~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 30, 2014

**S. 1147**

Introduced by Senators Rankin and Hembree

S. Printed 4/30/14--S. [SEC 5/1/14 2:34 PM]

Read the first time March 20, 2014.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1147) to amend Section 62-5-401, as amended, Code of Laws of South Carolina, 1976, relating to protective proceedings in relation to the estate and affairs, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking page 2, lines 9-16 in their entirety and inserting the following:

/ (B) Pursuant to the provisions of this chapter, in the case of a person’s disappearance where the assets of the missing person total twenty-five thousand dollars or less, a spouse or next of kin of the missing person, upon submitting a document that complies with the requirements of Section 62-1-507, may petition the court to be appointed the temporary conservator of the missing person’s property for a six‑month period of time. For such temporary appointments, the petitioner may request a hearing on an emergency basis, with the appointment of an attorney for the missing person and the setting of a bond being temporarily waived. The appointment of a spouse or next of kin as a temporary conservator for the property of a missing person does not alter the ability of the spouse or next of kin to apply for appointment as the conservator after the expiration of the six-month period, pursuant to the remaining provisions of Part 4, Chapter 5, Title 62. Termination of the conservatorship shall occur pursuant to the provisions of Section 62-5-430, when the missing person is no longer missing, a petition for termination of the conservatorship is filed, and the court orders the termination of the conservatorship.”/

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department

The department reports there is no additional fiscal impact on the General Fund of the State or on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 62-5-401, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROTECTIVE PROCEEDINGS IN RELATION TO THE ESTATE AND AFFAIRS OF CERTAIN PERSONS INCLUDING MINORS, PERSONS WITH MENTAL OR PHYSICAL ILLNESS OR DISABILITY, AND MISSING PERSONS, SO AS TO PROVIDE FOR EXPEDITED HEARINGS IN THE CASE OF MISSING PERSONS UNDER CERTAIN CIRCUMSTANCES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 62‑5‑401 of the 1976 Code, as last amended by Act 244 of 2010, is further amended to read:

“Section 62‑5‑401. (A) After service of the summons and petition and notice of hearing in accordance with the provisions of this part, the court may appoint a conservator or make other protective order for cause as follows:

(1) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection which cannot otherwise be provided, has or may have business affairs which may be jeopardized or prevented by his minority, or that funds are needed for his support and education and that protection is necessary or desirable to obtain or provide funds.

(2) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines that (i) the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and (ii) the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care, and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds.

(B) Pursuant to the provisions of this section and the provisions of Part 4, Article 5, Chapter 5, in the case of a person’s disappearance, a family member of the missing person may petition the court for appointment of a conservator or other protective order, including a durable power of attorney, and the court shall expedite the hearing on the matter after ninety days has passed from the date a law enforcement agency was first notified of the person’s disappearance.”

SECTION 2. This act takes effect upon approval by the Governor.

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