
A BILL FOR AN ACT

RELATING TO PROTECTIVE PROCEEDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 560:5-401, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§560:5-401 Protective proceeding.** Upon petition and
4 after notice and hearing, the court may appoint a limited or
5 unlimited conservator or make any other protective order
6 provided in this part in relation to the estate and affairs of:

7 (1) A minor, if the court determines that:

8 (A) The minor owns money or property requiring
9 management or protection that cannot otherwise be
10 provided;

11 (B) The minor has, or may have, business affairs that
12 may be put at risk or prevented because of the
13 minor's age; or

14 (C) Money is needed for support and education and
15 that protection is necessary or desirable to
16 obtain or provide money; or



- 1 (2) Any individual, including a minor, if the court
2 determines that, for reasons other than age:
- 3 (A) By clear and convincing evidence, the individual
4 is unable to manage property and business affairs
5 effectively because of an impairment in the
6 ability to receive and evaluate information or to
7 make or communicate decisions, even with the use
8 of appropriate and reasonably available
9 technological assistance[7] or because of another
10 physical, mental, or health impairment, or
11 because the individual is missing, detained, or
12 unable to return to the United States; and
- 13 (B) By a preponderance of evidence, the individual
14 has property that will be wasted or dissipated
15 unless management is provided or money is needed
16 for the support, care, education, health, and
17 welfare of the individual or of individuals who
18 are entitled to the individual's support and that
19 protection is necessary or desirable to obtain or
20 provide money."

21 SECTION 2. Section 560:5-403, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



1 "(b) The petition under subsection (a) shall set forth the
2 petitioner's name, residence, current address if different,
3 relationship to the respondent, and interest in the appointment
4 or other protective order, and, to the extent known, state or
5 contain the following with respect to the respondent and the
6 relief requested:

7 (1) The respondent's name, age, principal residence,
8 current street address, and, if different, the address
9 of the dwelling where it is proposed that the
10 respondent will reside if the appointment is made;

11 (2) If the petition alleges impairment in the respondent's
12 ability to receive and evaluate information[7] or
13 alleges another physical, mental, or health
14 impairment, a brief description of the nature and
15 extent of the respondent's alleged impairment;

16 (3) If the petition alleges that the respondent is
17 missing, detained, or unable to return to the United
18 States, a statement of the relevant circumstances,
19 including the time and nature of the disappearance or
20 detention and a description of any search or inquiry
21 concerning the respondent's whereabouts;

22 (4) The name and address of the respondent's:



- 1 (A) Spouse or reciprocal beneficiary or, if the
2 respondent has none, an adult with whom the
3 respondent has resided for more than six months
4 before the filing of the petition; and
- 5 (B) Adult children or, if the respondent has none,
6 the respondent's parents and adult siblings or,
7 if the respondent has none, at least one of the
8 adults nearest in kinship to the respondent who
9 can be found with reasonable efforts;
- 10 (5) The name and address of the person responsible for
11 care or custody of the respondent;
- 12 (6) The name and address of any legal representative of
13 the respondent;
- 14 (7) A general statement of the respondent's property with
15 an estimate of its value, including any insurance or
16 pension, and the source and amount of other
17 anticipated income or receipts;
- 18 (8) The reason why a conservatorship or other protective
19 order is in the best interest of the respondent; and
- 20 (9) A proposed itemized budget of income and
21 expenditures."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2009.



Report Title:

Protective Proceedings

Description:

Modifies requirements related to the basis for court appointment of a conservator. (HB293 HD1)

