



Substitute Senate Bill No. 260

Public Act No. 14-204

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:

Section 1. Section 1-52 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

In a statutory short form power of attorney, the language conferring general authority with respect to personal relationships and affairs shall be construed to mean that the principal authorizes the agent: (1) To do all acts necessary for maintaining the customary standard of living of the spouse and children and other dependents of the principal, including, but not limited to, power to provide living quarters by purchase, lease or by other contract, or by payment of the operating costs, including interest, amortization payments, repairs and taxes, of premises owned by the principal and occupied by his family or dependents, to provide normal domestic help for the operation of the household; to provide usual vacations and usual travel expenses; to provide usual educational facilities, and to provide funds for all the current living costs of such spouse, children and other dependents, including, among other things, shelter, clothing, food and incidentals;

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(2) to provide, whenever necessary, medical, dental and surgical care, hospitalization and custodial care for the spouse, children and other dependents of the principal; (3) to continue whatever provision has been made by the principal, prior to the creation of the agency or thereafter, for his spouse, children and other dependents, with respect to automobiles, or other means of transportation, including, but not limited to, power to license, insure and replace any automobiles owned by the principal and customarily used by the spouse, children or other dependents of the principal; (4) to continue whatever charge accounts have been operated by the principal, prior to the creation of the agency or thereafter, for the convenience of his spouse, children or other dependents; to open such new accounts as the agent deems desirable for the accomplishment of any of the purposes enumerated in this section, and to pay the items charged on such accounts by any person authorized or permitted by the principal to make such charges prior to the creation of the agency; (5) to continue the discharge of any services or duties assumed by the principal, prior to the creation of the agency or thereafter, to any parent, relative or friend of the principal; (6) to supervise and enforce, defend or settle any claim by or against the principal arising out of property damages or personal injuries suffered by or caused by the principal, or under such circumstances that the loss resulting therefrom will, or may, fall on the principal; (7) to continue payments incidental to the membership or affiliation of the principal in any church, club, society, order or other organization or to continue contributions thereto; (8) to demand, receive or obtain by action, proceeding or otherwise any money or other thing of value to which the principal is, or may become, or may claim to be, entitled as salary, wages, commission or other remuneration for services performed, or as a dividend or distribution upon any stock, or as interest or principal upon any indebtedness, or any periodic distribution of profits from any partnership or business in which the principal has or claims an interest, and to endorse, collect or otherwise realize upon any instrument for the payment so received; (9) to

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

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the principal; and (15) in general, and in addition to all the specific acts in this section enumerated, to do any other act or acts, which the principal can do through an agent, for the welfare of the spouse, children or dependents of the principal or for the preservation and maintenance of the other personal relationships of the principal to parents, relatives, friends and organizations. All powers described in this section shall be exercisable equally whether the acts required for their execution relate to real or personal property owned by the principal at the giving of the power of attorney or thereafter acquired and whether such acts are performable in the state of Connecticut or elsewhere.

Sec. 2. Section 45a-318 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

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

(2) Any conservator of the person authorized pursuant to subdivision (5) of subsection (a) of section 45a-656, as amended by this act, to act on behalf of a conserved person, or any agent authorized

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pursuant to subdivision (14) of section 1-52, as amended by this act, to act on behalf of a principal may execute in advance of such conserved person's or principal's death a written document, subscribed by such conservator or agent and attested by two witnesses, either: (A) Directing the disposition of such conserved person's or principal's body upon the death of such conserved person or principal, which document may also designate an individual to have custody and control of such conserved person's or principal's body and to act as agent to carry out such directions; or (B) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such conserved person's or principal's body upon the death of such conserved person or principal. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment and cryogenic preservation. Any such document may designate an alternate to an individual designated under subparagraph (A) or (B) of this subdivision. A document executed by a conservator pursuant to this subdivision shall include provisions indicating that such document (i) is valid if the person is under conservatorship at the time of his or her death, and (ii) terminates upon the termination of the conservatorship when such termination occurs prior to the death of the conserved person.

(b) No person having the custody and control of the disposition of a deceased person's body shall knowingly provide for a disposition of the body in a manner that is inconsistent with a document executed by a person pursuant to the provisions of subsection (a) of this section or section 19a-575a, unless such disposition is approved by the Probate Court.

[(b)] (c) No person may challenge a funeral director's decision to carry out the directions for disposition contained in a document executed for the purposes of subsection (a) or [(f)] (h) of this section if the funeral director's decision and conduct in carrying out such

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directions for disposition in reliance on such document was reasonable and warranted under the circumstances.

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

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

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

(3) The deceased person's surviving parents;

(4) The deceased person's surviving siblings;

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

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

(e) In the event that the applicable class of persons set forth in subdivisions (2) to (5), inclusive, of subsection (d) of this section, contains more than one person, the custody and control of the body shall be in a majority of the members of the class who can be located and indicate willingness to participate in making arrangements for the

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disposition within a reasonable time not to exceed ten days after the date on which the deceased person is identified. Such class members shall indicate their decision in writing.

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

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

DISPOSITION OF REMAINS AND

APPOINTMENT OF AGENT

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

(Insert desired disposition directions)

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

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

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....

(Signature)

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

.... of

....

(Signature of witness)

.... of

....

(Signature of witness)

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

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

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interested parties as the court shall determine.

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

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

(a) The conservator of the person shall have the duties and authority expressly assigned by the court pursuant to section 45a-650, which duties and authority may include: (1) The duty and responsibility for the general custody of the conserved person; (2) the authority to establish the conserved person's residence within the state, subject to the provisions of section 45a-656b; (3) the authority to give consent for the conserved person's medical or other professional care, counsel, treatment or service; (4) the duty to provide for the care, comfort and maintenance of the conserved person; [and] (5) the authority to execute a written document in advance of the conserved person's death, in accordance with section 45a-318, as amended by this act, directing the disposition of the conserved person's body upon the death of such person or designating an individual to have custody and control of the disposition of such person's body upon the death of such person; and (6) the duty to take reasonable care of the conserved person's personal effects.

Sec. 4. Section 19a-580e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Except as authorized by a court of competent jurisdiction, a

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conservator shall comply with a conserved person's individual health care instructions and other wishes, if any, expressed while the conserved person had capacity and to the extent known to the conservator, and the conservator may not revoke the conserved person's advance health care directive or a directive executed in accordance with subdivision (14) of section 1-52, as amended by this act, or section 45a-318, as amended by this act, unless the appointing court expressly so authorizes.

(b) Absent a court order to the contrary, a [health care] decision of a health care representative concerning health care or the disposition of the body of a deceased person takes precedence over that of a conservator, except under the following circumstances: (1) When the health care decision concerns a person who is subject to the provisions of section 17a-566, 17a-587, 17a-588 or 54-56d; (2) when a conservator has been appointed for a conserved person who is subject to an order authorized under subsection (e) of section 17a-543, for the duration of the conserved person's hospitalization; or (3) when a conservator has been appointed for a conserved person subject to an order authorized under section 17a-543a.

Approved June 13, 2014