



General Assembly

**Substitute Bill No. 5361**

February Session, 2016



**AN ACT CONCERNING A CONSERVED PERSON'S RIGHT TO INTERACT WITH OTHERS.**

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

1 Section 1. (NEW) (*Effective July 1, 2016*) (a) For purposes of this  
2 section and section 2 of this act, (1) "conserved person" means a person  
3 eighteen years of age and older for whom a conservator of the person  
4 has been appointed pursuant to section 45a-646, 45a-648 to 45a-651,  
5 inclusive, or 45a-654 of the general statutes, (2) "conservator" means a  
6 conservator of the person appointed pursuant to section 45a-646, 45a-  
7 648 to 45a-651, inclusive, or 45a-654 of the general statutes, (3) "court"  
8 means a probate court with jurisdiction over a conservatorship of a  
9 conserved person, and (4) "interact", "interaction" or "interacting with"  
10 means communication by telephone, mail or in person.

11 (b) A conserved person, whether or not such person has voluntary  
12 or involuntary representation of a conservator, has a fundamental  
13 right of free association. Unless specifically authorized by an order  
14 from a court pursuant to this section, a conservator shall not restrict a  
15 conserved person's right to interact with other persons, including, but  
16 not limited to, the conserved person's children, siblings, parents, or  
17 other close relatives or friends. If a conserved person is unable to  
18 express consent to interact with other persons due to a mental,  
19 emotional or physical condition, then consent of the conserved person

20 may be presumed based on the conserved person's prior relationship  
21 with such other persons unless the conserved person has previously  
22 documented his or her wishes not to interact with the person seeking  
23 access to him or her.

24 (c) A conservator who knowingly prevents or attempts to prevent  
25 interaction with a conserved person in violation of subsection (b) of  
26 this section, or any court order issued pursuant to this section, is  
27 subject to removal and replacement by the court.

28 (d) Notwithstanding the provisions of subsection (b) of this section,  
29 a conservator may petition the Probate Court that appointed the  
30 conservator to order restrictions placed on a conserved person's ability  
31 to interact with a person seeking access to him or her. The conservator  
32 shall show by clear and convincing evidence that there is good cause  
33 for such restrictions. In determining good cause, the court shall  
34 consider all relevant factors, including, but not limited to:

35 (1) Whether any protective orders have been issued to prevent the  
36 person or persons seeking access to the conserved person from  
37 interacting with him or her;

38 (2) Whether the person seeking access to the conserved person has  
39 been found by competent authority to have abused, neglected or  
40 financially exploited the conserved person or the conservator can show  
41 by a preponderance of evidence that such person has abused,  
42 neglected or exploited the conserved person or is likely to abuse,  
43 neglect or exploit the conserved person;

44 (3) If the conserved person is unable to communicate, whether such  
45 person has stated that he or she does not want to interact with the  
46 person seeking access to him or her in documents including, but not  
47 limited to, a properly executed living will, durable power of attorney  
48 or advance directive;

49 (4) If the conserved person resides in a skilled nursing facility,  
50 residential care home or other facility subject to the provisions of

51 section 19a-550 of the general statutes, whether interaction with the  
52 person seeking access to the conserved person is medically  
53 contraindicated as documented by the patient's physician pursuant to  
54 subsection (b) of section 19a-550 of the general statutes; and

55 (5) Any other information the court deems relevant.

56 (e) If the court finds by clear and convincing evidence that  
57 restrictions must be placed on the conserved person's right to interact  
58 with others pursuant to subsection (d) of this section, the court shall  
59 order only such restrictions that are the least restrictive means of  
60 intervention necessary to meet the needs of the conserved person and  
61 shall expressly state that the conserved person shall retain all rights  
62 and authority not expressly limited by the order. The court shall also  
63 consider:

64 (1) Whether the conserved person expresses or has expressed a  
65 desire to interact with the person seeking access to him or her;

66 (2) Placing reasonable time, place and manner restrictions on  
67 interaction between the conserved person and the person seeking  
68 access to him or her based on the history of their relationship, the  
69 conserved person's wishes or both; and

70 (3) Requiring that interaction between the conserved person and the  
71 person seeking access to him or her be supervised.

