



General Assembly

**Substitute Bill No. 426**

February Session, 2010

\* SB00426JUD\_\_032610\_\_ \*

**AN ACT CONCERNING THE CONNECTICUT UNIFORM ADULT  
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, 2010*) Sections 1 to 23,  
2 inclusive, of this act may be cited as the "Connecticut Uniform Adult  
3 Protective Proceedings Jurisdiction Act."

4 Sec. 2. (NEW) (*Effective October 1, 2010*) 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) a conservator of the estate, as defined  
9 in section 45a-644 of the general statutes, as amended by this act, or (B)  
10 a person, except a hospital or nursing home facility, appointed by a  
11 court outside of this state to administer the property of an adult.

12 (3) "Guardian" means (A) a conservator of the person, as defined in  
13 section 45a-644 of the general statutes, as amended by this act, or (B) a  
14 person, except a hospital or nursing home facility, appointed by a  
15 court outside of this state to make decisions regarding the person of an  
16 adult. "Guardian" does not include a guardian, as defined in section  
17 45a-604 of the general statutes, a plenary guardian of a person with

18 mental retardation, as defined in section 45a-669 of the general  
19 statutes, or a limited guardian of a person with mental retardation, as  
20 defined in section 45a-669 of the general statutes.

21 (4) "Guardianship order" means (A) an order appointing a guardian  
22 pursuant to part IV of chapter 802h of the general statutes, or (B) an  
23 order by a court outside of this state appointing a guardian.

24 (5) "Guardianship proceeding" means (A) a judicial proceeding held  
25 pursuant to part IV of chapter 802h of the general statutes in which an  
26 order for the appointment of a guardian is sought or has been issued,  
27 or (B) a judicial proceeding held outside of this state in which an order  
28 for the appointment of a guardian is sought or has been issued.

29 (6) "Incapacitated person" means a conserved person, as defined in  
30 section 45a-644 of the general statutes, as amended by this act, or an  
31 adult for whom a guardian has been appointed in a judicial proceeding  
32 held outside of this state.

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

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

41 (9) "Protected person" means a conserved person, as defined in  
42 section 45a-644 of the general statutes, as amended by this act, or an  
43 adult for whom a protective order has been issued outside of this state.

44 (10) "Protective order" means an order appointing a conservator of  
45 the estate pursuant to part IV of chapter 802h of the general statutes, or  
46 an order by a court outside of this state appointing a conservator or  
47 other order by a court related to the management of an adult's

48 property.

49 (11) "Protective proceeding" means a judicial proceeding held  
50 pursuant to part IV of chapter 802h of the general statutes or a judicial  
51 proceeding held outside of this state in which a protective order is  
52 sought or has been issued.

53 (12) "Record" means information that is inscribed on a tangible  
54 medium or that is stored in an electronic or other medium and is  
55 retrievable in perceivable form.

56 (13) "Respondent" means a respondent, as defined in section 45a-644  
57 of the general statutes, as amended by this act, or an adult for whom a  
58 protective order or the appointment of a guardian is sought outside of  
59 this state.

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

64 Sec. 3. (NEW) (*Effective October 1, 2010*) (a) Sections 1 to 23, inclusive,  
65 of this act, and sections 45a-644 of the general statutes, as amended by  
66 this act, 45a-648 of the general statutes, as amended by this act, and  
67 45a-649 of the general statutes, as amended by this act, apply to  
68 guardianship proceedings and protective proceedings begun on or  
69 after October 1, 2010.

70 (b) Sections 1 to 7, inclusive, of this act and sections 17 to 23,  
71 inclusive, of this act apply to guardianship proceedings and protective  
72 proceedings begun before October 1, 2010, regardless of whether a  
73 guardianship order or protective order has been issued.

74 Sec. 4. (NEW) (*Effective October 1, 2010*) A court of probate may treat  
75 a foreign country as if it were a state for the purpose of applying  
76 sections 1 to 18, inclusive, and sections 22 and 23 of this act.

77 Sec. 5. (NEW) (*Effective October 1, 2010*) (a) A court of probate may  
78 communicate with a court in another state concerning a proceeding  
79 arising under sections 1 to 23, inclusive, of this act or part IV of chapter  
80 802h of the general statutes. The court of probate shall allow the  
81 parties to participate in the communication.

82 (b) The court of probate shall make a record of the communication.

83 (c) The court of probate shall inform the parties of any such  
84 communication not later than seven business days after the date of  
85 such communication and shall grant the parties access to the record of  
86 the communications. The court of probate shall grant the parties the  
87 opportunity to present facts and legal arguments before issuing a  
88 decision on jurisdiction.

