



General Assembly

January Session, 2013

Raised Bill No. 1140

LCO No. 4594



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING THE DUTIES OF A CONSERVATOR AND OTHER PERSONS AUTHORIZED TO MAKE DECISIONS RELATING TO THE CARE AND DISPOSITION OF A DECEASED PERSON'S BODY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-52 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 In a statutory short form power of attorney, the language conferring
4 general authority with respect to personal relationships and affairs
5 shall be construed to mean that the principal authorizes the agent: (1)
6 To do all acts necessary for maintaining the customary standard of
7 living of the spouse and children and other dependents of the
8 principal, including, but not limited to, power to provide living
9 quarters by purchase, lease or by other contract, or by payment of the
10 operating costs, including interest, amortization payments, repairs and
11 taxes, of premises owned by the principal and occupied by his family
12 or dependents, to provide normal domestic help for the operation of
13 the household; to provide usual vacations and usual travel expenses;

14 to provide usual educational facilities, and to provide funds for all the
15 current living costs of such spouse, children and other dependents,
16 including, among other things, shelter, clothing, food and incidentals;
17 (2) to provide, whenever necessary, medical, dental and surgical care,
18 hospitalization and custodial care for the spouse, children and other
19 dependents of the principal; (3) to continue whatever provision has
20 been made by the principal, prior to the creation of the agency or
21 thereafter, for his spouse, children and other dependents, with respect
22 to automobiles, or other means of transportation, including, but not
23 limited to, power to license, insure and replace any automobiles
24 owned by the principal and customarily used by the spouse, children
25 or other dependents of the principal; (4) to continue whatever charge
26 accounts have been operated by the principal, prior to the creation of
27 the agency or thereafter, for the convenience of his spouse, children or
28 other dependents; to open such new accounts as the agent deems
29 desirable for the accomplishment of any of the purposes enumerated
30 in this section, and to pay the items charged on such accounts by any
31 person authorized or permitted by the principal to make such charges
32 prior to the creation of the agency; (5) to continue the discharge of any
33 services or duties assumed by the principal, prior to the creation of the
34 agency or thereafter, to any parent, relative or friend of the principal;
35 (6) to supervise and enforce, defend or settle any claim by or against
36 the principal arising out of property damages or personal injuries
37 suffered by or caused by the principal, or under such circumstances
38 that the loss resulting therefrom will, or may, fall on the principal; (7)
39 to continue payments incidental to the membership or affiliation of the
40 principal in any church, club, society, order or other organization or to
41 continue contributions thereto; (8) to demand, receive or obtain by
42 action, proceeding or otherwise any money or other thing of value to
43 which the principal is, or may become, or may claim to be, entitled as
44 salary, wages, commission or other remuneration for services
45 performed, or as a dividend or distribution upon any stock, or as
46 interest or principal upon any indebtedness, or any periodic
47 distribution of profits from any partnership or business in which the

48 principal has or claims an interest, and to endorse, collect or otherwise
49 realize upon any instrument for the payment so received; (9) to
50 prepare, execute and file all tax, Social Security, unemployment
51 insurance and information returns required by the laws of the United
52 States or of any state or subdivision thereof, or of any foreign
53 government; to prepare, execute and file all other papers and
54 instruments which the agent deems desirable or necessary for the
55 safeguarding of the principal against excess or illegal taxation or
56 against penalties imposed for claimed violation of any law or other
57 governmental regulation, and to pay, to compromise, to contest or to
58 apply for refunds in connection with any taxes or assessments for
59 which the principal is or may be liable; (10) to utilize any asset of the
60 principal for the performance of the powers enumerated in this
61 section, including, but not limited to, power to draw money by check
62 or otherwise from any bank deposit of the principal; sell any land,
63 chattel, bond, share, commodity interest, chose in action or other asset
64 of the principal; borrow money and pledge as security for such loan,
65 any asset, including insurance, which belongs to the principal; (11) to
66 execute, acknowledge, verify, seal, file and deliver any application,
67 consent, petition, notice, release, waiver, agreement or other
68 instrument which the agent deems useful for the accomplishment of
69 any of the purposes enumerated in this section; (12) to prosecute,
70 defend, submit to arbitration, settle, and propose or accept a
71 compromise with respect to, any claim existing in favor of, or against,
72 the principal based on or involving any transaction enumerated in this
73 section or to intervene in any action or proceeding relating thereto; (13)
74 to hire, discharge and compensate any attorney, accountant, expert
75 witness or other assistant or assistants when the agent deems such
76 action to be desirable for the proper execution by him of any of the
77 powers described in this section, and for the keeping of needed records
78 thereof; [and] (14) to execute a written document in advance of the
79 principal's death, in accordance with section 45a-318, as amended by
80 this act, directing the disposition of the principal's body upon the
81 death of the principal or designating an individual to have custody

