

Amendment No. 1 to HB0692

Lundberg
Signature of Sponsor

AMEND Senate Bill No. 555*

House Bill No. 692

by deleting SECTION 1 of the printed bill in its entirety and substituting instead the following

SECTION 1. Tennessee Code Annotated, Section 34-3-101, is amended by adding the following as a new subsection:

(c) Nothing in this title shall be construed to supersede the Tennessee Adult Protection Act, § 71-6-101 et seq. or the orders of the court pursuant to such act.

AND FURTHER AMEND by deleting SECTION 8 of the printed bill in its entirety and substituting instead the following:

SECTION 8. Tennessee Code Annotated, Section 34-1-106(b), is amended by deleting the language “respondent or with whom the respondent is living” and substituting instead the language “respondent, institution, or residential provider with whom the respondent is living.”

AND FURTHER AMEND by deleting SECTION 9 of the printed bill in its entirety and substituting instead the following:

SECTION 9. Tennessee Code Annotated, Section 34-1-107(a)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

The court may appoint a guardian ad litem in any proceeding and, except as provided in this section, shall appoint a guardian ad litem on filing of a petition for appointment of a fiduciary. If the respondent is represented by counsel who has made an appearance for the respondent, the court may appoint or continue the services of a guardian ad litem or may waive appointment or terminate the services of a guardian ad litem in the best interests of the respondent.

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AND FURTHER AMEND by deleting the language "on the respondent by the guardian ad litem" in subdivision (c)(1) of the amendatory language in SECTION 14 of the printed bill and substituting instead the language "on the respondent and any person, institution or residential provider having care or custody of the respondent by the guardian ad litem".

AND FURTHER AMEND by deleting the amendatory language of SECTION 15 and substituting instead the following:

(3) The notice shall also be served upon the closest relative or relatives of the respondent, as such persons are described in title 31, chapter 2, but not including the petitioner, and upon the person or institution, if any, having care and custody of the respondent or with whom the respondent is living. Service by mail, sent to the last known address of such persons or institution, shall be sufficient for purposes of this subdivision.

AND FURTHER AMEND by deleting from SECTION 24 of the printed bill the word "must" wherever it may appear in the amendatory language of § 34-1-132(a) and (b) and substituting instead the word "shall" and deleting the word "give" from the fifth line of subsection (b) and substituting the word "given."

AND FURTHER AMEND by deleting the period (.) at the end of subsection (e) in SECTION 27 of the printed bill and by adding the following at the end of the subdivision:

, Title 33, a court of competent jurisdiction may order a commitment to involuntary care and treatment.

AND FURTHER AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ___. Tennessee Code Annotated, Section 34-1-109(b) is amended by deleting the language "disabled person's" between "or" and "property" in the second sentence of the subsection and substituting instead the language "person with a disability's".

SECTION ___. Tennessee Code Annotated, Section 34-1-113(e) is amended by deleting the language "disabled person's" between the words "the" and "funeral" and substituting instead the language "person with a disability's".

SECTION ___. Tennessee Code Annotated, Section 34-3-103, is amended by deleting the section in its entirety and substituting instead the following:

34-3-103.

Subject to the court's determination of what is in the best interests of the person with a disability, the court shall consider the following persons in the order listed for appointment of the conservator:

- (1) The person or persons designated in a writing signed by the alleged person with a disability;
- (2) The spouse of the person with a disability;
- (3) Any child of the person with a disability;
- (4) Closest relative or relatives of the person with a disability;
- (5) A district public guardian as described by § 34-7-104; and
- (6) Other person or persons.

SECTION ___. Tennessee Code Annotated, Section 34-3-107, is amended by adding the following new subdivision (4) and renumbering existing subdivisions accordingly:

(4) Whether a conservator is being appointed from § 34-3-103(6), and if the conservator is being appointed from § 34-3-103(6), the reasons why the court was unable to appoint a conservator from § 34-3-103(1) - (5);

SECTION __. Tennessee Code Annotated, Section 34-1-105(b)(2), is amended by deleting the language "minor's or disabled person's non-real estate property" and substituting instead the language "minor's non-real estate property or the person with a disability's non-real estate property".

SECTION __. Tennessee Code Annotated, Section 34-1-117(e)(2)(B), is amended by deleting the language "disabled person's property" and substituting instead the language "person with a disability's property".

SECTION __. Tennessee Code Annotated, Section 34-1-121(a), is amended by deleting the language "minor's or disabled person's property" and substituting instead the language "property of the minor or the person with a disability".

SECTION __. Tennessee Code Annotated, Section 34-1-122, is amended by deleting the language "minor's or disabled person's property" and substituting instead the language "property of the minor or person with a disability".

SECTION __. Tennessee Code Annotated, Section 34-1-127, is amended by deleting the language "disabled person's property" and substituting instead the language "property of the person with a disability".

SECTION __. Tennessee Code Annotated, Section 34-3-107(3)(C), is amended by deleting the subdivision in its entirety and substituting instead the following:

(C) Set forth the approved management of the property of the disabled person; and

SECTION __. Tennessee Code Annotated, Section 34-3-108(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) A conservator appointed under this chapter may be discharged or have its duties modified if the court determines that the respondent is no longer a person with a disability, or that it is in the best interests of the person with a disability that the conservatorship be terminated, or that the conservator has failed to perform its duties and obligations in accordance with the law, or that the conservator has failed to act in

the best interest of the person with a disability so as to warrant modification or termination. The person with a disability or any interested person on the behalf of the person with a disability may petition the court at any time for a termination or modification order under this section.

SECTION __. Tennessee Code Annotated, Section 34-3-109, is amended by deleting the language "disabled person's spouse or dependent minor children" and substituting instead the language "spouse or dependent minor children of the person with a disability".

SECTION __. Tennessee Code Annotated, Title 34, Chapters 1 and 3 are amended by deleting the language "disabled person" wherever it may appear and substituting instead the language "person with a disability".