



General Assembly

February Session, 2010

Amendment

LCO No. 4387

SB0044704387SD0

Offered by:
SEN. MCDONALD, 27th Dist.

To: Subst. Senate Bill No. 447 File No. 580 Cal. No. 402

"AN ACT CONCERNING THE APPOINTMENT OF A GUARDIAN AD LITEM FOR AN ADULT WHO IS SUBJECT TO A CONSERVATORSHIP OR A CONSERVATORSHIP PROCEEDING."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 45a-132 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2010*):

5 (a) [In] (1) Except as provided in subdivisions (2) and (3) of this
6 subsection, in any proceeding before a court of probate or the Superior
7 Court including the Family Support Magistrate Division, whether
8 acting upon an appeal from probate or otherwise, the judge or
9 magistrate may appoint a guardian ad litem for any minor or
10 incompetent, undetermined or unborn person, or may appoint one
11 guardian ad litem for two or more of such minors or incompetent,
12 undetermined or unborn persons, if it appears to the judge or
13 magistrate that one or more persons as individuals, or as members of a
14 designated class or otherwise, have or may have an interest in the

15 proceedings, and that one or more of them are minors, incompetent
16 persons or persons undetermined or unborn at the time of the
17 proceeding.

18 (2) No judge or magistrate may appoint a guardian ad litem for (A)
19 a respondent in a proceeding under sections 45a-644 to 45a-663,
20 inclusive, prior to a determination by a court of probate that the
21 respondent is incapable of caring for himself or herself or incapable of
22 managing his or her affairs, or (B) a patient in a proceeding under
23 section 17a-543 or 17a-543a, prior to a determination by a court of
24 probate that the patient is incapable of giving informed consent under
25 either of said sections. No judge or magistrate may appoint a guardian
26 ad litem for an applicant under section 45a-705a.

27 (3) No judge or magistrate may appoint a guardian ad litem for a
28 conserved person in a proceeding under section 17a-543 or 17a-543a or
29 sections 45a-644 to 45a-663, inclusive, unless (A) the judge or
30 magistrate makes a specific finding of a need to appoint a guardian ad
31 litem for a specific purpose or to answer specific questions to assist the
32 judge or magistrate in making a determination, or (B) the conserved
33 person's attorney is unable to ascertain the preferences of the person,
34 including preferences previously expressed by the person. Prior to
35 appointing a guardian ad litem for a person under subparagraph (B) of
36 this subdivision, the judge or magistrate may question the person to
37 determine the person's preferences or inability to express such
38 preferences. If the judge or magistrate appoints a guardian ad litem
39 under this subdivision, the judge's or magistrate's order shall (i) limit
40 the appointment in scope and duration, and (ii) direct the guardian ad
41 litem to take only the specific action required or to answer specific
42 questions posed by the judge or magistrate, including questions
43 designed to ascertain whether the attorney's or conservator's proposed
44 course of action is the least restrictive means of intervention available
45 to assist the person in managing his or her affairs or caring for himself
46 or herself. Any appointment of a guardian ad litem under this
47 subdivision shall terminate upon the guardian ad litem's report to the
48 judge or magistrate in accordance with the order appointing the

49 guardian ad litem, or earlier upon the order of the judge or magistrate.

50 (4) For the purposes of this subsection, "conservator of the estate",
51 "conservator of the person", "conserved person", "incapable of caring
52 for himself or herself", "incapable of managing his or her affairs", "least
53 restrictive means of intervention" and "respondent" have the meanings
54 set forth in section 45a-644.

55 (b) The appointment of a guardian ad litem shall not be mandatory,
56 but shall be within the discretion of the judge or magistrate.

57 (c) Any order or decree passed or action taken in any such
58 proceeding shall affect all the minors, incompetent persons or persons
59 thereafter born or determined for whom the guardian ad litem has
60 been appointed, in the same manner as if they had been of the age of
61 majority and competent and present in court after legal notice at the
62 time of the action or the issuance of the order or decree.

63 (d) Any appointment of a guardian ad litem may be made with or
64 without notice and, if it appears to the judge or magistrate that it is for
65 the best interests of a minor having a parent or guardian to have as
66 guardian ad litem some person other than the parent or guardian, the
67 judge or magistrate may appoint a disinterested person to be the
68 guardian ad litem.

69 (e) [When] Except as provided in subdivisions (2) and (3) of
70 subsection (a) of this section, when the appointment of a guardian ad
71 litem is made in connection with the settlement of a decedent's estate
72 or the settlement of the account of a trustee or other fiduciary, the
73 person so appointed shall be authorized to represent the minor or
74 incompetent, undetermined or unborn person in all proceedings for
75 the settlement of the estate or account and subsequent accounts of the
76 trustee or other fiduciary, or until [his] the person's appointment is
77 terminated by death, resignation or removal.

78 (f) The guardian ad litem may be removed by the judge or
79 magistrate which appointed [him] the guardian ad litem, without

80 notice, whenever it appears to the judge or magistrate to be in the best
81 interests of the ward or wards of the guardian.

82 (g) Any guardian ad litem appointed under the provisions of this
83 section may be allowed reasonable compensation by the judge or
84 magistrate appointing [him] the guardian ad litem and shall be paid as
85 a part of the expenses of administration."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	45a-132