82 and control of the disposition of the principal's body upon the death of
83 the principal; and (15) in general, and in addition to all the specific acts
84 in this section enumerated, to do any other act or acts, which the
85 principal can do through an agent, for the welfare of the spouse,
86 children or dependents of the principal or for the preservation and
87 maintenance of the other personal relationships of the principal to
88 parents, relatives, friends and organizations. All powers described in
89 this section shall be exercisable equally whether the acts required for
90 their execution relate to real or personal property owned by the
91 principal at the giving of the power of attorney or thereafter acquired
92 and whether such acts are performable in the state of Connecticut or
93 elsewhere.

94 Sec. 2. Section 45a-318 of the general statutes is repealed and the
95 following is substituted in lieu thereof (*Effective October 1, 2013*):

96 (a) Any person eighteen years of age or older, and of sound mind,
97 or any conservator of the person authorized pursuant to subdivision
98 (5) of subsection (a) of section 45a-656, as amended by this act, to act
99 on behalf of the conserved person, or any agent authorized pursuant to
100 subdivision (14) of section 1-52, as amended by this act, to act on behalf
101 of a principal may execute in advance of such person's death a written
102 document, subscribed by such person and attested by two witnesses,
103 either: (1) Directing the disposition of such person's body upon the
104 death of such person, which document may also designate an
105 individual to have custody and control of such person's body and to
106 act as agent to carry out such directions; or (2) if there are no directions
107 for disposition, designating an individual to have custody and control
108 of the disposition of such person's body upon the death of such person.
109 Such disposition shall include, but not be limited to, cremation,
110 incineration, disposition of cremains, burial, method of interment and
111 cryogenic preservation. Any such document may designate an
112 alternate to an individual designated under subdivision (1) or (2) of
113 this subsection.

114 (b) No person having the custody and control of the disposition of a
115 deceased person's body shall knowingly provide for a disposition of
116 the body in a manner that is inconsistent with a document executed by
117 a person pursuant to the provisions of subsection (a) of this section,
118 unless such disposition is approved by the Probate Court.

119 [(b)] (c) No person may challenge a funeral director's decision to
120 carry out the directions for disposition contained in a document
121 executed for the purposes of subsection (a) or [(f)] (i) of this section if
122 the funeral director's decision and conduct in carrying out such
123 directions for disposition in reliance on such document was reasonable
124 and warranted under the circumstances.

125 [(c)] (d) In the absence of a written designation of an individual
126 pursuant to subsection (a) of this section, or in the event that an
127 individual and any alternate designated pursuant to subsection (a) of
128 this section decline to act or cannot be located within forty-eight hours
129 after the time of death or the discovery of the body, the following
130 individuals, in the priority listed, shall have the right to custody and
131 control of the disposition of a person's body upon the death of such
132 person, subject to any directions for disposition made by such person
133 pursuant to subdivision (1) of subsection (a) of this section:

134 (1) The deceased person's spouse, unless such spouse abandoned
135 the deceased person prior to the deceased person's death or has been
136 adjudged incapable by a court of competent jurisdiction;

137 (2) The deceased person's surviving adult children;

138 (3) The deceased person's surviving parents;

139 (4) The deceased person's surviving siblings;

140 (5) Any adult person in the next degree of kinship in the order
141 named by law to inherit the deceased person's estate, provided such
142 adult person shall be of the third degree of kinship or higher;

143 (6) Such adult person as the Probate Court shall determine.

144 (e) In the event that the applicable class of persons set forth in
145 subdivisions (2) to (5), inclusive, of subsection (d) of this section,
146 contains more than one person, the custody and control of the body
147 shall be in a majority of the members of the class who can be located
148 and indicate willingness to participate in making arrangements for the
149 disposition within a reasonable time. Such class members shall
150 indicate their decision in writing.

