



**House Bill No. 5150**

**Public Act No. 12-22**

**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:

Section 1. (NEW) (*Effective October 1, 2012*) Sections 1 to 23, inclusive, of this act may be cited as the "Connecticut Uniform Adult Protective Proceedings Jurisdiction Act".

Sec. 2. (NEW) (*Effective October 1, 2012*) As used in sections 1 to 23, inclusive, of this act:

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

(2) "Conservator of the estate" means (A) a conservator of the estate, as defined in section 45a-644 of the general statutes, as amended by this act, or (B) a person, except a hospital or nursing home facility, appointed by a court outside of this state to manage the property of an adult.

(3) "Conservator of the person" means (A) a conservator of the person, as defined in section 45a-644 of the general statutes, as amended by this act, or (B) a person, except a hospital or nursing home facility, appointed by a court outside of this state to make decisions

**House Bill No. 5150**

regarding the person of an adult.

(4) "Conservator of the person order" means (A) an order appointing a conservator of the person pursuant to part IV of chapter 802h of the general statutes, or (B) an order by a court outside of this state appointing a conservator of the person.

(5) "Conservator of the person proceeding" means (A) a judicial proceeding held pursuant to part IV of chapter 802h of the general statutes in which an order for the appointment of a conservator of the person is sought or has been issued, or (B) a judicial proceeding held outside of this state in which an order for the appointment of a conservator of the person is sought or has been issued.

(6) "Involuntary representation" means involuntary representation, as defined in section 45a-644 of the general statutes, as amended by this act.

(7) "Party" means the respondent, petitioner, conservator of the person or conservator of the estate or any other person allowed by a court to participate in a conservator of the person proceeding or a conservator of the estate proceeding.

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

(9) "Conserved person" means a conserved person, as defined in section 45a-644 of the general statutes, as amended by this act, or an adult for whom a conservator of the person or conservator of the estate has been appointed in a judicial proceeding outside of this state.

(10) "Conservator of the estate order" means (A) an order appointing

**House Bill No. 5150**

a conservator of the estate pursuant to part IV of chapter 802h of the general statutes, (B) an order by a court outside of this state appointing a conservator of the estate, or (C) any other order by a court related to the management of the property of an adult.

(11) "Conservator of the estate proceeding" means (A) a judicial proceeding held pursuant to part IV of chapter 802h of the general statutes, or (B) a judicial proceeding held outside of this state in which a conservator of the estate order is sought or has been issued.

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

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

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

Sec. 3. (NEW) (*Effective October 1, 2012*) (a) Sections 1 to 23, inclusive, of this act and sections 45a-644 of the general statutes, as amended by this act, 45a-648 of the general statutes, as amended by this act, and 45a-649 of the general statutes, as amended by this act, apply to conservator of the person proceedings and conservator of the estate proceedings begun on or after October 1, 2012.

(b) Sections 1 to 7, inclusive, of this act and sections 17 to 23, inclusive, of this act apply to conservator of the person proceedings and conservator of the estate proceedings begun before October 1, 2012, regardless of whether a conservator of the person order or

**House Bill No. 5150**

conservator of the estate order has been issued.

Sec. 4. (NEW) (*Effective October 1, 2012*) A court of probate may treat a foreign country as if it were a state for the purpose of applying sections 1 to 18, inclusive, of this act and sections 22 and 23 of this act.

Sec. 5. (NEW) (*Effective October 1, 2012*) (a) A court of probate may communicate with a court in another state concerning a proceeding arising under sections 1 to 23, inclusive, of this act or part IV of chapter 802h of the general statutes. The court of probate shall allow the parties to participate in the communication.

(b) The court of probate shall make an audio recording of the communication.

(c) The court of probate shall grant the parties access to the audio recording of the communication.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, courts of probate may communicate concerning schedules, calendars, court records and other administrative matters without making a record or allowing the parties to participate in the communication.

(e) Nothing in this section shall limit any party's right to present facts and legal arguments before a decision on jurisdiction is entered pursuant to the provisions of sections 8 to 16, inclusive, of this act.

Sec. 6. (NEW) (*Effective October 1, 2012*) (a) In a proceeding for involuntary representation in this state, a court of probate may request, to the extent permitted or required by the laws of this state, the appropriate court of another state to do any of the following:

(1) Hold an evidentiary hearing;

(2) Order a person in that state to produce evidence or give

**House Bill No. 5150**

testimony pursuant to the procedures of that state;

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

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

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

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

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

(b) If a court of another state in which a conservator of the person proceeding or conservator of the estate proceeding is pending requests assistance of the kind provided in subsection (a) of this section, a court of probate has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request,

**House Bill No. 5150**

subject to the laws of this state.