89 (d) Courts of probate may communicate concerning schedules,  
90 calendars, court records and other administrative matters without  
91 making a record.

92 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) In a proceeding for  
93 involuntary representation in this state, a court of probate may request,  
94 to the extent permitted or required by the laws of this state, the  
95 appropriate court of another state to do any of the following:

96 (1) Hold an evidentiary hearing;

97 (2) Order a person in that state to produce evidence or give  
98 testimony pursuant to the procedures of that state;

99 (3) Order that an evaluation or assessment be made of the  
100 respondent, subject to the provisions of section 45a-132a of the general  
101 statutes;

102 (4) Order any appropriate investigation of a person involved in a  
103 proceeding;

104 (5) Forward to the Court of Probate a certified copy of the transcript

105 or other record of a hearing under subdivision (1) of this subsection, or  
106 any other proceeding, any evidence otherwise produced under  
107 subdivision (2) of this subsection, and any evaluation or assessment  
108 prepared in compliance with an order issued under subdivision (3) or  
109 (4) of this subsection;

110 (6) Issue an order necessary to assure the appearance in the  
111 proceeding of a person whose presence is necessary for the court to  
112 make a determination, including the respondent or the incapacitated  
113 person or protected person, subject to the provisions of subsection (e)  
114 of section 45a-649 of the general statutes, as amended by this act,  
115 subsection (e) of section 45a-650 of the general statutes or subsection  
116 (g) of section 45a-656b of the general statutes; or

117 (7) Issue an order authorizing the release of medical, financial,  
118 criminal or other relevant information in that state, including protected  
119 health information as defined in 45 CFR 160.103, as amended from  
120 time to time, subject to the provisions of subsection (g) of section 45a-  
121 649a.

122 (b) If a court of another state in which a guardianship proceeding or  
123 protective proceeding is pending requests assistance of the kind  
124 provided in subsection (a) of this section, a court of probate has  
125 jurisdiction for the limited purpose of granting the request or making  
126 reasonable efforts to comply with the request, subject to the laws of  
127 this state.

128 Sec. 7. (NEW) (*Effective October 1, 2010*) (a) In a proceeding for  
129 involuntary representation in this state, in addition to other  
130 procedures that may be available, testimony of a witness who is  
131 located in another state may be offered by deposition or other means  
132 allowable in this state for testimony taken in another state. A court of  
133 probate on its own motion may order that the testimony of a witness  
134 be taken in another state and may prescribe the manner in which and  
135 the terms upon which the testimony is to be taken.

136 (b) In a proceeding for involuntary representation in this state, a  
137 court of probate may permit a witness located in another state to be  
138 deposed or to testify by telephone or audiovisual or other electronic  
139 means. A court of probate shall cooperate with the court of the other  
140 state in designating an appropriate location for the deposition or  
141 testimony.

142 (c) Documentary evidence transmitted from another state to a court  
143 of probate by technological means that does not produce an original  
144 writing may not be excluded from evidence on an objection based on  
145 the best evidence rule.

146 Sec. 8. (NEW) (*Effective October 1, 2010*) (a) As used in this section  
147 and sections 9 to 16, inclusive, of this act:

148 (1) "Emergency" means a circumstance that will result in immediate  
149 and irreparable harm to the mental or physical health or financial or  
150 legal affairs of the respondent and includes a circumstance in which a  
151 temporary conservator may be appointed and may serve under  
152 subsection (a) of section 45a-654 of the general statutes;

153 (2) "Home state" means the state in which the respondent was  
154 physically present, including any period of temporary absence, for at  
155 least six consecutive months immediately before the filing of a petition  
156 for a protective order or the appointment of a guardian, or, if none, the  
157 state in which the respondent was physically present, including any  
158 period of temporary absence, for at least six consecutive months  
159 ending within the six months prior to the filing of the petition.

160 (3) "Significant-connection state" means a state, other than the home  
161 state, with which a respondent has a significant connection other than  
162 mere physical presence and in which substantial evidence concerning  
163 the respondent is available.

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

167 (1) The location of the respondent's family and other persons  
168 required to be notified of the guardianship proceeding or protective  
169 proceeding;

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

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

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

176 Sec. 9. (NEW) (*Effective October 1, 2010*) A proceeding for  
177 involuntary representation in this state shall be subject to the  
178 provisions of part IV of chapter 802h of the general statutes, except that  
179 jurisdiction shall be determined in accordance with sections 8 to 16,  
180 inclusive, of this act.

