

Prepared by the Department of Health and Social Services 3-1-2012

DIFFERENCES BETWEEN CSHB 150 (JUD) AND CSSB 86 (JUD) (efd) (am)

- 1) CSHB 150 sec. 3(a)(3), p. 2, line 18: Makes AS 11.56.740(a) applicable to protective orders issued under AS 13.26.180, which applies to already-existing conservatorship statutes, in addition to the new ex parte and six-month financial protective orders (FPO). CSSB 86 sec. 3(a)(3) only makes AS 11.56.740(a) applicable to the new ex parte and six-month (temporary) FPOs.
- 2) CSHB 150 sec. 4, p. 2, line 23: As above, this section makes the definition of “protective order” in AS 11.56.740(c) apply to protective orders issued under AS 13.26.180 as well as the new ex parte and six-month FPOs. CSSB 86 sec. 4(c) only makes AS 11.56.740(c) applicable to the new FPOs.
- 3) CSSB 86 sec. 9, p. 4, lines 6-9 (AS 13.26.185(c)): This section states that the general notice provision in the existing conservatorship statutes does not apply to the new FPOs. CSHB 150 does not include this section.
- 4) CSSB 86 sec. 10, p. 4, lines 22-23: This requires the court to appoint an attorney for a respondent at a temporary conservatorship hearing. This language does not exist in CSHB 150 sec. 9, p. 4.
- 5) CSSB 86 sec. 10, p. 5-7/CSHB 150 sec. 9 p. 4-6: The Senate CS breaks the CSHB 150 ex parte and six-month FPO section (AS 13.26.209) out into three separate sections: AS 13.26.207 – 13.26.209, dealing with ex parte (20-day) protective orders, temporary protective orders (six month) and conversions, and general provisions, respectively. The House CS still has all of those provisions in one section – AS 13.26.209.
- 6) CSSB 86 sec. 10, p. 5, lines 25-28 (AS 13.26.207(c)): this limits the expiration of an ex parte FPO to 20 days unless dissolved earlier by a court at the request of the petitioner or respondent and after notice and hearing (if a hearing is requested), or on the earlier appointment of a temp. or permanent conservator. CSHB 150 sec. 9, p. 5, lines 22-25 includes the option of expiring at the end of a six-month extension, but does not include the option of dissolution by the court. This difference is explained by the Senate CS’s separation of the FPO types into different section.
- 7) CSSB 86 sec. 10, p. 5 (AS 13.26.208): The new separate section for six-month FPOs changed the name of the FPO to a “temporary protective order.” Also, because it is a separate order from the 20-day ex parte FPO, the transition from ex parte to temporary is now referred to as a “conversion” in the Senate CS as opposed to an “extension.” CSHB 150 sec. 9, p. 5-6 (AS

13.26.209(d)) does not give the six-month FPO a separate name, and refers to the transition as an “extension” of the ex parte FPO.

8) CSSB 86 sec. 10, p. 6, line 8 – p. 7, line 24 (AS 13.26.209): This makes the general provisions applicable to ex parte and temporary FPOs a new separate section. A subpart of the new AS 13.26.209 are new provisions on modifying ex parte and temporary FPOs (subsections (a) – (c)). Subsection (a) states that a petition, respondent or protected person may request a modification of an ex parte or temporary FPO. If it's an ex parte FPO, the court must schedule the hearing within three days. If it's a temporary FPO, the court must schedule the hearing within 20 days of the request unless the court finds that the request is meritless on its face. Subsection (b) gives the court the authority to give the petitioner time to respond to the respondent if the respondent raises an issue not raised by the petitioner. Subsection (c) requires the court to make reasonable efforts to ensure that a modified protective order is understood by the petitioner, respondent and protected person who are present at the hearing.

Subsection (f) removes the option of achieving notice on a third party by registering an FPO with the Dept. of Public Safety.

CSHB 150 sec. 9, p. 4, line 28 – p. 6, line 27 (AS 13.26.209) includes the same general provisions except the modification language. It also includes language at p. 6, lines 12-15 that makes registering a protective order with the Dept. of Public Safety a way to achieve actual or legal notice on a third party.

9) CSSB 86 sec. 13, p. 8, lines 15-16: This includes ex parte and temporary FPOs as protective orders that the Dept. of Public Safety must put in its central registry of protective orders under AS 18.65.540(a). CSHB 150 sec. 12, p. 7, line 18 includes existing conservatorship protective orders under AS 13.26.180 with the new FPOs as orders that the Dept. of Public Safety must put in its central registry.

10) CSSB 86 sec. 14, p. 8, lines 22 – 23: This includes ex parte and temporary FPOs in statute requiring peace officers to ensure that protective orders are entered into the Public Safety registry within 24 hours after receiving them (AS 18.65.540(b)). CSHB 150 sec. 13, p. 7, line 25 includes existing conservatorship protective orders under AS 13.26.180 with the new FPOs as orders a peace officer must register within 24 hours of receiving them.

11) CSSB 86 sec. 20, p. 11, lines 10-11 (AS 47.24.010(e)): This section requires a peace officer to notify APS within 24 hours of receiving a report of harm. CSHB 150 sec. 19, p. 10, lines 13-14 add the requirement that the peace officer make that report at the earliest opportunity within that same 24-hour window.

- 12) CSSB 86 sec. 42, p. 19, lines 17-18 (AS 47.24.900(11)(E): In the definition of “protective services” under the APS statutes, petitioning for any protective order under the conservatorship statutes is permitted (AS 13.26.165 – 13.26.209). CSHB 150 sec. 41, p. 18, line 21 only includes petitioning for a protective order under AS 13.26.209, which involves the ex parte protective order and its six-month extension.
- 13) CSSB 86 sec. 48, p. 22, line 10 – p. 23, line 1: The indirect court rule amendments have been changed to conform to the now-separate statutory sections on ex parte and temporary protective orders (AS 13.26.207 – 13.26.209). CSHB 150 sec. 47, p. 21, lines 13-25: reflect the indirect court rule amendments needed for just one section – AS 13.26.209 – since both FPO types are included in that one section.
- 14) CSSB 86 sec. 51, p. 23, line 16 – p. 24, line 1: The conditional effect provisions are broken out by section and subsection to conform to the now-separate statutory sections on ex parte and temporary protective orders (AS 13.26.207 – 13.26.209). CSHB 150 sec. 50, p. 22, lines 11-16 reflect the inclusion of all FPO provisions in one section (AS 13.26.209).
- 15) CSSB86 (JUD) (efd am), sec. 52: provides that Sections 16 and 20 of the Act take effect September 1, 2012; CSHB 150 still uses a September 1, 2011 effective date;
- 16) CSSB86(JUD)(efd am), sec. 53: provides that all other sections of the Act take effect July 1, 2012; CSHB 150 still uses a July 1, 2011 effective date.