



Substitute Senate Bill No. 142

Public Act No. 16-40

**AN ACT CONCERNING REVISIONS TO THE CONNECTICUT
UNIFORM POWER OF ATTORNEY ACT.**

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

Section 1. Subsections (a) and (b) of section 1-350e of the 2016 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) A power of attorney executed in this state on or after [October 1, 2015] October 1, 2016, is valid if its execution complies with section 1-350d.

(b) A power of attorney executed in this state before [October 1, 2015] October 1, 2016, is valid if its execution complied with the law of this state as it existed at the time of execution.

Sec. 2. Subsection (a) of section 1-351l of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

Substitute Senate Bill No. 142

(1) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse and the following other individuals, whether living when the power of attorney is executed or later born:

(A) The principal's children whom the principal is legally obligated to support;

(B) Other individuals legally entitled to be supported by the principal; and

(C) The individuals whom the principal has customarily supported or indicated the intent to support;

(2) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) Provide living quarters for the individuals described in subdivision (1) of this subsection by:

(A) Purchase, lease or other contract; or

(B) Paying the operating costs, including interest, amortization payments, repairs, improvements and taxes, for premises owned by the principal or occupied by [those] the individuals described in subdivision (1) of this subsection;

(4) Provide normal domestic help, usual vacations and travel expenses and funds for shelter, clothing, food, appropriate education, including post secondary and vocational education and other current living costs for the individuals described in subdivision (1) of this subsection;

(5) Pay expenses for necessary health care and custodial care on behalf of the individuals described in subdivision (1) of this subsection;

Substitute Senate Bill No. 142

(6) Act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 to 1179, inclusive, of the Social Security Act, 42 USC 1320d, as amended from time to time, and applicable federal regulations, in making decisions related to the past, present or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(7) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring and replacing [them] such automobiles or other means of transportation, for the individuals described in subdivision (1) of this subsection;

(8) Maintain credit and debit accounts for the convenience of the individuals described in subdivision (1) of this subsection and open new accounts; [and]

(9) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order or other organization or continue contributions to those organizations; and

(10) 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 the principal. Such written document may also designate another individual as an alternate to the individual designated to have custody and control of the disposition of the principal's body upon the death of the principal. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment, alkaline hydrolysis and cryogenic preservation.

Substitute Senate Bill No. 142

Sec. 3. Subsection (a) of section 1-352 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) (1) The use of either the following short form or long form in the creation of a power of attorney is authorized, and, when used, [it] the short form or long form shall be construed in accordance with the provisions of sections 1-350 to 1-353b, inclusive, [:] as amended by this act. No provision of sections 1-350 to 1-353b, inclusive, as amended by this act, shall be construed to bar the use of any other or different form of power of attorney desired by the parties concerned.

(2) "STATUTORY POWER OF ATTORNEY - SHORT FORM

Notice: The powers granted by this document are broad and sweeping. They are defined in Connecticut Uniform Power of Attorney Act, which expressly permits the use of any other or different form of power of attorney desired by the parties concerned. The grantor of any power of attorney or the agent may make application to a court of probate for an accounting as provided in subsection (b) of section 45a-175 of the general statutes. This power of attorney does not authorize the agent to make health care decisions for you.

Know All Persons by These Presents, which are intended to constitute a GENERAL POWER OF ATTORNEY pursuant to Connecticut Uniform Power of Attorney Act:

That I (insert name and address of the principal) do hereby appoint (insert name and address of the agent, or each agent, if more than one is designated) my agent(s) TO ACT

If more than one agent is designated and the principal wishes each agent alone to be able to exercise the power conferred, insert in this blank the word 'severally'. Failure to make any insertion or the insertion of the word 'jointly' shall require the agents to act jointly.

Substitute Senate Bill No. 142

First: In my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in the Connecticut Uniform Power of Attorney Act to the extent that I am permitted by law to act through an agent:

(Strike out and initial in the opposite box any one or more of the subparagraphs as to which the principal does NOT desire to give the agent authority. Such elimination of any one or more of subparagraphs (A) to (M), inclusive, shall automatically constitute an elimination also of subparagraph (N).)

To strike out any subparagraph the principal must draw a line through the text of that subparagraph AND write his initials in the box opposite.