181 Sec. 10. (NEW) (*Effective October 1, 2010*) A court of probate in this  
182 state has jurisdiction to appoint a conservator of the person or  
183 conservator of the estate for a respondent pursuant to part IV of  
184 chapter 802h of the general statutes if:

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

186 (2) On the date a petition for involuntary representation is filed, this  
187 state is a significant-connection state, and:

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

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

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

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

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

201 (3) A court of probate in this state does not have jurisdiction under  
202 subdivision (1) or (2) of this subsection, the respondent's home state  
203 and all significant-connection states have declined to exercise  
204 jurisdiction because this state is the more appropriate forum, and  
205 jurisdiction in this state is consistent with the statutes of this state and  
206 the Constitutions of this state and the United States; or

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

209 Sec. 11. (NEW) (*Effective October 1, 2010*) (a) A court of probate  
210 lacking jurisdiction under section 10 of this act has special jurisdiction  
211 to do any of the following if the court of probate makes the necessary  
212 preliminary findings required under section 45a-654 of the general  
213 statutes:

214 (1) Appoint a temporary conservator of the person or a temporary  
215 conservator of the estate in an emergency pursuant to subsection (a) of  
216 section 45a-654 of the general statutes for a term not exceeding ninety  
217 days for a respondent who is physically present in this state; or

218 (2) Appoint a temporary conservator of the person or a temporary  
219 conservator of the estate for an incapacitated person or protected  
220 person for whom a provisional order to transfer the proceeding from  
221 another state has been issued under procedures similar to those in  
222 section 17 of this act.

223 (b) If a petition for the appointment of a temporary conservator of

224 the person or a temporary conservator of the estate in an emergency is  
225 brought in this state and this state was not the respondent's home state  
226 on the date the petition was filed, the court shall dismiss the  
227 proceeding at the request of the respondent or the court of the home  
228 state, if any, whether dismissal is requested before or after the  
229 emergency appointment.

230 Sec. 12. (NEW) (*Effective October 1, 2010*) Except as otherwise  
231 provided in section 11 of this act, a court that has appointed a guardian  
232 or issued a protective order consistent with the requirements of  
233 sections 1 to 23, inclusive, of this act and part IV of chapter 802h of the  
234 general statutes has exclusive and continuing jurisdiction over the  
235 proceeding until it is terminated by the court or the appointment or  
236 order expires by its own terms.

237 Sec. 13. (NEW) (*Effective October 1, 2010*) (a) A court of probate  
238 having jurisdiction under section 10 of this act to appoint a conservator  
239 of the person or conservator of the estate may decline to exercise its  
240 jurisdiction if it determines at any time that a court of another state is a  
241 more appropriate forum.

242 (b) If a court of probate declines to exercise its jurisdiction under  
243 subsection (a) of this section, the court of probate shall either dismiss  
244 the proceeding or stay the proceeding for not more than ninety days to  
245 allow for a petition to be filed in a more appropriate forum that has  
246 jurisdiction to appoint a guardian or issue a protective order.

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

249 (1) Any expressed preference of the respondent;

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

253 (3) The length of time the respondent was physically present in or

254 was a legal resident of this or another state;

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

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

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

258 (7) The ability of the court in each state to decide the issue in  
259 accordance with due process of law and without undue delay;

260 (8) The procedures necessary to present evidence;

261 (9) The familiarity of the court of each state with the facts and issues  
262 in the proceeding; and

263 (10) If an appointment were made, the court's ability to monitor the  
264 conduct of the conservator of the person or conservator of the estate  
265 within this state and outside of this state, if applicable.

266 (d) The court shall make specific written findings as to the basis for  
267 its determination of appropriate forum.

268 Sec. 14. (NEW) (*Effective October 1, 2010*) (a) If at any time a court of  
269 probate determines that it acquired jurisdiction to appoint a guardian  
270 or issue a protective order because of unjustifiable conduct of a party,  
271 the court shall:

272 (1) Decline to exercise jurisdiction and dismiss the case if the court  
273 has not entered an order in the case; or

274 (2) Rescind any order issued in the case and dismiss the case, except  
275 that, prior to dismissing the case, the court may exercise limited  
276 jurisdiction for not more than ninety days for the limited purpose of  
277 fashioning an appropriate remedy to avoid immediate and irreparable  
278 harm to the mental or physical health or financial or legal affairs of the  
279 person for whom a guardian was appointed or who was subject to the  
280 protective order to prevent a repetition of the unjustifiable conduct.

