



General Assembly

February Session, 2012

Raised Bill No. 5287

LCO No. 1172

01172_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE APPOINTMENT OF A GUARDIAN AD LITEM FOR A PERSON WHO IS SUBJECT TO A CONSERVATORSHIP PROCEEDING OR A PROCEEDING CONCERNING ADMINISTRATION OF TREATMENT FOR A PSYCHIATRIC DISABILITY.

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

1 Section 1. Section 45a-132 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

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

15 proceeding.

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

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

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

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

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	45a-132

Statement of Purpose:

To provide that: (1) A person who is subject to a conservatorship proceeding or a proceeding concerning administration of treatment for a psychiatric disability shall not be appointed a guardian ad litem prior to a determination that such person is incapacitated, and (2) such appointment be made for limited purposes and duration established by the court.

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