151 (f) A person charged with a crime under section 53-54a, 53a-54b,
152 53a-54c, 53a-54d, 53a-55 or 53a-55a in connection with the death of the
153 deceased person shall be excluded from participating in making
154 disposition arrangements pursuant to subsection (c) of this section if:
155 (1) The existence of the criminal charges is known to the funeral
156 director, and (2) the criminal charges are pending or the person has
157 been found guilty of one of the specified crimes.

158 [(d)] (g) A document executed by a person for the purposes of
159 subsection (a) or [(f)] (i) of this section shall revoke any document
160 previously executed by such person for the purposes of said subsection
161 or any prior cremation authorization or other authorization for the
162 disposition of remains executed by such person.

163 [(e)] (h) A document executed by a person for the purposes of
164 subsection (a) of this section may be in substantially the following
165 form, but the use of such form shall not preclude the use of any other
166 form:

167 DISPOSITION OF REMAINS AND

168 APPOINTMENT OF AGENT

169

170 I, ..., of ..., being of sound mind, make known that upon my death
171 my body shall be disposed of in the following manner:

172 (Insert desired disposition directions)

173 I appoint ..., having an address and telephone number of ..., to
174 have custody and control of my body to act as my agent to carry out
175 the disposition directions expressed in this document, and in the
176 absence of disposition directions, to have custody and control of my
177 body and to determine the disposition of my body. If ... shall decline
178 to act or cannot be located within forty-eight hours of my death or the
179 discovery of my body, then ..., having an address and telephone
180 number of ..., shall act in that person's place and stead.

181 Executed at (insert location of execution), Connecticut on (insert
182 date of execution).

183 ...

184 (Signature)

185 Signed in our presence by ... who, at the time of the execution of
186 this document, appeared to be of sound mind and over eighteen years
187 old.

188 ... of ...

189 ...

190 (Signature of witness)

191 ... of ...

192 ...

193 (Signature of witness)

194 ~~[(f)]~~ (i) A DD Form 93, "Record of Emergency Data", executed by a
195 member of the armed forces of the state or the United States shall be
196 given the same legal effect as a document executed for the purposes of
197 subsection (a) of this section.

198 [(g)] (j) The court of probate for the district of the domicile or
199 residence of a deceased person shall have jurisdiction to hear and
200 decide any issue regarding the custody, control or disposition of the
201 deceased person's body, upon the petition of any individual
202 designated by the deceased person pursuant to subsection (a) or [(f)] (i)
203 of this section, the individual entitled to custody and control under
204 subsection [(c)] (d) of this section if no designation is made pursuant to
205 subsection (a) of this section, the first selectman, chief executive officer
206 or director of health of the town in which the deceased person's body
207 is being held, or the funeral director or any other person or institution
208 holding the deceased person's body, and upon such notice to
209 interested parties as the court shall determine.

210 [(h)] (k) This section shall not (1) apply to the disposition of the
211 body of a deceased person under the provisions of sections 19a-270
212 and 54-102, (2) affect the powers and duties of the Chief Medical
213 Examiner under the provisions of sections 19a-406 to 19a-408,
214 inclusive, or (3) affect the making of anatomical gifts under the
215 provisions of sections 14-42 and 19a-289 to 19a-289v, inclusive.

216 Sec. 3. Subsection (a) of section 45a-656 of the general statutes is
217 repealed and the following is substituted in lieu thereof (*Effective*
218 *October 1, 2013*):

219 (a) The conservator of the person shall have the duties and authority
220 expressly assigned by the court pursuant to section 45a-650, which
221 duties and authority may include: (1) The duty and responsibility for
222 the general custody of the conserved person; (2) the authority to
223 establish the conserved person's residence within the state, subject to
224 the provisions of section 45a-656b; (3) the authority to give consent for
225 the conserved person's medical or other professional care, counsel,
226 treatment or service; (4) the duty to provide for the care, comfort and
227 maintenance of the conserved person; [and] (5) the authority to execute
228 a written document in advance of the conserved person's death, in
229 accordance with section 45a-318, as amended by this act, directing the

230 disposition of the conserved person's body upon the death of such
231 person; and (6) the duty to take reasonable care of the conserved
232 person's personal effects.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	1-52
Sec. 2	<i>October 1, 2013</i>	45a-318
Sec. 3	<i>October 1, 2013</i>	45a-656(a)

Statement of Purpose:

To clarify the rights and responsibilities of persons with the authority to make decisions concerning the care, custody and disposition of a deceased person's body.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]