72 (f) If any interested person, including the conserved person,  
73 reasonably believes that provisions of this section have been violated,  
74 then such person may move the court to:

75 (1) Require the conservator to grant a person access to the conserved  
76 person;

77 (2) Restrict, or further restrict, a person's access to the conserved  
78 person in accordance with subsections (d) and (e) of this section;

79 (3) Modify the conservator's duties; or

80 (4) Remove and replace the conservator.

81 (g) Except as provided in subsection (h) of this section, a court shall  
82 schedule a hearing on a petition or motion filed pursuant to subsection  
83 (d) or (f) of this section not later than thirty days after the date the  
84 petition or motion is filed. The court may, in its discretion, order  
85 mediation to be conducted prior to the hearing. Any mediation shall  
86 include the conserved person, the person seeking access to the  
87 conserved person and the mediator. If mediation results in agreement  
88 regarding interaction with the conserved person, such agreement shall  
89 be approved by the court.

90 (h) If a petition or motion filed pursuant to this section states that  
91 the conserved person's health is in significant decline or that the  
92 conserved person's death may be imminent, a court shall conduct an  
93 emergency hearing as soon as practicable, but not later than ten days  
94 after the petition or motion is filed. Upon request, the court may order  
95 that supervised interaction between the conserved person and persons  
96 seeking access to the conserved person be granted during the period  
97 prior to the hearing.

98 (i) Notice of the hearing, a copy of the petition or motion and a copy  
99 of any order issued pursuant to this section shall be sent by certified  
100 mail, return receipt requested, to the conserved person and any person  
101 named in the motion. Nothing in this section shall be construed as  
102 affecting the conserved person's right to appear and be heard in the  
103 proceedings.

104 (j) A conserved person subject to involuntary representation shall  
105 have the right to be represented by an attorney in accordance with the  
106 provisions of section 45a-649a of the general statutes, in all  
107 proceedings under this section.

108 (k) A court, upon its own motion or a motion filed with the court,  
109 may impose an appropriate sanction, including, but not limited to, an

110 order to pay court costs and reasonable attorneys' fees, upon a  
111 conservator who knowingly has violated any provision of this section  
112 or an order issued by the court pursuant to this section. No monetary  
113 sanction may be paid out of the conserved person's estate.

114 Sec. 2. (NEW) (*Effective July 1, 2016*) (a) Except as provided in  
115 subsections (b) and (c) of this section, a conservator shall notify, as  
116 soon as is reasonably possible, a conserved person's closest relatives,  
117 including, but not limited to, children and siblings, and any other  
118 person designated by the conserved person to be notified, in the event  
119 that:

120 (1) The conserved person's residence has changed;

121 (2) The conserved person is staying at a location other than the  
122 conserved person's residence;

123 (3) The conserved person is admitted to a medical facility for  
124 emergency care in response to a life-threatening injury or medical  
125 condition or for acute care; or

126 (4) The conserved person dies. In the case of the conserved person's  
127 death, the conservator shall make a good faith effort to contact such  
128 relatives or designated persons in person or by telephone.

129 (b) A conservator is not required to provide notice in accordance  
130 with subsection (a) of this section if:

131 (1) A person who is entitled to notice under subsection (a) of this  
132 section informs the conservator in writing that such person does not  
133 wish to receive such notice; or

134 (2) The conserved person or a court order has expressly prohibited  
135 the conservator from providing notice to such person.

136 (c) A conservator shall not provide contact information for a  
137 conserved person to any person who is the subject of an order of

138 protection or a restraining order issued on behalf of the conserved  
139 person.

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| This act shall take effect as follows and shall amend the following sections: |              |             |
| Section 1   | July 1, 2016 | New section |
| Sec. 2  | July 1, 2016 | New section |

**Statement of Legislative Commissioners:**

In Section 1(d)(2), "has or is likely to abuse, neglect or exploit the conserved person" was changed to "has abused, neglected or exploited the conserved person or is likely to abuse, neglect or exploit the conserved person" for clarity; in Section 1(d)(4), "subject to section 19a-550" was changed to "subject to the provisions of section 19a-550" for clarity; and in Section 1(g), (h) and (i), "motion" was changed to "petition or motion" for internal consistency.

**AGE**      *Joint Favorable Subst.*