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|------------|--|------------|
| <u>(A)</u> | <u>Real property;</u> | <u>()</u> |
| <u>(B)</u> | <u>Tangible personal property;</u> | <u>()</u> |
| <u>(C)</u> | <u>Stocks and bonds;</u> | <u>()</u> |
| <u>(D)</u> | <u>Commodities and options;</u> | <u>()</u> |
| <u>(E)</u> | <u>Banks and other financial institutions;</u> | <u>()</u> |
| <u>(F)</u> | <u>Operation of entity or business;</u> | <u>()</u> |
| <u>(G)</u> | <u>Insurance and annuities;</u> | <u>()</u> |
| <u>(H)</u> | <u>Estates, trusts and other beneficial interests;</u> | <u>()</u> |
| <u>(I)</u> | <u>Claims and litigation;</u> | <u>()</u> |
| <u>(J)</u> | <u>Personal and family maintenance;</u> | <u>()</u> |
| <u>(K)</u> | <u>Benefits from governmental programs or civil or military service;</u> | <u>()</u> |
| <u>(L)</u> | <u>Retirement plans;</u> | <u>()</u> |
| <u>(M)</u> | <u>Taxes;</u> | <u>()</u> |
| <u>(N)</u> | <u>All other matters;</u> | <u>()</u> |

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(Special provisions and limitations may be included in the statutory

Substitute Senate Bill No. 142

form power of attorney only if they conform to the requirements of the Connecticut Uniform Power of Attorney Act.)

Second: With full and unqualified authority to delegate any or all of the foregoing powers to any person or persons whom my agent(s) shall select.

Third: Hereby ratifying and confirming all that said agent(s) or substitute(s) do or cause to be done.

Fourth: LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the special instructions.

Fifth: DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Sixth: EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the special instructions.

Substitute Senate Bill No. 142

The execution of this statutory short form power of attorney shall be duly acknowledged by the principal in the manner prescribed for the acknowledgment of a conveyance of real property.

In Witness Whereof I have hereunto signed my name and affixed my seal this day of ..., 20...

.... (Signature of Principal) (Seal)

....
Witness

....
Witness

STATE OF

COUNTY OF

} ss:

On this the day of ..., 20.., before me, (name of the principal), signer of the foregoing instrument, personally appeared, and acknowledged the execution of such instrument to be his/her free act and deed.

....

Commissioner of the Superior Court

Notary Public

My commission expires:"

(3) "STATUTORY POWER OF ATTORNEY - LONG FORM

[] Notice: The powers granted by this document are broad and

Substitute Senate Bill No. 142

sweeping. They are defined in the Connecticut Uniform Power of Attorney Act, which expressly permits the use of any other or different form of power of attorney desired by the parties concerned. The grantor of any power of attorney or the agent may make application to a court of probate for an accounting as provided in subsection (b) of section 45a-175 of the general statutes. This power of attorney does not authorize the agent to make health care decisions for you.

Know All Persons by These Presents, which are intended to constitute a GENERAL POWER OF ATTORNEY pursuant to the Connecticut Uniform Power of Attorney Act:

That I (insert name and address of the principal) do hereby appoint (insert name and address of the agent, or each agent, if more than one is designated) my agent(s) TO ACT

If more than one agent is designated and the principal wishes each agent alone to be able to exercise the power conferred, insert in this blank the word 'severally'. Failure to make any insertion or the insertion of the word 'jointly' shall require the agents to act jointly.

First: In my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in the Connecticut Uniform Power of Attorney Act to the extent that I am permitted by law to act through an agent:

(Strike out and initial in the opposite box any one or more of the [subdivisions] subparagraphs as to which the principal does NOT desire to give the agent authority. Such elimination of any one or more of [subdivisions] subparagraphs (A) to (M), inclusive, shall automatically constitute an elimination also of [subdivision] subparagraph (N).)

To strike out any [subdivision] subparagraph the principal must

Substitute Senate Bill No. 142

draw a line through the text of that [subdivision] subparagraph AND write his initials in the box opposite.

