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# 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

17           (2) Any individual, including a minor, if the court  
18 determines that, for reasons other than age:

1 (A) By clear and convincing evidence, the individual  
2 is unable to manage property and business affairs  
3 effectively because of an impairment in the  
4 ability to receive and evaluate information or to  
5 make or communicate decisions, even with the use  
6 of appropriate and reasonably available  
7 technological assistance, or because of another  
8 physical, mental, or health impairment, or  
9 because the individual is missing, detained, or  
10 unable to return to the United States; and

11 (B) By a preponderance of evidence, the individual  
12 has property that will be wasted or dissipated  
13 unless management is provided or money is needed  
14 for the support, care, education, health, and  
15 welfare of the individual or of individuals who  
16 are entitled to the individual's support and that  
17 protection is necessary or desirable to obtain or  
18 provide money."

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

21 "(b) The petition under subsection (a) shall set forth the  
22 petitioner's name, residence, current address if different,

1 relationship to the respondent, and interest in the appointment  
2 or other protective order, and, to the extent known, state or  
3 contain the following with respect to the respondent and the  
4 relief requested:

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

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

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

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

21 (A) Spouse or reciprocal beneficiary or, if the  
22 respondent has none, an adult with whom the

1           respondent has resided for more than six months  
2           before the filing of the petition; and

3           (B) Adult children or, if the respondent has none,  
4           the respondent's parents and adult siblings or,  
5           if the respondent has none, at least one of the  
6           adults nearest in kinship to the respondent who  
7           can be found with reasonable efforts;

8           (5) The name and address of the person responsible for  
9           care or custody of the respondent;

10          (6) The name and address of any legal representative of  
11          the respondent;

12          (7) A general statement of the respondent's property with  
13          an estimate of its value, including any insurance or  
14          pension, and the source and amount of other  
15          anticipated income or receipts;

16          (8) The reason why a conservatorship or other protective  
17          order is in the best interest of the respondent; and

18          (9) A proposed itemized budget of income and  
19          expenditures."

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

- 1 SECTION 4. New statutory material is underscored.
- 2 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. (SD1)