281 (b) A court of probate that determines it has acquired or maintained  
282 jurisdiction because a party seeking or having sought to invoke its  
283 jurisdiction engaged in unjustifiable conduct may assess against that  
284 party necessary and reasonable expenses, including attorney's fees,  
285 investigative fees, court costs, communication expenses, witness fees  
286 and expenses, and travel expenses. The court may not assess fees, costs  
287 or expenses of any kind against this state or a governmental  
288 subdivision, agency or instrumentality of this state unless authorized  
289 by law other than sections 1 to 23, inclusive, of this act.

290 Sec. 15. (NEW) (*Effective October 1, 2010*) If a petition for involuntary  
291 representation is brought in this state and this state was not the  
292 respondent's home state on the date the petition was filed, in addition  
293 to complying with the notice requirements of section 45a-649 of the  
294 general statutes, as amended by this act, notice of the petition shall be  
295 given to those persons who would be entitled to notice of the petition  
296 if a proceeding were brought in the respondent's home state. The  
297 notice shall be given in the same manner as notice is required to be  
298 given under section 45a-649 of the general statutes, as amended by this  
299 act.

300 Sec. 16. (NEW) (*Effective October 1, 2010*) Except for a petition for the  
301 appointment of a temporary conservator of the person or a temporary  
302 conservator of the estate in an emergency under subdivision (1) of  
303 subsection (a) of section 11 of this act, if a petition for involuntary  
304 representation is filed in this state and a petition for appointment of a  
305 guardian or issuance of a protective order is filed in another state and  
306 neither petition has been dismissed or withdrawn, the following rules  
307 apply:

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

312 (2) If the Court of Probate does not have jurisdiction under

313 subdivision (1) or (2) of section 10 of this act, whether at the time the  
314 petition is filed or at any time before the appointment or issuance of  
315 the order, the court shall stay the proceeding and communicate with  
316 the court in the other state. If the court in the other state has  
317 jurisdiction, the Court of Probate shall dismiss the petition unless the  
318 court in the other state determines that the Court of Probate is a more  
319 appropriate forum and jurisdiction in this state is consistent with the  
320 statutes of this state and the Constitutions of this state and the United  
321 States.

322 Sec. 17. (NEW) (*Effective October 1, 2010*) (a) Except for an individual  
323 under voluntary representation as provided in section 45a-647 of the  
324 general statutes, a conserved person, a conserved person's attorney,  
325 conservator of the person, or conservator of the estate appointed in this  
326 state or any person who has received notice pursuant to subdivision  
327 (2) of subsection (a) of section 45a-649 of the general statutes, as  
328 amended by this act, may petition a court of probate to transfer the  
329 conservatorship of the person or the conservatorship of the estate, or  
330 both, to another state.

331 (b) Notice of a petition under subsection (a) of this section shall be  
332 given to the persons that would be entitled to notice of a petition in  
333 this state for the appointment of a conservator of the person or  
334 conservator of the estate, or both.

335 (c) On the court's own motion or on request of the conservator of the  
336 person or conservator of the estate, the conserved person, the  
337 conserved person's attorney or other person required to be notified of  
338 the petition, the court of probate shall hold a hearing on a petition filed  
339 pursuant to subsection (a) of this section.

340 (d) The court of probate shall issue an order provisionally granting a  
341 petition to transfer a conservatorship of the person and shall direct the  
342 conservator of the person to petition for guardianship in the other state  
343 if the court of probate is satisfied that the guardianship will be  
344 accepted by the court in the other state and the court finds that:

345 (1) The conserved person is physically present in or is reasonably  
346 expected to move permanently to the other state;

347 (2) An objection to the transfer has not been made or, if an objection  
348 has been made, the objector has not established that the transfer would  
349 be contrary to the interests of the conserved person, including the  
350 reasoned and informed expressed preferences of the conserved person;

351 (3) Plans for care and services for the conserved person in the other  
352 state are reasonable and sufficient, have been made after allowing the  
353 conserved person the opportunity to participate meaningfully in  
354 decision-making in accordance with the conserved person's abilities,  
355 and include assisting the conserved person in removing obstacles to  
356 independence, assisting the conserved person in achieving self-  
357 reliance, ascertaining the conserved person's views, making decisions  
358 in conformance with the conserved person's reasonable and informed  
359 expressed preferences, and making all reasonable efforts to make  
360 decisions in conformance with the conserved person's expressed health  
361 care preferences, including health care instructions and other wishes, if  
362 any, described in any validly executed health care instructions or  
363 otherwise; and

364 (4) If the transfer involves the termination of a tenancy or lease of a  
365 conserved person, the sale or disposal of any real property or  
366 household furnishings of the conserved person, a change in the  
367 conserved person's residence or the placement of the conserved person  
368 in an institution for long-term care, as defined in section 45a-656b of  
369 the general statutes, the court of probate shall ensure that the  
370 requirements in section 45a-656b of the general statutes have been met  
371 before approving the transfer.

