~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT AMENDED AND ADOPTED

May 7, 2014

**S. 1147**

Introduced by Senators Rankin and Hembree

S. Printed 5/7/14--S.

Read the first time March 20, 2014.

**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.

Amend Title To Conform

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)(1) Pursuant to the provisions of this article, in the case of an individual’s disappearance in which the assets of the missing individual total twenty-five thousand dollars or less, and no person was previously appointed by the missing individual to have general authority to act on behalf of the missing individual, a spouse or next of kin of the missing individual, upon submitting a document that complies with the requirements of Section 62-1-507(3), may petition the court to be appointed the temporary conservator of the missing individual’s property for a six-month period of time. For such temporary conservator appointments of missing individual’s estates, the petitioner may request a hearing on an emergency basis, with the appointment of an attorney for the missing individual and the setting of a bond being temporarily waived. The petitioner must also comply with all notice requirements. The appointment of a spouse or next of kin as a temporary conservator for the property of a missing individual 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 provisions of Part 4, Article 5, Title 62.

(2) For estates that total more than twenty-five thousand dollars, the provisions of Section 62-5-408(1) shall apply for the appointment of temporary conservators.

(3) Termination of the conservatorship shall occur pursuant to the provisions of Section 62-5-430(B), upon application to the court that the missing person is no longer missing or deceased, and the court orders the termination of the conservatorship.”

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

‑‑‑‑XX‑‑‑‑