- (A) [real estate transactions (real property)] Real property; ()
- (B) [chattel and goods transactions (tangible personal property)] Tangible personal property; ()
- (C) [bond, share and commodity transactions (stocks and bonds)] Stocks and bonds; ()
- (D) Commodities and options; ()
- [(D)] (E) [banking transactions (banks and other financial institutions)] Banks and other financial institutions; ()
- [(E)] (F) [business operating transactions (operation of entity or business)] Operation of entity or business; ()
- [(F)] (G) [insurance transactions (insurance and annuities)] Insurance and annuities; ()
- [(G)] (H) [estate transactions (estates, trusts, and other beneficial interests)] Estates, trusts and other beneficial interests; ()
- [(H)] (I) [claims] Claims and litigation; ()
- [(I)] (J) [personal relationships and affairs (personal and family maintenance)] Personal and family maintenance; ()
- [(J)] (K) [benefits from military service (benefits from governmental programs or civil or military service)] Benefits from governmental programs or civil or military service; ()
- [(K)] records, reports and statements; ()
- (L) [retirement] Retirement plans; ()
- (M) [taxes] Taxes; ()
- (N) [all] All other matters; ()

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(Special provisions and limitations may be included in the statutory form power of attorney only if they conform to the requirements of the Connecticut Uniform Power of Attorney Act.)

[(Strike out below and initial in the opposite box any one or more of the subdivisions as to which the principal does NOT desire to give the

Substitute Senate Bill No. 142

agent authority. To strike out any subdivision the principal must draw a line through the text of that subdivision AND write his initials in the box opposite.)]

OPTIONAL ESTATE PLANNING POWERS

YOU SHOULD SEEK LEGAL ADVICE BEFORE INCLUDING THE FOLLOWING POWERS:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death.)

[YOU SHOULD SEEK LEGAL ADVICE BEFORE]

[INCLUDING THE FOLLOWING POWERS:]

My agent MAY NOT do any of the following specific acts UNLESS I HAVE INITIALED the specific authority listed below:

- (O) Create, amend, revoke or terminate an inter vivos trust, ()
provided in the case of a trust established for a disabled person pursuant to 42 USC 1396p (d)(4)(A) or 42 USC 1396p (d)(4)(C), the creation of such trust by an agent shall be only as permitted by federal law;

- (P) Make a gift, subject to the limitations of the Connecticut ()
Uniform Power of Attorney Act and any special instructions in this power of attorney. Unless otherwise provided in the special instructions, gifts per recipient may not exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, in an amount per recipient not to exceed twice the annual federal gift tax exclusion limit. In addition, an agent must determine that gifts are consistent with the principal's objectives if actually known by the agent and,

Substitute Senate Bill No. 142

if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors;

- (Q) Create or change rights of survivorship; ()
- (R) Create or change a beneficiary designation; ()
- (S) Authorize another person to exercise the authority granted under this power of attorney; ()
- (T) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; ()
- (U) Exercise fiduciary powers that the principal has authority to delegate; ()
- (V) Disclaim or refuse an interest in property, including a power of appointment. ()

Second: With full and unqualified authority to delegate any or all of the foregoing powers to any person or persons whom my agent(s) shall select. [;]

Third: Hereby ratifying and confirming all that said agent(s) or substitute(s) do or cause to be done.

Fourth: LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the special instructions.

Fifth: DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my

Substitute Senate Bill No. 142

successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Sixth: EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the special instructions.

[In Witness Whereof I have hereunto signed my name and affixed my seal this day of, 20...

.... (Signature of Principal) (Seal)

(ACKNOWLEDGMENT)

The execution of this statutory form power of attorney shall be duly acknowledged by the principal in the manner prescribed for the acknowledgment of a conveyance of real property.

No provision of this chapter shall be construed to bar the use of any other or different form of power of attorney desired by the parties concerned.

Every statutory form power of attorney shall contain, in boldface type or a reasonable equivalent thereof, the "Notice" at the beginning of this section.]

Substitute Senate Bill No. 142

The execution of this statutory long form power of attorney shall be duly acknowledged by the principal in the manner prescribed for the acknowledgment of a conveyance of real property.

In Witness Whereof I have hereunto signed my name and affixed my seal this day of ..., 20...

.... (Signature of Principal) (Seal)

....
Witness

....
Witness

STATE OF

COUNTY OF

}

ss:

On this the day of ..., 20.., before me, (name of the principal), signer of the foregoing instrument, personally appeared, and acknowledged the execution of such instrument to be his/her free act and deed.

....

