



General Assembly

Substitute Bill No. 463

February Session, 2014



**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2 general statutes are repealed and the following is substituted in lieu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] this 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 psychologist licensed pursuant to chapter 383 who has examined the
31 respondent not more than forty-five days prior to the hearing. The
32 evidence shall contain specific information regarding the respondent's
33 condition and the effect of the respondent's condition on the
34 respondent's ability to care for himself or herself or to manage his or
35 her affairs. The court may also consider such other evidence as may be
36 available and relevant, including, but not limited to, a summary of the
37 physical and social functioning level or ability of the respondent, and
38 the availability of support services from the family, neighbors,
39 community or any other appropriate source. Such evidence may
40 include, if available, reports from the social work service of a general
41 hospital, municipal social worker, director of social service, public
42 health nurse, public health agency, psychologist, coordinating
43 assessment and monitoring agencies, or such other persons as the
44 court considers qualified to provide such evidence.

45 (2) The court may waive the requirement that medical evidence be
46 presented if it is shown that the evidence is impossible to obtain
47 because of the absence of the respondent or the respondent's refusal to
48 be examined by a physician or that the alleged incapacity is not
49 medical in nature. If such requirement is waived, the court shall make
50 a specific finding in any decree issued on the application stating why
51 medical evidence was not required.

52 (3) Any hospital, psychiatric, psychological or medical record or

53 report filed with the court pursuant to this subsection shall be
54 confidential.

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

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

66 (c) The court shall review each conservatorship not later than one
67 year after the conservatorship was ordered, and not less than every
68 three years after such initial one-year review. After each such review,
69 the court shall continue, modify or terminate the order for
70 conservatorship. The court shall receive and review written evidence
71 as to the condition of the conserved person. The conservator and a
72 physician licensed to practice medicine in this state shall each submit a
73 written report to the court [within] not more than forty-five days [of]
74 after the court's request for such report, except that for a person with
75 intellectual disability, as defined in section 1-1g, a psychologist
76 licensed pursuant to chapter 383 may submit such written report in
77 lieu of a physician. On receipt of a written report from the conservator
78 or a physician or psychologist, as the case may be, the court shall
79 provide a copy of the report to the conserved person and the attorney
80 for the conserved person. If the conserved person is unable to request
81 or obtain an attorney, the court shall appoint an attorney. If the
82 conserved person is unable to pay for the services of the attorney, the
83 reasonable rates of compensation of such attorney shall be established
84 by, and the attorney shall be paid from funds appropriated to, the
85 Judicial Department. If funds have not been included in the budget of

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

105 (d) If the court finds, after receipt of the reports from the attorney
106 for the conserved person, the physician or psychologist, as the case
107 may be, and the conservator, by clear and convincing evidence, that
108 the conserved person continues to be incapable of managing his or her
109 affairs or continues to be incapable of caring for himself or herself, as
110 the case may be, and that there are no less restrictive means available
111 to assist the conserved person in managing his or her affairs or caring
112 for himself or herself, as the case may be, the court shall continue or
113 modify the conservatorship under the terms and conditions of the
114 appointment of the conservator under section 45a-650, as amended by
115 this act. If the court does not make such a finding of continued
116 incapacity by clear and convincing evidence, the court shall terminate
117 the conservatorship. A hearing on the condition of the conserved
118 person shall not be required under this subsection, except that the
119 court may hold a hearing in its discretion and shall hold a hearing if

120 the conserved person, conserved person's attorney or conservator
121 requests a hearing, in which case the court shall hold a hearing within
122 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 Legislative Commissioners:

In sections 1(c)(1) and 2(c), the references to a licensed psychologist and a psychologist licensed in this state were changed to "a psychologist licensed pursuant to chapter 383" for accuracy and consistency.

JUD *Joint Favorable Subst. -LCO*