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## OLR Bill Analysis

### sSB 463

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

#### **SUMMARY:**

This bill allows psychological evidence from a psychologist to be introduced in place of medical evidence from a physician at a probate court hearing or review concerning involuntary conservatorship for a person with intellectual disability.

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2014

#### **PSYCHOLOGISTS' EVIDENCE AT CONSERVATORSHIP HEARINGS AND REVIEWS**

##### ***Hearing on Application for Conservatorship***

By law, the probate court can appoint a conservator of the estate for someone who cannot manage his or her affairs and a conservator of the person for someone incapable of caring for himself or herself.

For hearings on applications for involuntary conservatorship, current law generally requires medical evidence to be introduced from at least one state-licensed physician. In lieu of this medical evidence, the bill allows the introduction of psychological evidence from a state-licensed psychologist if the respondent (the subject of the hearing) is a person with intellectual disability.

Under the bill, as under current law regarding medical evidence from a physician:

1. the psychologist must have examined the person within 45 days prior to the hearing;
2. the evidence must contain specific information about the

respondent's condition and its effect on the respondent's ability to care for himself or herself or manage his or her affairs;

3. the psychological record must be confidential;
4. the court must order the submitted psychological information to be disclosed to the respondent's attorney, and the respondent if he or she requests it; and
5. the court may order the information to be disclosed to anyone else it deems necessary.

Existing law, unchanged by the bill, allows the court to consider other relevant available evidence, including reports from psychologists.

By law, the court can waive the requirement for medical evidence if it is shown that (1) the evidence is impossible to obtain because of the respondent's absence or refusal to be examined or (2) the alleged incapacity is not medical in nature.

### ***Review of Conservatorship***

By law, after a person is subject to involuntary conservatorship, the court must review the conservatorship after one year and at least every three years after that. As part of this process, current law requires a written report by a state-licensed physician who examined the respondent within the prior 45 days. The bill allows the report to be from a state-licensed psychologist if the conserved person has intellectual disability.

Under existing law and the bill, similar provisions apply as noted above regarding confidentiality and disclosure of the report, except the report must be provided to the conserved person.

By law, a conserved person can petition the court at any time to terminate the conservatorship. The conserved person is not required to present medical evidence at such a hearing.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (03/28/2014)