Sec. 7. (NEW) (*Effective October 1, 2012*) (a) In a proceeding for involuntary representation in this state, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. A court of probate on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

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

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

Sec. 8. (NEW) (*Effective October 1, 2012*) (a) As used in this section and sections 9 to 16, inclusive, of this act:

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

(2) "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at

**House Bill No. 5150**

least six consecutive months immediately before the filing of a petition for a conservator of the estate order or the appointment of a conservator of the person, or, if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition;

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

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

(1) The location of the respondent's family and other persons required to be notified of the conservator of the person proceeding or conservator of the estate proceeding;

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

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

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

Sec. 9. (NEW) (*Effective October 1, 2012*) A proceeding for involuntary representation in this state shall be subject to the provisions of part IV of chapter 802h of the general statutes, except that (1) jurisdiction shall be determined in accordance with sections 8 to 16, inclusive, of this act, and (2) the court of probate shall grant the parties the opportunity to present facts and legal arguments before issuing a

**House Bill No. 5150**

decision on jurisdiction.

Sec. 10. (NEW) (*Effective October 1, 2012*) A court of probate in this state has jurisdiction to appoint a conservator of the person or conservator of the estate for a respondent pursuant to part IV of chapter 802h of the general statutes if:

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

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

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

(B) The respondent has a home state, a petition for appointment of a conservator of the person or issuance of a conservator of the estate order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

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

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

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

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



**House Bill No. 5150**

the Constitution of this state and the Constitution of the United States;  
or

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

Sec. 11. (NEW) (*Effective October 1, 2012*) (a) Except as provided in subsections (b) and (c) of this section, a court of probate lacking jurisdiction under subdivisions (1) to (3), inclusive, of section 10 of this act has special jurisdiction to do any of the following if the court of probate makes the necessary findings set forth in subdivisions (1) to (3), inclusive, of subsection (a) of section 45a-654 of the general statutes:

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

(2) Appoint a temporary conservator of the person or a temporary conservator of the estate for a conserved person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to those in section 17 of this act.

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

(c) In any proceeding under this section, the court of probate shall hold a hearing, in the manner set forth in section 45a-654 of the general statutes, upon written request of the respondent or person subject to

**House Bill No. 5150**

the order in the proceeding.

Sec. 12. (NEW) (*Effective October 1, 2012*) Except as otherwise provided in section 11 of this act, a court that has appointed a conservator of the person or issued a conservator of the estate order consistent with the requirements of sections 1 to 23, inclusive, of this act and part IV of chapter 802h of the general statutes has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

Sec. 13. (NEW) (*Effective October 1, 2012*) (a) A court of probate having jurisdiction under section 10 of this act to appoint a conservator of the person or to issue a conservator of the estate order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

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

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

(1) Any expressed preference of the respondent;

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

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

**House Bill No. 5150**

- (4) The distance of the respondent from the court in each state;
- (5) The financial circumstances of the respondent's estate;
- (6) The nature and location of the evidence;
- (7) The ability of the court in each state to decide the issue in accordance with due process of law and without undue delay;
- (8) The procedures necessary to present evidence;
- (9) The familiarity of the court of each state with the facts and issues in the proceeding; and
- (10) If an appointment were made, the court's ability to monitor the conduct of the conservator of the person or conservator of the estate within this state and outside of this state, if applicable.

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

Sec. 14. (NEW) (*Effective October 1, 2012*) (a) If at any time a court of probate determines that it acquired jurisdiction to appoint a conservator of the person or issue a conservator of the estate order because of unjustifiable conduct of a party, the court shall:

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

(2) Rescind any order issued in the case and dismiss the case, except that, prior to dismissing the case, the court may exercise limited jurisdiction for not more than ninety days for the limited purpose of fashioning an appropriate remedy to avoid immediate and irreparable harm to the mental or physical health or financial or legal affairs of the person for whom a conservator of the person was appointed or who was subject to the conservator of the estate order to prevent a

**House Bill No. 5150**

repetition of the unjustifiable conduct.

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

Sec. 15. (NEW) (*Effective October 1, 2012*) If a petition for involuntary representation is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of section 45a-649 of the general statutes, as amended by this act, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given under section 45a-649 of the general statutes, as amended by this act.

Sec. 16. (NEW) (*Effective October 1, 2012*) Except for a petition for the appointment of a temporary conservator of the person or a temporary conservator of the estate in an emergency under subdivision (1) of subsection (a) of section 11 of this act, if a petition for involuntary representation is filed in this state and a petition for appointment of a conservator of the person or issuance of a conservator of the estate order is filed in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the Court of Probate has jurisdiction under section 10 of this

**House Bill No. 5150**

act, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to those in section 10 of this act before the appointment or issuance of the order.