372 (e) The court of probate shall issue a provisional order granting a  
373 petition to transfer a conservatorship of the estate and shall direct the  
374 conservator of the estate to petition for conservatorship of the estate in  
375 the other state if the court of probate is satisfied that the  
376 conservatorship of the estate will be accepted by the court of the other

377 state and the court finds that:

378 (1) The conserved person is physically present in or is reasonably  
379 expected to move permanently to the other state, or the conserved  
380 person has a significant connection to the other state considering the  
381 factors set forth in subsection (b) of section 8 of this act;

382 (2) An objection to the transfer has not been made or, if an objection  
383 has been made, the objector has not established that the transfer would  
384 be contrary to the interests of the conserved person, including the  
385 reasoned and informed expressed preferences of the conserved person;

386 (3) Adequate arrangements will be made for management of the  
387 conserved person's property, and that such arrangements shall be  
388 made in accordance with subsection (a) of section 45a-655 of the  
389 general statutes; and

390 (4) The transfer is made in accordance with section 45a-656b of the  
391 general statutes.

392 (f) The court of probate shall issue a final order confirming the  
393 transfer and terminating the conservatorship of the person or  
394 conservatorship of the estate on its receipt of:

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

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

400 Sec. 18. (NEW) (*Effective October 1, 2010*) (a) To confirm transfer of a  
401 guardianship or conservatorship transferred to this state under  
402 provisions similar to those in section 17 of this act, the guardian or  
403 conservator shall petition the Court of Probate to accept the guardian  
404 as a conservator of the person or the conservator as a conservator of  
405 the estate. The petition shall include a certified copy of the other state's

406 provisional order of transfer.

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

413 (c) On the court's own motion or on request of the guardian or  
414 conservator, the incapacitated person or protected person, or other  
415 person required to be notified of the proceeding, the court of probate  
416 shall hold a hearing on a petition filed pursuant to subsection (a) of  
417 this section.

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

420 (1) An objection is made and the objector establishes that transfer of  
421 the proceeding would be contrary to the interests of the incapacitated  
422 person or protected person, including the reasoned and informed  
423 expressed preferences of the conserved person; or

424 (2) The guardian or conservator is ineligible for appointment as a  
425 conservator of the person or conservator of the estate in this state.

426 (e) The court of probate shall issue a final order accepting the  
427 proceeding and appointing the guardian or conservator as conservator  
428 of the person or conservator of the estate in this state on its receipt  
429 from the court from which the proceeding is being transferred of a  
430 final order issued under provisions similar to those in section 17 of this  
431 act transferring the proceeding to this state.

432 (f) Not later than thirty days before the issuance of a final order  
433 accepting the transfer of a guardianship or conservatorship to this  
434 state, the court of probate shall insure that (1) the incapacitated person  
435 or protected person is represented by counsel in accordance with the

436 provisions of section 45a-649a of the general statutes, and (2) such  
437 person receives notice of his or her rights under the laws of this state  
438 with respect to such transfer.

439 (g) Not later than ninety days after the issuance of a final order  
440 accepting transfer of a guardianship or conservatorship to this state,  
441 the court of probate shall determine whether the conservatorship of  
442 the person or conservatorship of the estate needs to be modified to  
443 conform to the law of this state, and, if so, the court of probate shall  
444 order such modifications.

445 (h) In granting a petition under this section, the court of probate  
446 shall recognize a guardianship or conservatorship order from the other  
447 state, including the determination of the incapacitated person or  
448 protected person's incapacity and the appointment of the guardian or  
449 conservator, to the extent such order conforms to the law of this state.

450 (i) The denial by a court of probate of a petition to accept a  
451 guardianship or conservatorship transferred from another state does  
452 not affect the ability of the guardian or conservator to seek involuntary  
453 representation under section 45a-648 of the general statutes, as  
454 amended by this act, if the court has jurisdiction to grant the  
455 involuntary representation other than by reason of the provisional  
456 order of transfer.

