

**Proposed Substitute
Bill No. 5361**

LCO No. 2912

**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 or is likely to
42 abuse, neglect or exploit the conserved person;

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

48 (4) If the conserved person resides in a skilled nursing facility,
49 residential care home or other facility subject to section 19a-550 of the
50 general statutes, whether interaction with the person seeking access to

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

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

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

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

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

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

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

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

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

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

79 (4) Remove and replace the conservator.

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

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

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

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

106 (k) A court, upon its own motion or a motion filed with the court,
107 may impose an appropriate sanction, including, but not limited to, an
108 order to pay court costs and reasonable attorneys' fees, upon a
109 conservator who knowingly has violated any provision of this section
110 or an order issued by the court pursuant to this section. No monetary
111 sanction may be paid out of the conserved person's estate.

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

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

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

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

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

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

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

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

134 (c) A conservator shall not provide contact information for a
135 conserved person to any person who is the subject of an order of
136 protection or a restraining order issued on behalf of the conserved
137 person.

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