(2) If the Court of Probate does not have jurisdiction under subdivision (1) or (2) of section 10 of this act, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the Court of Probate shall dismiss the petition unless the court in the other state determines that the Court of Probate is a more appropriate forum and jurisdiction in this state is consistent with the statutes of this state and the Constitution of this state and the Constitution of the United States.

Sec. 17. (NEW) (*Effective October 1, 2012*) (a) Except for an individual under voluntary representation as provided in section 45a-647 of the general statutes, a conserved person, a conserved person's attorney, a conservator of the person or a conservator of the estate appointed in this state or any person who has received notice pursuant to subdivision (2) of subsection (a) of section 45a-649 of the general statutes, as amended by this act, may petition a court of probate to transfer the conservatorship of the person or the conservatorship of the estate, or both, to another state.

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

(c) On the court's own motion or on request of the conserved person, the conserved person's attorney, the conservator of the person or the conservator of the estate or other person required to be notified of the petition, the court of probate shall hold a hearing on a petition

**House Bill No. 5150**

filed pursuant to subsection (a) of this section.

(d) The court of probate shall issue a provisional order granting a petition to transfer a conservatorship of the person and shall direct the conservator of the person to petition for conservatorship of the person in the other state if the court of probate is satisfied that the conservatorship of the person will be granted by the court in the other state and the court finds that:

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

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

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

(4) If the transfer involves the termination of a tenancy or lease of a conserved person, the sale or disposal of any real property or

**House Bill No. 5150**

household furnishings of the conserved person, a change in the conserved person's residence or the placement of the conserved person in an institution for long-term care, as defined in section 45a-656b of the general statutes, the requirements in section 45a-656b of the general statutes have been met.

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

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

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

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

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

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

**House Bill No. 5150**

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

(2) The documents required to terminate a conservatorship of the person or conservatorship of the estate in this state.

Sec. 18. (NEW) (*Effective October 1, 2012*) (a) To confirm the transfer of a conservatorship of the person or a conservatorship of the estate transferred to this state under provisions similar to those in section 17 of this act, the conservator of the person or conservator of the estate shall petition the Court of Probate to accept the conservatorship of the person or conservatorship of the estate. The petition shall include a certified copy of the other state's provisional order of transfer.

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

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

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

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the conserved person, including the reasonable and informed expressed preferences



**House Bill No. 5150**

of the conserved person; or

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

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

(f) Not later than thirty days before the issuance of a final order accepting the transfer of a conservatorship of the person or conservatorship of the estate to this state, the court of probate shall ensure that (1) the conserved person is represented by counsel in accordance with the provisions of section 45a-649a of the general statutes, and (2) such person receives notice of his or her rights under the laws of this state with respect to such transfer.

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

(h) In granting a petition under this section, the court of probate shall recognize a conservatorship of the person order or conservatorship of the estate order from the other state, including the determination of the conserved person's incapacity and the

**House Bill No. 5150**

appointment of the conservator of the person or conservator of the estate.

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

(j) The granting by a court of probate of a petition to accept a conservatorship of the person or conservatorship of the estate transferred from another state shall:

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

(2) Impose upon the conservator of the person or conservator of the estate the same responsibilities and duties imposed upon a conservator of the person or conservator of the estate under the laws of this state.

Sec. 19. (NEW) (*Effective October 1, 2012*) (a) If a conservator of the person has been appointed in another state and a petition for the appointment of a conservator of the person is not pending in this state, the conservator of the person appointed in the other state, after giving notice to the appointing court of an intent to register the conservator of the person order in this state, may register the conservator of the person order in this state as a conservatorship of the person by filing,

**House Bill No. 5150**

as a foreign judgment, certified copies of the order and letters of office in the court of probate in the district in which the conserved person resides, is domiciled or is located at the time of the filing of the certified copies.

(b) Each court of probate shall maintain a registry, accessible by the public, of conservator of the person orders registered under subsection (a) of this section.

Sec. 20. (NEW) (*Effective October 1, 2012*) (a) If a conservator of the estate has been appointed in another state and a petition for the appointment of a conservator of the estate is not pending in this state, the conservator of the estate appointed in the other state, after giving notice to the appointing court of an intent to register the conservator of the estate order in this state, may (1) register the conservator of the estate order in this state as a conservator of the estate order by filing, as a foreign judgment, certified copies of the order and letters of office and of any bond in the court of probate in the district in which the conserved person resides, is domiciled or is located at the time of the filing of the certified copies, and (2) file certified copies of the conservator of the estate order with the town clerk of the town in which any real property of the conserved person is located for recording on the land records.

