



General Assembly

February Session, 2014

Raised Bill No. 463

LCO No. 2461



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE APPOINTMENT OF A CONSERVATOR
FOR A PERSON WITH INTELLECTUAL DISABILITY.***

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

1 Section 1. Subsections (a) to (d), inclusive, of section 45a-650 of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2014*):

4 (a) At any hearing on an application for involuntary representation,
5 before the court receives any evidence regarding the condition of the
6 respondent or of the respondent's affairs, the court shall require clear
7 and convincing evidence that the court has jurisdiction, that the
8 respondent has been given notice as required in section 45a-649, and
9 that the respondent has been advised of the right to retain an attorney
10 pursuant to section 45a-649a and is either represented by an attorney
11 or has waived the right to be represented by an attorney. The
12 respondent shall have the right to attend any hearing held under this
13 section.

14 (b) The rules of evidence in civil actions adopted by the judges of

15 the Superior Court shall apply to all hearings pursuant to this section.
16 All testimony at a hearing held pursuant to this section shall be given
17 under oath or affirmation.

18 (c) (1) After making the findings required under subsection (a) of
19 this section, the court shall receive evidence regarding the respondent's
20 condition, the capacity of the respondent to care for himself or herself
21 or to manage his or her affairs, and the ability of the respondent to
22 meet his or her needs without the appointment of a conservator.
23 Unless waived by the court pursuant to subdivision (2) of this
24 subsection, medical evidence shall be introduced from one or more
25 physicians licensed to practice medicine in the state who have
26 examined the respondent [within] not more than forty-five days
27 [preceding] prior to the hearing, except that for a person with
28 intellectual disability, as defined in section 1-1g, psychological
29 evidence may be introduced in lieu of such medical evidence from a
30 licensed psychologist who has examined the respondent not more than
31 forty-five days prior to the hearing. The evidence shall contain specific
32 information regarding the respondent's condition and the effect of the
33 respondent's condition on the respondent's ability to care for himself
34 or herself or to manage his or her affairs. The court may also consider
35 such other evidence as may be available and relevant, including, but
36 not limited to, a summary of the physical and social functioning level
37 or ability of the respondent, and the availability of support services
38 from the family, neighbors, community or any other appropriate
39 source. Such evidence may include, if available, reports from the social
40 work service of a general hospital, municipal social worker, director of
41 social service, public health nurse, public health agency, psychologist,
42 coordinating assessment and monitoring agencies, or such other
43 persons as the court considers qualified to provide such evidence.

44 (2) The court may waive the requirement that medical evidence be
45 presented if it is shown that the evidence is impossible to obtain
46 because of the absence of the respondent or the respondent's refusal to
47 be examined by a physician or that the alleged incapacity is not

48 medical in nature. If such requirement is waived, the court shall make
49 a specific finding in any decree issued on the application stating why
50 medical evidence was not required.

51 (3) Any hospital, psychiatric, psychological or medical record or
52 report filed with the court pursuant to this subsection shall be
53 confidential.

54 (d) Upon the filing of an application for involuntary representation
55 pursuant to section 45a-648, the court shall issue an order for the
56 disclosure of the medical information required pursuant to this section
57 and any psychological information submitted with respect to a person
58 with intellectual disability pursuant to subsection (c) of this section to
59 the respondent's attorney and, upon request, to the respondent. The
60 court may issue an order for the disclosure of such [medical]
61 information to any other person as the court determines necessary.

62 Sec. 2. Subsections (c) and (d) of section 45a-660 of the general
63 statutes are repealed and the following is substituted in lieu thereof
64 (*Effective October 1, 2014*):

65 (c) The court shall review each conservatorship not later than one
66 year after the conservatorship was ordered, and not less than every
67 three years after such initial one-year review. After each such review,
68 the court shall continue, modify or terminate the order for
69 conservatorship. The court shall receive and review written evidence
70 as to the condition of the conserved person. The conservator and a
71 physician licensed to practice medicine in this state shall each submit a
72 written report to the court [within] not more than forty-five days [of]
73 after the court's request for such report, except that for a person with
74 intellectual disability, as defined in section 1-1g, a psychologist
75 licensed in this state may submit such written report in lieu of a
76 physician. On receipt of a written report from the conservator or a
77 physician or psychologist, as the case may be, the court shall provide a
78 copy of the report to the conserved person and the attorney for the

79 conserved person. If the conserved person is unable to request or
80 obtain an attorney, the court shall appoint an attorney. If the conserved
81 person is unable to pay for the services of the attorney, the reasonable
82 rates of compensation of such attorney shall be established by, and the
83 attorney shall be paid from funds appropriated to, the Judicial
84 Department. If funds have not been included in the budget of the
85 Judicial Department for such purposes, such rates of compensation
86 shall be established by the Probate Court Administrator and the
87 attorney shall be paid from the Probate Court Administration Fund.
88 The physician or psychologist, as the case may be, shall examine the
89 conserved person [within the forty-five-day period preceding] not
90 more than forty-five days prior to the date of submission of the
91 physician's or psychologist's report. Any physician's or psychologist's
92 report filed with the court pursuant to this subsection shall be
93 confidential. The court may issue an order for the disclosure of medical
94 information [required] or psychological information received pursuant
95 to this subsection, except that the court shall issue an order for the
96 disclosure of [medical] such information to the conserved person's
97 attorney. Not later than thirty days after receipt of the conservator's
98 report and the physician's or psychologist's report, as the case may be,
99 the attorney for the conserved person shall notify the court that the
100 attorney has met with the conserved person and shall inform the court
101 as to whether a hearing is being requested. Nothing in this section
102 shall prevent the conserved person or the conserved person's attorney
103 from requesting a hearing at any other time as permitted by law.

104 (d) If the court finds, after receipt of the reports from the attorney
105 for the conserved person, the physician or psychologist, as the case
106 may be, and the conservator, by clear and convincing evidence, that
107 the conserved person continues to be incapable of managing his or her
108 affairs or continues to be incapable of caring for himself or herself, as
109 the case may be, and that there are no less restrictive means available
110 to assist the conserved person in managing his or her affairs or caring
111 for himself or herself, as the case may be, the court shall continue or

112 modify the conservatorship under the terms and conditions of the
113 appointment of the conservator under section 45a-650, as amended by
114 this act. If the court does not make such a finding of continued
115 incapacity by clear and convincing evidence, the court shall terminate
116 the conservatorship. A hearing on the condition of the conserved
117 person shall not be required under this subsection, except that the
118 court may hold a hearing in its discretion and shall hold a hearing if
119 the conserved person, conserved person's attorney or conservator
120 requests a hearing, in which case the court shall hold a hearing within
121 thirty days of such request.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	45a-650(a) to (d)
Sec. 2	<i>October 1, 2014</i>	45a-660(c) and (d)

Statement of Purpose:

To allow a licensed psychologist to introduce psychological evidence to the probate court in a conservatorship proceeding regarding a respondent who has intellectual disability, in lieu of medical evidence presented by a physician.

[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.]