of this act shall be given in the manner provided in
585 section 18 of this act.

586 (2) The court shall direct that personal service of the citation be
587 made, by a state marshal, constable or an indifferent person, upon the
588 following: The respondent and the respondent's spouse, if any, if the
589 spouse is not the applicant, except that in cases where the application
590 is for involuntary representation pursuant to section 17b-456, and there
591 is no spouse, the court shall order notice by certified mail to the
592 children of the respondent and if none, the parents of the respondent
593 and if none, the brothers and sisters of the respondent or their
594 representatives, and if none, the next of kin of such respondent.

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

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

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

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

626 "POSSIBLE CONSEQUENCES OF THE APPOINTMENT
627 OF A CONSERVATOR FOR YOU

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

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

639 You should have an attorney represent you at the hearing on the
640 application. If you are unable to obtain an attorney to represent you at

641 the hearing, the court will appoint an attorney for you. If you are
642 unable to pay for representation by an attorney, the court will pay
643 attorney fees as permitted by the court's rules. Even if you qualify for
644 payment of an attorney on your behalf, you may choose an attorney if
645 the attorney will accept the attorney fees permitted by the court's rules.

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

- 657 - Accessing and budgeting your money
- 658 - Deciding where you live
- 659 - Making medical decisions for you
- 660 - Paying your bills
- 661 - Managing your real and personal property

662 You may participate in the selection of your conservator. If you
663 have already designated a conservator or if you inform the court of
664 your choice for a conservator, the court must honor your request
665 unless the court decides that the person designated by you is not
666 appropriate.

667 The conservator appointed for you may be a lawyer, a public official
668 or someone whom you did not know before the appointment. The
669 conservator will be required to make regular reports to the court about

670 you. The conservator may charge you a fee, under the supervision of
671 the court, for being your conservator."

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

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

687 (e) If the respondent notifies the court in any manner that the
688 respondent wants to attend the hearing on the application but is
689 unable to do so, the court shall schedule the hearing on the application
690 at a place that would facilitate attendance by the respondent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section
Sec. 2	October 1, 2009	New section
Sec. 3	October 1, 2009	New section
Sec. 4	October 1, 2009	New section
Sec. 5	October 1, 2009	New section
Sec. 6	October 1, 2009	New section
Sec. 7	October 1, 2009	New section
Sec. 8	October 1, 2009	New section
Sec. 9	October 1, 2009	New section

Sec. 10	<i>October 1, 2009</i>	New section
Sec. 11	<i>October 1, 2009</i>	New section
Sec. 12	<i>October 1, 2009</i>	New section
Sec. 13	<i>October 1, 2009</i>	New section
Sec. 14	<i>October 1, 2009</i>	New section
Sec. 15	<i>October 1, 2009</i>	New section
Sec. 16	<i>October 1, 2009</i>	New section
Sec. 17	<i>October 1, 2009</i>	New section
Sec. 18	<i>October 1, 2009</i>	New section
Sec. 19	<i>October 1, 2009</i>	New section
Sec. 20	<i>October 1, 2009</i>	New section
Sec. 21	<i>October 1, 2009</i>	New section
Sec. 22	<i>October 1, 2009</i>	New section
Sec. 23	<i>October 1, 2009</i>	New section
Sec. 24	<i>October 1, 2009</i>	45a-644
Sec. 25	<i>October 1, 2009</i>	45a-648
Sec. 26	<i>October 1, 2009</i>	45a-649

Statement of Purpose:

To adopt the Connecticut Uniform Protective Proceedings Jurisdiction Act.

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

Co-Sponsors: SEN. DOYLE, 9th Dist.

S.B. 576