



Substitute Senate Bill No. 463

Public Act No. 14-121

**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:

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 Subsections (a) to (d), inclusive, of section 45a-650 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

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

(b) The rules of evidence in civil actions adopted by the judges of the Superior Court shall apply to all hearings pursuant to this section. All testimony at a hearing held pursuant to this section shall be given under oath or affirmation.

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(c) (1) After making the findings required under subsection (a) of this section, the court shall receive evidence regarding the respondent's condition, the capacity of the respondent to care for himself or herself or to manage his or her affairs, and the ability of the respondent to meet his or her needs without the appointment of a conservator. Unless waived by the court pursuant to subdivision (2) of this subsection, medical evidence shall be introduced from one or more physicians licensed to practice medicine in [the] this state who have examined the respondent [within] not more than forty-five days [preceding] prior to the hearing, except that for a person with intellectual disability, as defined in section 1-1g, psychological evidence may be introduced in lieu of such medical evidence from a psychologist licensed pursuant to chapter 383 who has examined the respondent not more than forty-five days prior to the hearing. The evidence shall contain specific information regarding the respondent's condition and the effect of the respondent's condition on the respondent's ability to care for himself or herself or to manage his or her affairs. The court may also consider such other evidence as may be available and relevant, including, but not limited to, a summary of the physical and social functioning level or ability of the respondent, and the availability of support services from the family, neighbors, community or any other appropriate source. Such evidence may include, if available, reports from the social work service of a general hospital, municipal social worker, director of social service, public health nurse, public health agency, psychologist, coordinating assessment and monitoring agencies, or such other persons as the court considers qualified to provide such evidence.

(2) The court may waive the requirement that medical evidence be presented if it is shown that the evidence is impossible to obtain because of the absence of the respondent or the respondent's refusal to be examined by a physician or that the alleged incapacity is not medical in nature. If such requirement is waived, the court shall make

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a specific finding in any decree issued on the application stating why medical evidence was not required.

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

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

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

(c) The court shall review each conservatorship not later than one year after the conservatorship was ordered, and not less than every three years after such initial one-year review. After each such review, the court shall continue, modify or terminate the order for conservatorship. The court shall receive and review written evidence as to the condition of the conserved person. The conservator and a physician licensed to practice medicine in this state shall each submit a written report to the court [within] not more than forty-five days [of] after the court's request for such report, except that for a person with intellectual disability, as defined in section 1-1g, a psychologist licensed pursuant to chapter 383 may submit such written report in lieu of a physician. On receipt of a written report from the conservator or a physician or psychologist, as the case may be, the court shall provide a copy of the report to the conserved person and the attorney

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

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

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

Approved June 6, 2014