Commissioner of the Superior Court

Notary Public

My commission expires:"

Sec. 4. Section 1-353b of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

Substitute Senate Bill No. 142

(a) Except as otherwise provided in sections 1-350 to 1-353b, inclusive, as amended by this act, on [October 1, 2015] and after October 1, 2016, said sections apply to:

(1) A power of attorney created before, on, or after [October 1, 2015] October 1, 2016;

(2) A judicial proceeding concerning a power of attorney commenced on or after October 1, [2015] 2016; and

(3) A judicial proceeding concerning a power of attorney commenced before October 1, [2015] 2016, unless the court finds that application of a provision of sections 1-350 to 1-353b, inclusive, as amended by this act, would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies.

(b) An act performed by an agent under a power of attorney before October 1, [2015] 2016, is not affected by sections 1-350 to 1-353b, inclusive, as amended by this act.

Sec. 5. Subsection (a) of section 19a-580e of the 2016 supplement to the general statutes, as amended by section 54 of public act 15-240, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Except as authorized by a court of competent jurisdiction, a 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 (10) of section 1-351l, as amended by this act, or section 45a-318, as amended by this act, unless the appointing

Substitute Senate Bill No. 142

court expressly so authorizes.

Sec. 6. Subsection (c) of section 19a-580f of the 2016 supplement to the general statutes, as amended by section 51 of public act 15-240, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(c) A power of attorney for health care decisions properly executed prior to October 1, 2006, shall have the same power and effect as provided under section [1-55] 1-54a of the general statutes, revision of 1958, revised to January 1, [2015] 2005, in effect at the time of its execution.

Sec. 7. Subdivisions (1) and (2) of subsection (a) of section 45a-318 of the 2016 supplement to the general statutes, as amended by section 55 of public act 15-240, are repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(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: (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 (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, alkaline hydrolysis and cryogenic preservation. Any such document may designate an alternate to an individual designated under subparagraph (A) or (B) of this subdivision.

(2) Any conservator of the person authorized pursuant to

Substitute Senate Bill No. 142

subdivision (5) of subsection (a) of section 45a-656 to act on behalf of a conserved person, or any agent authorized [pursuant to subdivision (14) of section 1-52] to act on behalf of a principal, including any agent authorized to act on behalf of a principal pursuant to subdivision (10) of section 1-351l, as amended by this act, 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, alkaline hydrolysis 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.

Sec. 8. Subsection (a) of section 45a-660 of the 2016 supplement to the general statutes, as amended by section 53 of public act 15-240, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) (1) A conserved person may, at any time, petition the court of probate having jurisdiction for the termination of a conservatorship. A

Substitute Senate Bill No. 142

petition for termination of a conservatorship shall be determined by a preponderance of the evidence. The conserved person shall not be required to present medical evidence at such a hearing. A hearing on the petition shall be held not later than thirty days after the date the petition was filed in the Court of Probate, unless the hearing is continued for good cause. If such hearing is not held within such thirty-day period or continuance period, if applicable, the conservatorship shall terminate. If the court of probate having jurisdiction finds a conserved person to be capable of caring for himself or herself, the court shall, upon hearing and after notice, order that the conservatorship of the person be terminated. [The court may also order the reinstatement of any authority of any agent under a power of attorney that was previously limited, suspended or terminated by the court because of the conservatorship.] If the court finds upon hearing and after notice which the court prescribes, that a conserved person is capable of managing his or her own affairs, the court shall order that the conservatorship of the estate be terminated and that the remaining portion of the conserved person's property be restored to the conserved person. The court may order the reinstatement of any authority of any agent under a power of attorney that was previously limited or suspended by the court because of the conservatorship. (2) If the court finds upon hearing and after notice which the court prescribes that a conserved person has no assets of any kind remaining except for that amount allowed by subsection (c) of section 17b-80, the court may order that the conservatorship of the estate be terminated. The court shall thereupon order distribution of the remaining assets to the conservator of the person or, if there is no conservator or the conservator declines or is unable to accept or the conservator is the Commissioner of Social Services, to some suitable person, to be determined by the court, to hold for the benefit of the conserved person, upon such conservator or person giving such probate bond, if any, as the court orders. (3) If any conserved person having a conservator dies, the conserved person's property other than

Substitute Senate Bill No. 142

property which has accrued from the sale of the conserved person's real property shall be delivered to the conserved person's executor or administrator. The unexpended proceeds of the conserved person's real property sold as aforesaid shall go into the hands of the executor or administrator, to be distributed as such real property would have been.

Sec. 9. (*Effective from passage*) Sections 1 to 57, inclusive, of public act 15-240 shall take effect October 1, 2016.

Approved May 27, 2016