

Practical Probate: Involuntary Conservatorships

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Involuntary conservatorships in Connecticut are sometimes necessary when an adult is incapable of managing his or her own affairs, or becomes incapable of caring for himself or herself.

Proceedings in Connecticut probate courts are less formal than other courts: many people don't need attorneys to represent them and procedural rules are far more flexible.

However, conservatorship proceedings are more formal. This is because someone's right to make decisions for themselves may be taken away. Conservatorship law is complex; this brief article highlights just a few aspects of conservatorships.

The person for whom the involuntary conservatorship is being sought must be represented by an attorney in all court proceedings. This is to ensure that the rights of the person for whom the conservatorship is sought are properly advocated. Even if the attorney believes that the conservatorship is in the best interest of their client, the attorney must argue against the conservatorship if that's what their client wants.

It's common for a family member to make an application asking the court to appoint an involuntary conservator for a relative who may be incapable. They see their role, and the

application, as a way to help their relative who is experiencing difficulties managing their finances,

making medical decisions, or some other aspect of their life. The judge determines whether the application will be approved or denied after a hearing.

Conservators of the estate may have authority to manage assets, income or bills of the conserved person. Conservators of the person may have authority over such matters as the conserved person's healthcare, where they live, keeping them in a safe environment, and taking care of the conserved person's personal property. The duties of the conservator must be narrowly construed, and must be the least restrictive means of achieving their purpose.

In a broad and sweeping revision to Connecticut conservatorship law in 2007, the conservator also must take steps to help the conserved person achieve independence. The conservator must also take the preferences of the conserved person into account when the conservator is carrying out their duties.

A conservator cannot force the conserved person to do something against the conserved person's will. This is a point of law that sometimes surprises applicants in involuntary

proceedings. The conservator also cannot force the conserved person to be admitted into a nursing home unless the conservator first gets such a move approved by the probate court. The court must conduct a hearing on an application to change the conserved person's residence before the conserved person's residence is changed.

The only exception is if the conserved person is discharged from a hospital to a nursing home. In that case, the conservator must make an application to the probate court within 5 business days of the nursing home admission. The court will conduct a hearing on that application and decide whether the conserved person may remain in the nursing home, or must be discharged to their residence.

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About the author



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