



General Assembly

Substitute Bill No. 260

February Session, 2014



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 Section 1-52 of the general statutes is repealed and the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, 2014*):

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, 2014*):

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

111 (2) Any conservator of the person authorized pursuant to
112 subdivision (5) of subsection (a) of section 45a-656, as amended by this
113 act, to act on behalf of a conserved person, or any agent authorized
114 pursuant to subdivision (14) of section 1-52, as amended by this act, to
115 act on behalf of a principal may execute in advance of such conserved
116 person's or principal's death a written document, subscribed by such
117 conservator or agent and attested by two witnesses, either: (A)
118 Directing the disposition of such conserved person's or principal's
119 body upon the death of such conserved person or principal, which
120 document may also designate an individual to have custody and

121 control of such conserved person's or principal's body and to act as
122 agent to carry out such directions; or (B) if there are no directions for
123 disposition, designating an individual to have custody and control of
124 the disposition of such conserved person's or principal's body upon the
125 death of such conserved person or principal. Such disposition shall
126 include, but not be limited to, cremation, incineration, disposition of
127 cremains, burial, method of interment and cryogenic preservation.
128 Any such document may designate an alternate to an individual
129 designated under subparagraph (A) or (B) of this subdivision.

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

135 ~~[(b)]~~ (c) No person may challenge a funeral director's decision to
136 carry out the directions for disposition contained in a document
137 executed for the purposes of subsection (a) or ~~[(f)]~~ (h) of this section if
138 the funeral director's decision and conduct in carrying out such
139 directions for disposition in reliance on such document was reasonable
140 and warranted under the circumstances.

141 ~~[(c)]~~ (d) In the absence of a written designation of an individual
142 pursuant to subsection (a) of this section, or in the event that an
143 individual and any alternate designated pursuant to subsection (a) of
144 this section decline to act or cannot be located within forty-eight hours
145 after the time of death or the discovery of the body, the following
146 individuals, in the priority listed, shall have the right to custody and
147 control of the disposition of a person's body upon the death of such
148 person, subject to any directions for disposition made by such person,
149 conservator or agent pursuant to subdivision (1) or (2) of subsection (a)
150 of this section:

151 (1) The deceased person's spouse, unless such spouse abandoned
152 the deceased person prior to the deceased person's death or has been

153 adjudged incapable by a court of competent jurisdiction;

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

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

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

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

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

161 (e) In the event that the applicable class of persons set forth in
162 subdivisions (2) to (5), inclusive, of subsection (d) of this section,
163 contains more than one person, the custody and control of the body
164 shall be in a majority of the members of the class who can be located
165 and indicate willingness to participate in making arrangements for the
166 disposition within a reasonable time not to exceed ten days after the
167 date on which the deceased person is identified. Such class members
168 shall indicate their decision in writing.

169 ~~[(d)]~~ (f) A document executed by a person for the purposes of
170 subsection (a) or ~~[(f)]~~ (h) of this section shall revoke any document
171 previously executed by such person for the purposes of said subsection
172 or any prior cremation authorization or other authorization for the
173 disposition of remains executed by such person.

174 ~~[(e)]~~ (g) A document executed by a person for the purposes of
175 subsection (a) of this section may be in substantially the following
176 form, but the use of such form shall not preclude the use of any other
177 form:

178 DISPOSITION OF REMAINS AND

179 APPOINTMENT OF AGENT

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

182 (Insert desired disposition directions)

183 I appoint ..., having an address and telephone number of ..., to
184 have custody and control of my body to act as my agent to carry out
185 the disposition directions expressed in this document, and in the
186 absence of disposition directions, to have custody and control of my
187 body and to determine the disposition of my body. If ... shall decline
188 to act or cannot be located within forty-eight hours of my death or the
189 discovery of my body, then ..., having an address and telephone
190 number of ..., shall act in that person's place and stead.

191 Executed at (insert location of execution), Connecticut on (insert
192 date of execution).

193

194 (Signature)

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

198 ... of ...

199

200 (Signature of witness)

201 ... of ...

202

203 (Signature of witness)

204 [(f)] (h) A DD Form 93, "Record of Emergency Data", executed by a
205 member of the armed forces of the state or the United States shall be

206 given the same legal effect as a document executed for the purposes of
207 subsection (a) of this section.

208 ~~[(g)]~~ (i) The court of probate for the district of the domicile or
209 residence of a deceased person shall have jurisdiction to hear and
210 decide any issue regarding the custody, control or disposition of the
211 deceased person's body, upon the petition of any individual
212 designated by the deceased person pursuant to subsection (a) or ~~[(f)]~~
213 (h) of this section, the individual entitled to custody and control under
214 subsection ~~[(c)]~~ (d) of this section if no designation is made pursuant to
215 subsection (a) of this section, the first selectman, chief executive officer
216 or director of health of the town in which the deceased person's body
217 is being held, or the funeral director or any other person or institution
218 holding the deceased person's body, and upon such notice to
219 interested parties as the court shall determine.

220 ~~[(h)]~~ (j) This section shall not (1) apply to the disposition of the body
221 of a deceased person under the provisions of sections 19a-270 and 54-
222 102, (2) affect the powers and duties of the Chief Medical Examiner
223 under the provisions of sections 19a-406 to 19a-408, inclusive, or (3)
224 affect the making of anatomical gifts under the provisions of sections
225 14-42 and 19a-289 to 19a-289v, inclusive.

226 Sec. 3. Subsection (a) of section 45a-656 of the general statutes is
227 repealed and the following is substituted in lieu thereof (*Effective*
228 *October 1, 2014*):

229 (a) The conservator of the person shall have the duties and authority
230 expressly assigned by the court pursuant to section 45a-650, which
231 duties and authority may include: (1) The duty and responsibility for
232 the general custody of the conserved person; (2) the authority to
233 establish the conserved person's residence within the state, subject to
234 the provisions of section 45a-656b; (3) the authority to give consent for
235 the conserved person's medical or other professional care, counsel,
236 treatment or service; (4) the duty to provide for the care, comfort and
237 maintenance of the conserved person; ~~[and]~~ (5) the authority to execute

238 a written document in advance of the conserved person's death, in
239 accordance with section 45a-318, as amended by this act, directing the
240 disposition of the conserved person's body upon the death of such
241 person or designating an individual to have custody and control of the
242 disposition of such person's body upon the death of such person; and
243 (6) the duty to take reasonable care of the conserved person's personal
244 effects.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	1-52
Sec. 2	<i>October 1, 2014</i>	45a-318
Sec. 3	<i>October 1, 2014</i>	45a-656(a)

JUD *Joint Favorable Subst.*