457 (j) The granting by a court of probate of a petition to accept a  
458 guardianship or conservatorship transferred from another state shall:

459 (1) Grant to the incapacitated person or protected person the same  
460 rights as if such person had originally had a conservator of the person  
461 or conservator of the estate appointed under part IV of chapter 802h of  
462 the general statutes, including, but not limited to, the right to review  
463 and termination of appointment of a conservator under section 45a-660  
464 of the general statutes, and

465 (2) Impose upon the guardian or conservator the same  
466 responsibilities and duties imposed upon a conservator of the person

467 or conservator of the estate under the laws of this state.

468 Sec. 19. (NEW) (*Effective October 1, 2010*) (a) If a guardian has been  
469 appointed in another state and a petition for the appointment of a  
470 conservator of the person is not pending in this state, the guardian  
471 appointed in the other state, after giving notice to the appointing court  
472 of an intent to register, may register the guardianship order in this  
473 state as a conservatorship of the person by filing, as a foreign judgment  
474 in the Office of the Probate Court Administrator, certified copies of the  
475 order and letters of office.

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

479 Sec. 20. (NEW) (*Effective October 1, 2010*) (a) If a conservator has been  
480 appointed in another state and a petition for the appointment of a  
481 conservator of the estate is not pending in this state, the conservator  
482 appointed in the other state, after giving notice to the appointing court  
483 of an intent to register, may register the protective order in this state as  
484 a conservatorship of the estate by filing, as a foreign judgment in the  
485 Office of the Probate Court Administrator, certified copies of the order  
486 and letters of office and of any bond and may submit certified copies  
487 for recordation on the land records in a town in which real property  
488 belonging to the protected person is located.

489 (b) The Office of the Probate Court Administrator shall maintain a  
490 registry, accessible by the public, of protective orders registered under  
491 subsection (a) of this section.

492 Sec. 21. (NEW) (*Effective October 1, 2010*) (a) On registration in this  
493 state under section 19 of this act of a guardianship from another state  
494 or under section 20 of this act of a protective order from another state,  
495 the guardian or conservator may exercise in this state all powers  
496 authorized in the order of appointment, except as prohibited under the  
497 laws of this state, including maintaining actions and proceedings in

498 this state and, if the guardian or conservator is not a resident of this  
499 state, subject to any conditions imposed on nonresident parties. The  
500 registration of a guardianship shall lapse one hundred twenty days  
501 after such registration, except that the registration may be extended for  
502 good cause for an additional one hundred twenty days by the court of  
503 probate in this state having jurisdiction over the location within this  
504 state where the person under the guardianship is physically located.

505 (b) A court of probate or, to the extent it lacks jurisdiction, the  
506 Superior Court may grant any relief available under sections 1 to 23,  
507 inclusive, of this act, section 45a-644 of the general statutes, as  
508 amended by this act, section 45a-648 of the general statutes, as  
509 amended by this act, and section 45a-649 of the general statutes, as  
510 amended by this act, and other law of this state to enforce a registered  
511 order.

512 Sec. 22. (NEW) (*Effective October 1, 2010*) In applying and construing  
513 the provisions of sections 1 to 23, inclusive, of this act, section 45a-644  
514 of the general statutes, as amended by this act, section 45a-648 of the  
515 general statutes, as amended by this act, and section 45a-649 of the  
516 general statutes, as amended by this act, consideration shall be given to  
517 the need to promote uniformity of the law with respect to its subject  
518 matter among states that enact such uniform provisions, consistent  
519 with the need to protect individual civil rights and in accordance with  
520 due process.

521 Sec. 23. (NEW) (*Effective October 1, 2010*) This section, sections 1 to  
522 22, inclusive, of this act, section 45a-644 of the general statutes, as  
523 amended by this act, section 45a-648 of the general statutes, as  
524 amended by this act, and section 45a-649 of the general statutes, as  
525 amended by this act, modify, limit and supersede the Electronic  
526 Signatures in Global and National Commerce Act, 15 USC Section 7001  
527 et seq., but do not modify, limit or supersede Section 101 of said act, 15  
528 USC Section 7001(a), or authorize electronic delivery of any of the  
529 notices described in Section 103 of said act, 15 USC Section 7003(b).

530 Sec. 24. Section 45a-644 of the general statutes is repealed and the  
531 following is substituted in lieu thereof (*Effective October 1, 2010*):

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

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

544 (b) "Conservator of the person" means a person, a municipal or state  
545 official, or a private profit or nonprofit corporation, except a hospital  
546 or nursing home facility as defined in section 19a-521, appointed by  
547 the Court of Probate under the provisions of sections 45a-644 to 45a-  
548 663, inclusive, as amended by this act, to supervise the personal affairs  
549 of a person found to be incapable of caring for himself or herself or of a  
550 person who voluntarily asks the Court of Probate for the appointment  
551 of a conservator of the person, and includes a temporary conservator  
552 of the person appointed under the provisions of section 45a-654.