(b) Each court of probate shall maintain a registry, accessible by the public, of conservator of the estate orders registered under subsection (a) of this section.

Sec. 21. (NEW) (*Effective October 1, 2012*) (a) On registration in this state under section 19 of this act of a conservator of the person order from another state or under section 20 of this act of a conservator of the estate order from another state, the conservator may exercise in this state all powers authorized in the order of appointment, except as prohibited under the laws of this state, including maintaining actions

**House Bill No. 5150**

and proceedings in this state and, if the conservator is not a resident of this state, subject to any conditions imposed on nonresident parties. The registration of a conservator of the person order under section 19 of this act shall lapse one hundred twenty days after such registration, except that the registration may be extended for good cause for an additional one hundred twenty days by the court of probate in this state having jurisdiction over the location within this state where the person under the conservator of the person order resides, is domiciled or is located.

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

Sec. 22. (NEW) (*Effective October 1, 2012*) In applying and construing the provisions of sections 1 to 23, inclusive, of this act, section 45a-644 of the general statutes, as amended by this act, section 45a-648 of the general statutes, as amended by this act, and section 45a-649 of the general statutes, as amended by this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact such uniform provisions, consistent with the need to protect individual civil rights and in accordance with due process.

Sec. 23. (NEW) (*Effective October 1, 2012*) This section, sections 1 to 22, inclusive, of this act, section 45a-644 of the general statutes, as amended by this act, section 45a-648 of the general statutes, as amended by this act, and section 45a-649 of the general statutes, as amended by this act, modify, limit and supersede the Electronic Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,

**House Bill No. 5150**

but do not modify, limit or supersede Section 101 of said act, 15 USC 7001(a), or authorize electronic delivery of any of the notices described in Section 103 of said act, 15 USC 7003(b).

Sec. 24. Section 45a-644 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

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

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

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

(c) "Incapable of caring for one's self" or "incapable of caring for himself or herself" means that a person has a mental, emotional or physical condition that results in such person being unable to receive

**House Bill No. 5150**

and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to meet essential requirements for personal needs.

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

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

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

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

(h) "Conserved person" means a person for whom involuntary representation is granted under sections 45a-644 to 45a-663, inclusive,

**House Bill No. 5150**

as amended by this act.

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

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

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

Sec. 25. Section 45a-648 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

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

(b) An application for involuntary representation for a nondomiciliary of the state [made pursuant to subsection (a) of this section shall not be granted unless the court finds the (1) respondent is presently located in the probate district in which the application is filed; (2) applicant has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649 concerning the respondent; (3) respondent has been provided

**House Bill No. 5150**

an opportunity to return to the respondent's place of domicile, and has been provided the financial means to return to the respondent's place of domicile within the respondent's resources, and has declined to return, or the applicant has made reasonable but unsuccessful efforts to return the respondent to such respondent's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met] shall be made pursuant to the provisions of sections 8 to 16, inclusive, of this act.

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

(d) The court shall review any involuntary representation of a nondomiciliary ordered by the court pursuant to subsection (b) of this section every sixty days. Such involuntary representation shall expire sixty days after the date such involuntary representation was ordered by the court or sixty days after the most recent review ordered by the court, whichever is later, unless the court finds the (1) conserved person is presently located in the state; (2) conservator has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649 concerning the conserved person; (3) conserved person has been provided an opportunity to return to the conserved person's place of domicile and has been provided the financial means to return to the conserved person's place of domicile within the conserved person's resources, and has declined to return, or the conservator has made reasonable but unsuccessful efforts to return the conserved person to the conserved person's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met. As part of its review under



**House Bill No. 5150**

this subsection, the court shall receive and consider reports from the conservator and from the attorney for the conserved person regarding the requirements of this subsection.]

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

Sec. 26. Subsection (a) of section 45a-649 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

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

(2) The court shall direct that personal service of the citation be

**House Bill No. 5150**

made, by a state marshal, constable or an indifferent person, upon the following: The respondent and the respondent's spouse, if any, if the spouse is not the applicant, except that in cases where the application is for involuntary representation pursuant to section 17b-456, and there is no spouse, the court shall order notice by certified mail to the children of the respondent and if none, the parents of the respondent and if none, the brothers and sisters of the respondent or their representatives, and if none, the next of kin of such respondent.

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

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

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

***House Bill No. 5150***

Approved May 14, 2012