

SB129_L.003

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB20-129 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 15-14-102, add
4 (7.5) and (13.5) as follows:

5 **15-14-102. Definitions.** In parts 1 to 4 of this article 14:

6 (7.5) "MEMBER OF THE SUPPORTIVE COMMUNITY" MEANS A
7 PERSON WHOM THE RESPONDENT, WARD, OR PROTECTED PERSON HAS
8 TRUSTED FOR THE ONE-YEAR PERIOD IMMEDIATELY PRECEDING THE FILING
9 OF A PETITION PURSUANT TO SECTION 15-14-304 OR 15-14-403 TO ENGAGE
10 IN SUPPORTED DECISION-MAKING AND WHO MAY HAVE RELEVANT
11 INFORMATION ABOUT THE RESPONDENT'S, WARD'S, OR PROTECTED
12 PERSON'S DESIRES AND PERSONAL VALUES.

13 (13.5) "SUPPORTED DECISION-MAKING" MEANS THE WAY AN
14 ADULT WITH A DISABILITY OR DIMINISHED CAPACITY HAS MADE OR IS
15 MAKING HIS OR HER OWN DECISIONS BY USING FRIENDS, FAMILY MEMBERS,
16 PROFESSIONALS, AND OTHER PEOPLE HE OR SHE TRUSTS TO:

17 (a) HELP UNDERSTAND THE ISSUES AND CHOICES;

18 (b) ASK QUESTIONS;

19 (c) RECEIVE EXPLANATIONS IN LANGUAGE HE OR SHE
20 UNDERSTANDS;

21 (d) COMMUNICATE HIS OR HER DECISIONS TO OTHERS IF
22 NECESSARY; OR

23 (e) FACILITATE THE EXERCISE OF DECISIONS REGARDING HIS OR
24 HER DAY-TO-DAY HEALTH, SAFETY, WELFARE, OR FINANCIAL AFFAIRS.

25 **SECTION 2.** In Colorado Revised Statutes, add 15-14-113.5 as
26 follows:

27 **15-14-113.5. Appointments without notice - investigation -**
28 **report - procedures.** (1) A VISITOR APPOINTED PURSUANT TO SECTION
29 15-14-312 (5) OR 15-14-412 (3)(b) MUST BE A PERSON WHO HAS SUCH
30 TRAINING AS THE COURT DEEMS APPROPRIATE.

31 (2) A VISITOR APPOINTED PURSUANT TO SECTION 15-14-312 (5) OR
32 15-14-412 (3)(b) SHALL INTERVIEW THE RESPONDENT IN PERSON AND, TO
33 THE EXTENT THAT THE RESPONDENT IS ABLE TO UNDERSTAND:

34 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE
35 PETITION; THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING; THE
36 RESPONDENT'S RIGHT TO A HEARING PURSUANT TO SECTION 15-14-312 (2),
37 IF APPLICABLE; AND THE POWERS AND DUTIES OF THE EMERGENCY
38 GUARDIAN OR SPECIAL CONSERVATOR;

39 (b) IDENTIFY AND DETERMINE THE RESPONDENT'S VIEW ON ANY

1 MEMBER OF THE SUPPORTIVE COMMUNITY, AS DEFINED IN SECTION
2 15-14-102 (7.5), WHOSE PARTICIPATION IN THE PROCEEDINGS MAY SERVE
3 THE RESPONDENT'S BEST INTERESTS;

4 (c) INFORM THE RESPONDENT OF THE NAME, CONTACT
5 INFORMATION, AND APPOINTMENT OF HIS OR HER COURT-APPOINTED
6 COUNSEL OR HIS OR HER RIGHT TO EMPLOY AND CONSULT WITH A LAWYER
7 AT THE RESPONDENT'S OWN EXPENSE; AND

8 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF
9 THE PROCEEDING, INCLUDING THE RESPONDENT'S ATTORNEY FEES, WILL BE
10 PAID FROM THE RESPONDENT'S ESTATE UNLESS THE COURT DIRECTS
11 OTHERWISE.

12 (3) IN ADDITION TO THE DUTIES IMPOSED BY SUBSECTION (2) OF
13 THIS SECTION, THE VISITOR SHALL:

14 (a) INTERVIEW THE PERSON OR PERSONS IDENTIFIED BY THE
15 RESPONDENT AS MEMBERS OF THE SUPPORTIVE COMMUNITY ABOUT THE
16 MEMBER'S RELATIONSHIP, ROLE, AND PARTICIPATION IN SUPPORTED
17 DECISION-MAKING ON BEHALF OF THE RESPONDENT; THE MEMBER'S VIEW
18 ON THE RESPONDENT'S LIMITATIONS; AND WHETHER THE RESPONDENT'S
19 NEEDS MAY BE MET BY LESS RESTRICTIVE MEANS; AND

20 (b) MAKE ANY OTHER INVESTIGATION THE COURT DIRECTS.