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

559 (d) "Incapable of managing his or her affairs" means that a person  
560 has a mental, emotional or physical condition that results in such

561 person being unable to receive and evaluate information or make or  
562 communicate decisions to such an extent that the person is unable,  
563 even with appropriate assistance, to perform the functions inherent in  
564 managing his or her affairs, and the person has property that will be  
565 wasted or dissipated unless adequate property management is  
566 provided, or that funds are needed for the support, care or welfare of  
567 the person or those entitled to be supported by the person and that the  
568 person is unable to take the necessary steps to obtain or provide funds  
569 needed for the support, care or welfare of the person or those entitled  
570 to be supported by the person.

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

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

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

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

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

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

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

599 Sec. 25. Section 45a-648 of the general statutes is repealed and the  
600 following is substituted in lieu thereof (*Effective October 1, 2010*):

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

607 (b) An application for involuntary representation for a  
608 nondomiciliary of the state [made pursuant to subsection (a) of this  
609 section shall not be granted unless the court finds the (1) respondent is  
610 presently located in the probate district in which the application is  
611 filed; (2) applicant has made reasonable efforts to provide notice to  
612 individuals and applicable agencies listed in subsection (a) of section  
613 45a-649 concerning the respondent; (3) respondent has been provided  
614 an opportunity to return to the respondent's place of domicile, and has  
615 been provided the financial means to return to the respondent's place  
616 of domicile within the respondent's resources, and has declined to  
617 return, or the applicant has made reasonable but unsuccessful efforts  
618 to return the respondent to such respondent's place of domicile; and  
619 (4) requirements of this chapter for the appointment of a conservator  
620 pursuant to an application for involuntary representation have been  
621 met] shall be made pursuant to the provisions of sections 8 to 16,  
622 inclusive, of this act.

623 [(c) If, after the appointment of a conservator for a nondomiciliary of

624 the state the nondomiciliary becomes domiciled in this state, the  
625 provisions of this section regarding involuntary representation of a  
626 nondomiciliary shall no longer apply.

627 (d) The court shall review any involuntary representation of a  
628 nondomiciliary ordered by the court pursuant to subsection (b) of this  
629 section every sixty days. Such involuntary representation shall expire  
630 sixty days after the date such involuntary representation was ordered  
631 by the court or sixty days after the most recent review ordered by the  
632 court, whichever is later, unless the court finds the (1) conserved  
633 person is presently located in the state; (2) conservator has made  
634 reasonable efforts to provide notice to individuals and applicable  
635 agencies listed in subsection (a) of section 45a-649 concerning the  
636 conserved person; (3) conserved person has been provided an  
637 opportunity to return to the conserved person's place of domicile and  
638 has been provided the financial means to return to the conserved  
639 person's place of domicile within the conserved person's resources,  
640 and has declined to return, or the conservator has made reasonable but  
641 unsuccessful efforts to return the conserved person to the conserved  
642 person's place of domicile; and (4) requirements of this chapter for the  
643 appointment of a conservator pursuant to an application for  
644 involuntary representation have been met. As part of its review under  
645 this subsection, the court shall receive and consider reports from the  
646 conservator and from the attorney for the conserved person regarding  
647 the requirements of this subsection.]

648 [(e)] (c) A person is guilty of fraudulent or malicious application or  
649 false testimony when such person (1) wilfully files a fraudulent or  
650 malicious application for involuntary representation or appointment of  
651 a temporary conservator, (2) conspires with another person to file or  
652 cause to be filed such an application, or (3) wilfully testifies either in  
653 court or by report to the court falsely to the incapacity of any person in  
654 any proceeding provided for in sections 45a-644 to 45a-663, inclusive,  
655 as amended by this act. Fraudulent or malicious application or false  
656 testimony is a class D felony.

657 Sec. 26. Section 45a-649 of the general statutes is repealed and the  
658 following is substituted in lieu thereof (*Effective October 1, 2010*):

659 (a) (1) Upon an application for involuntary representation, the court  
660 shall issue a citation to the following enumerated parties to appear  
661 before it at a time and place named in the citation, which shall be  
662 served on the parties at least ten days before the hearing date, or in the  
663 case of an application made pursuant to section 17a-543 or 17a-543a, at  
664 least seven days before the hearing date, which date in any event shall  
665 not be more than thirty days after the receipt of the application by the  
666 Court of Probate unless continued for cause shown. Notice of the  
667 hearing shall be sent within thirty days after receipt of the application.  
668 In addition to such notice, (A) notice for a matter brought under  
669 sections 8 to 16, inclusive, of this act shall be given in the manner  
670 provided in section 15 of this act, and (B) notice for a matter brought  
671 under section 17 of this act shall be given in the manner provided in  
672 section 18 of this act.

