

JAN 26 2006

JUDICIARY

HOUSE FILE 2147  
BY HUSER, SWAIM, GASKILL,  
and PETERSEN

(COMPANION TO LSB 5744SS  
BY BOLKCOM)

Passed House, Date 3-22-06 Passed Senate, Date 4-10-05  
Vote: Ayes 98 Nays 0 Vote: Ayes 50 Nays 0  
Approved April 21, 2006

A BILL FOR

1 An Act relating to the temporary appointment of a conservator for  
2 a dependent adult in an emergency situation.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2147

1 Section 1. Section 235B.19, Code Supplement 2005, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 3A. a. Notwithstanding section 633.573,  
4 upon a finding that there is probable cause to believe that  
5 the dependent adult abuse is producing irreparable harm to the  
6 physical or financial resources or property of the dependent  
7 adult, and that the dependent adult lacks capacity to consent  
8 to the receipt of services, the court may order the  
9 appointment of a temporary conservator without notice to the  
10 dependent adult or the dependent adult's attorney if all of  
11 the following conditions are met:

12 (1) It clearly appears from specific facts shown by  
13 affidavit or by the verified petition that immediate and  
14 irreparable injury, loss, or damage will result to the  
15 physical or financial resources or property of the dependent  
16 adult before the dependent adult or the dependent adult's  
17 attorney can be heard in opposition.

18 (2) The department certifies to the court in writing any  
19 efforts the department has made to give the notice or the  
20 reasons supporting the claim that notice should not be  
21 required.

22 (3) The department files with the court a request for a  
23 hearing on the petition for the appointment of a temporary  
24 conservator.

25 (4) The department certifies that the notice of the  
26 petition, order, and all filed reports and affidavits will be  
27 sent to the dependent adult by personal service within the  
28 time period the court directs but not more than seventy-two  
29 hours after entry of the order of appointment.

30 b. An order of appointment of a temporary conservator  
31 entered by the court under paragraph "a" shall expire as  
32 prescribed by the court but within a period of not more than  
33 thirty days unless extended by the court for good cause.

34 c. A hearing on the petition for the appointment of a  
35 temporary conservator shall be held within the time specified

1 in paragraph "b". If the department does not proceed with a  
2 hearing on the petition, the court, on the motion of any party  
3 or on its own motion, may dismiss the petition.

4 Sec. 2. Section 633.573, Code 2005, is amended to read as  
5 follows:

6 633.573 APPOINTMENT OF TEMPORARY CONSERVATOR.

7 A Except as provided in section 235B.19, a temporary  
8 conservator may be appointed but only after a hearing on such  
9 notice, and subject to such conditions, as the court shall  
10 prescribe.

11 EXPLANATION

12 This bill relates to the temporary appointment of a  
13 conservator for a dependent adult in an emergency situation.

14 The bill provides that upon a finding that there is  
15 probable cause to believe that dependent adult abuse is  
16 producing irreparable harm to the physical or financial  
17 resources or property of the dependent adult, and that the  
18 dependent adult lacks capacity to consent to the receipt of  
19 services, the court may order the appointment of a temporary  
20 conservator without notice to the dependent adult if it  
21 clearly appears from specific facts shown by affidavit or by  
22 the verified petition that immediate and irreparable injury,  
23 loss, or damage will result to the physical or financial  
24 resources or property of the dependent adult before the  
25 dependent adult or the dependent adult's attorney can be heard.  
26 in opposition, the department of human services certifies to  
27 the court in writing any efforts the department has made to  
28 give the notice or the reasons supporting the claim that  
29 notice should not be required, the department files with the  
30 court a request for a hearing on the petition for the  
31 appointment, and the department certifies that the notice of  
32 the petition, order, and all filed reports and affidavits will  
33 be sent to the dependent adult by personal service within the  
34 time period the court directs but not more than 72 hours after  
35 entry of the order of appointment.

1 The bill further provides that an order of appointment  
2 entered by the court shall expire as prescribed by the court  
3 but within 30 days unless extended for good cause and that a  
4 hearing on the petition shall be held within the same time  
5 period unless the court, on the motion of any party or on its  
6 own motion, dismisses the petition.

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HOUSE FILE 2147

AN ACT

RELATING TO THE TEMPORARY APPOINTMENT OF A CONSERVATOR FOR A  
DEPENDENT ADULT IN AN EMERGENCY SITUATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 235B.19, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. Notwithstanding section 633.573, upon a finding that there is probable cause to believe that the dependent adult abuse is producing irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to the receipt of services, the court may order the appointment of a temporary conservator without notice to the

dependent adult or the dependent adult's attorney if all of the following conditions are met:

(1) It clearly appears from specific facts shown by affidavit or by the verified petition that immediate and irreparable injury, loss, or damage will result to the physical or financial resources or property of the dependent adult before the dependent adult or the dependent adult's attorney can be heard in opposition.

(2) The department certifies to the court in writing any efforts the department has made to give the notice or the reasons supporting the claim that notice should not be required.

(3) The department files with the court a request for a hearing on the petition for the appointment of a temporary conservator.

(4) The department certifies that the notice of the petition, order, and all filed reports and affidavits will be sent to the dependent adult by personal service within the time period the court directs but not more than seventy-two hours after entry of the order of appointment.

b. An order of appointment of a temporary conservator entered by the court under paragraph "a" shall expire as prescribed by the court but within a period of not more than thirty days unless extended by the court for good cause.

c. A hearing on the petition for the appointment of a temporary conservator shall be held within the time specified in paragraph "b". If the department does not proceed with a hearing on the petition, the court, on the motion of any party or on its own motion, may dismiss the petition.

Sec. 2. Section 633.573, Code 2005, is amended to read as follows:

633.573 APPOINTMENT OF TEMPORARY CONSERVATOR.

A Except as provided in section 235B.19, a temporary conservator may be appointed but only after a hearing on such

notice, and subject to such conditions, as the court shall prescribe.

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CHRISTOPHER C. RANTS  
Speaker of the House

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JEFFREY M. LAMBERTI  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2147, Eighty-first General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2006

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THOMAS J. VILSACK  
Governor