21 (4) THE VISITOR SHALL PROMPTLY FILE A REPORT IN WRITING WITH
22 THE COURT, WHICH MUST INCLUDE:

23 (a) THE NAME, ADDRESS, AND CONTACT INFORMATION FOR ANY
24 MEMBER OF THE SUPPORTIVE COMMUNITY;

25 (b) A SUMMARY OF THE NATURE AND TYPE OF SUPPORTED
26 DECISION-MAKING ENGAGED IN BY THE RESPONDENT WITH THE
27 ASSISTANCE OF MEMBERS OF THE SUPPORTIVE COMMUNITY;

28 (c) RECOMMENDATIONS ON WHETHER ANY MEMBER OF THE
29 SUPPORTIVE COMMUNITY SHOULD BE GRANTED PERMISSION TO
30 PARTICIPATE IN THE PROCEEDINGS PURSUANT TO SECTION 15-14-308 (2)
31 OR 15-10-201 (27);

32 (d) RECOMMENDATIONS REGARDING THE APPROPRIATENESS OF
33 EMERGENCY GUARDIANSHIP OR SPECIAL CONSERVATORSHIP, INCLUDING
34 WHETHER LESS RESTRICTIVE MEANS OF INTERVENTION WERE AVAILABLE
35 AND ARE AVAILABLE;

36 (e) RECOMMENDATIONS ON WHETHER THE POWERS OF THE
37 EMERGENCY GUARDIANSHIP OR SPECIAL CONSERVATORSHIP SHOULD BE
38 LIMITED BASED ON THE DESIRES AND PERSONAL VALUES OF THE
39 RESPONDENT AS EXPRESSED BY THE RESPONDENT AND THE MEMBERS OF
40 THE SUPPORTIVE COMMUNITY; AND

41 (f) ANY OTHER MATTERS THE COURT DIRECTS.

42 (5) WITHIN SEVEN DAYS AFTER RECEIVING THE VISITOR'S REPORT,
43 THE COURT SHALL REVIEW THE REPORT AND ENTER AN ORDER MAKING THE

1 FOLLOWING SPECIFIC FINDINGS:

2 (a) WHETHER ANY MEMBER OF THE SUPPORTIVE COMMUNITY HAS
3 PERMISSION TO PARTICIPATE IN THE PROCEEDINGS AS SUCH PARTICIPATION
4 IS FOUND TO BE IN THE RESPONDENT'S BEST INTERESTS, PENDING FURTHER
5 FINDINGS AND ORDER OF THE COURT;

6 (b) LIMITING THE POWERS OF THE EMERGENCY GUARDIAN OR
7 SPECIAL CONSERVATOR AS RECOMMENDED BY THE VISITOR, PENDING
8 FURTHER FINDINGS AND ORDER OF THE COURT; AND

9 (c) ANY OTHER MATTERS THAT THE COURT DEEMS APPROPRIATE
10 TO PRESERVE AND PROTECT THE RIGHTS OF THE RESPONDENT.

11 **SECTION 3.** In Colorado Revised Statutes, 15-14-312, **add** (5)
12 as follows:

13 **15-14-312. Emergency guardian.** (5) IF THE COURT APPOINTS AN
14 EMERGENCY GUARDIAN WITHOUT NOTICE TO THE RESPONDENT OR ANY
15 OTHER PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-309 (2)
16 AND THE PERSON APPOINTED IS A PROFESSIONAL WITHOUT PRIORITY TO
17 SERVE PURSUANT TO SECTION 15-14-310 (1) OR PROTECTIVE SERVICES
18 PURSUANT TO SECTION 26-3.1-104, THE COURT SHALL, UPON ENTRY OF
19 THE ORDER OF APPOINTMENT OF EMERGENCY GUARDIAN,
20 SIMULTANEOUSLY APPOINT A VISITOR TO INVESTIGATE AND REPORT TO
21 THE COURT WITHIN FOURTEEN DAYS AFTER THE APPOINTMENT AS
22 PROVIDED IN SECTION 15-14-113.5.

23 **SECTION 4.** In Colorado Revised Statutes, 15-14-412, **amend**
24 (3) as follows:

25 **15-14-412. Protective arrangements and single transactions.**
26 (3) (a) The court may appoint a special conservator to assist in the
27 accomplishment of any protective arrangement or other transaction
28 authorized under this section. The special conservator has the authority
29 conferred by the order and shall serve until discharged by order after
30 report to the court.

31 (b) IF THE COURT APPOINTS A SPECIAL CONSERVATOR WITHOUT
32 NOTICE TO THE RESPONDENT, PROTECTED PERSON, OR ANY OTHER PERSON
33 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-404 (2) AND THE
34 PERSON APPOINTED IS A PROFESSIONAL WITHOUT PRIORITY TO SERVE
35 PURSUANT TO SECTION 15-14-310 (1) OR A PUBLIC ADMINISTRATOR
36 PURSUANT TO SECTION 15-12-622, THE COURT SHALL, UPON ENTRY OF THE
37 ORDER OF APPOINTMENT OF SPECIAL CONSERVATOR, SIMULTANEOUSLY
38 APPOINT A VISITOR TO INVESTIGATE AND REPORT TO THE COURT WITHIN
39 FOURTEEN DAYS AFTER THE APPOINTMENT AS PROVIDED IN SECTION
40 15-14-113.5.

41 **SECTION 5. Act subject to petition - effective date -**
42 **applicability.** (1) This act takes effect September 1, 2020; except that,
43 if a referendum petition is filed pursuant to section 1 (3) of article V of

1 the state constitution against this act or an item, section, or part of this act
2 within the ninety-day period after final adjournment of the general
3 assembly, then the act, item, section, or part will not take effect unless
4 approved by the people at the general election to be held in November
5 2020 and, in such case, will take effect on the date of the official
6 declaration of the vote thereon by the governor.

7 (2) This act applies to appointments made on or after the
8 applicable effective date of this act."

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