673 (2) The court shall direct that personal service of the citation be  
674 made, by a state marshal, constable or an indifferent person, upon the  
675 following: The respondent and the respondent's spouse, if any, if the  
676 spouse is not the applicant, except that in cases where the application  
677 is for involuntary representation pursuant to section 17b-456, and there  
678 is no spouse, the court shall order notice by certified mail to the  
679 children of the respondent and if none, the parents of the respondent  
680 and if none, the brothers and sisters of the respondent or their  
681 representatives, and if none, the next of kin of such respondent.

682 (3) The court shall order such notice as it directs to the following:  
683 (A) The applicant; (B) the person in charge of welfare in the town  
684 where the respondent is domiciled or resident and, if there is no such  
685 person, the first selectman or chief executive officer of the town if the  
686 respondent is receiving assistance from the town; (C) the  
687 Commissioner of Social Services, if the respondent is in a state-  
688 operated institution or receiving aid, care or assistance from the state;  
689 (D) the Commissioner of Veterans' Affairs if the respondent is

690 receiving veterans' benefits or the Veterans' Home, or both, if the  
691 respondent is receiving aid or care from such home, or both; (E) the  
692 Commissioner of Administrative Services, if the respondent is  
693 receiving aid or care from the state; (F) the children of the respondent  
694 and if none, the parents of the respondent and if none, the brothers  
695 and sisters of the respondent or their representatives; (G) the person in  
696 charge of the hospital, nursing home or some other institution, if the  
697 respondent is in a hospital, nursing home or some other institution.

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

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

704 (b) The notice required by subdivision (2) of subsection (a) of this  
705 section shall specify [(A)] (1) the nature of involuntary representation  
706 sought and the legal consequences thereof, [(B)] (2) the facts alleged in  
707 the application, [(C)] (3) the date, time and place of the hearing, and  
708 [(D)] (4) that the respondent has a right to be present at the hearing  
709 and has a right to be represented by an attorney of the respondent's  
710 choice at the respondent's own expense. The notice shall also include a  
711 statement in boldface type of a minimum size of twelve points in  
712 substantially the following form:

713 "POSSIBLE CONSEQUENCES OF THE APPOINTMENT  
714 OF A CONSERVATOR FOR YOU

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

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

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

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

- 744 - Accessing and budgeting your money
- 745 - Deciding where you live
- 746 - Making medical decisions for you
- 747 - Paying your bills
- 748 - Managing your real and personal property

749 You may participate in the selection of your conservator. If you  
750 have already designated a conservator or if you inform the court of  
751 your choice for a conservator, the court must honor your request  
752 unless the court decides that the person designated by you is not  
753 appropriate.

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

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

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

774 (e) If the respondent notifies the court in any manner that the  
775 respondent wants to attend the hearing on the application but is  
776 unable to do so, the court shall schedule the hearing on the application  
777 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	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section
Sec. 8	<i>October 1, 2010</i>	New section
Sec. 9	<i>October 1, 2010</i>	New section
Sec. 10	<i>October 1, 2010</i>	New section
Sec. 11	<i>October 1, 2010</i>	New section
Sec. 12	<i>October 1, 2010</i>	New section
Sec. 13	<i>October 1, 2010</i>	New section
Sec. 14	<i>October 1, 2010</i>	New section
Sec. 15	<i>October 1, 2010</i>	New section
Sec. 16	<i>October 1, 2010</i>	New section
Sec. 17	<i>October 1, 2010</i>	New section
Sec. 18	<i>October 1, 2010</i>	New section
Sec. 19	<i>October 1, 2010</i>	New section
Sec. 20	<i>October 1, 2010</i>	New section
Sec. 21	<i>October 1, 2010</i>	New section
Sec. 22	<i>October 1, 2010</i>	New section
Sec. 23	<i>October 1, 2010</i>	New section
Sec. 24	<i>October 1, 2010</i>	45a-644
Sec. 25	<i>October 1, 2010</i>	45a-648
Sec. 26	<i>October 1, 2010</i>	45a-649

**Statement of Legislative Commissioners:**

Section 16 was rewritten for accuracy.

**JUD**      *Joint Favorable Subst.*