

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0003.01 Jerry Barry x4341

SENATE BILL 20-129

SENATE SPONSORSHIP

Holbert and Ginal,

HOUSE SPONSORSHIP

Froelich and Ransom,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PROTECTION OF INDIVIDUALS SUBJECT TO A
102 FIDUCIARY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

For petitions for wards or conservators, the bill requires a petitioner to conduct a prehearing conference with the minor or potentially incapacitated person and persons who may assist the minor or potentially incapacitated person. The petitioner must include a report of the prehearing conference with the petition and mail the petition and report to any person who participated in the prehearing conference.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Current law allows a court on its own motion or at the request of an interested person to conduct an emergency review of a fiduciary's actions. The bill requires the judge to rule on the motion or request within 14 days.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 15-10-109.5 as
3 follows:

4 **15-10-109.5. Prehearing conference - notice.** (1) PRIOR TO
5 FILING A PETITION PURSUANT TO SECTION 15-14-204, 15-14-312,
6 15-14-405, 15-14-406, OR 15-14-412, A PETITIONER SHALL CONDUCT A
7 PREHEARING CONFERENCE TO DETERMINE IF ANY RELATIVE OR
8 INTERESTED PERSON IS INTERESTED IN ASSISTING THE MINOR OR
9 POTENTIALLY INCAPACITATED PERSON. THE PETITIONER SHALL MAKE
10 EVERY EFFORT TO IDENTIFY AND NOTIFY THE MINOR'S OR POTENTIALLY
11 INCAPACITATED PERSON'S RELATIVES, FRIENDS, AND INTERESTED PERSONS
12 OF THE CONFERENCE AND THAT REMOTE PARTICIPATION IS AVAILABLE.
13 THE RESPONDENT MUST BE PRESENT DURING THE PREHEARING
14 CONFERENCE.

15 (2) THE PETITIONER SHALL ARRANGE ANY REQUESTED REMOTE
16 PARTICIPATION. DURING THE PREHEARING CONFERENCE, THE PETITIONER
17 SHALL ENSURE THAT THERE IS A FULL AND ROBUST CONVERSATION
18 REGARDING THE PETITION. ANYONE PRESENT, INCLUDING BY REMOTE
19 PARTICIPATION, MUST BE ALLOWED TO SPEAK AND ASK QUESTIONS.

20 (3) AT THE TIME THE PETITION IS FILED, THE PETITIONER SHALL:

21 (a) INCLUDE A REPORT CONCERNING WHAT HAPPENED AT THE
22 PREHEARING CONFERENCE; AND

23 (b) SEND A COPY OF THE PETITION AND REPORT TO ALL PERSONS

1 WHO ATTENDED IN PERSON OR REMOTELY THE PREHEARING CONFERENCE.

2 **SECTION 2.** In Colorado Revised Statutes, 15-10-503, **amend**
3 (1) as follows:

4 **15-10-503. Power of a court to address the conduct of a**
5 **fiduciary - emergencies - nonemergencies. (1) Emergency situations**
6 **- court action without the requirement of prior notice or hearing.** If
7 it appears to a court that an emergency exists because a fiduciary's actions
8 or omissions pose an imminent risk of substantial harm to a ward's or
9 protected person's health, safety, or welfare or to the financial interests of
10 an estate, the court may, on its own motion or upon the request of an
11 interested person, without a hearing and without following any of the
12 procedures authorized by section 15-10-502, order the immediate
13 restraint, restriction, or suspension of the powers of the fiduciary; direct
14 the fiduciary to appear before the court; or take such further action as the
15 court deems appropriate to protect the ward or protected person or the
16 assets of the estate. If a court restrains, restricts, or suspends the powers
17 of a fiduciary, the court shall set a hearing and direct that notice be given
18 pursuant to section 15-10-505. The clerk of the court shall immediately
19 note the restraint, restriction, or suspension on the fiduciary's letters, if
20 any. Any action for the removal, surcharge, or sanction of a fiduciary
21 shall be governed by this section. THE COURT SHALL RULE ON ITS MOTION
22 OR THE INTERESTED PERSON'S REQUEST WITHIN FOURTEEN DAYS AFTER
23 THE MOTION OR REQUEST IS MADE.

24 **SECTION 3. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect September 1, 2020; except that,
26 if a referendum petition is filed pursuant to section 1 (3) of article V of
27 the state constitution against this act or an item, section, or part of this act

1 within the ninety-day period after final adjournment of the general
2 assembly, then the act, item, section, or part will not take effect unless
3 approved by the people at the general election to be held in November
4 2020 and, in such case, will take effect on the date of the official
5 declaration of the vote thereon by the governor.

6 (2) This act applies to petitions filed on or after the applicable
7 effective date of this act.