



General Assembly

Amendment

February Session, 2016

LCO No. 5440



Offered by:

SEN. COLEMAN, 2nd Dist.

REP. TONG, 147th Dist.

To: Subst. Senate Bill No. 142

File No. 546

Cal. No. 353

**"AN ACT CONCERNING REVISIONS TO THE CONNECTICUT
UNIFORM POWER OF ATTORNEY ACT AND ADOPTION OF THE
CONNECTICUT UNIFORM RECOGNITION OF SUBSTITUTE
DECISION-MAKING DOCUMENTS ACT."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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4 supplement to the general statutes are repealed and the following is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

6 (a) A power of attorney executed in this state on or after [October 1,
7 2015] October 1, 2016, is valid if its execution complies with section 1-
8 350d.

9 (b) A power of attorney executed in this state before [October 1,
10 2015] October 1, 2016, is valid if its execution complied with the law of
11 this state as it existed at the time of execution.

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13 general statutes is repealed and the following is substituted in lieu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

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

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

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

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

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

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

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

33 (A) Purchase, lease or other contract; or

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

38 (4) Provide normal domestic help, usual vacations and travel
39 expenses and funds for shelter, clothing, food, appropriate education,

40 including post secondary and vocational education and other current
41 living costs for the individuals described in subdivision (1) of this
42 subsection;

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

45 (6) Act as the principal's personal representative pursuant to the
46 Health Insurance Portability and Accountability Act, Sections 1171 to
47 1179, inclusive, of the Social Security Act, 42 USC 1320d, as amended
48 from time to time, and applicable federal regulations, in making
49 decisions related to the past, present or future payment for the
50 provision of health care consented to by the principal or anyone
51 authorized under the law of this state to consent to health care on
52 behalf of the principal;

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

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

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

64 (10) Execute a written document in advance of the principal's death,
65 in accordance with section 45a-318, as amended by this act, directing
66 the disposition of the principal's body upon the death of the principal
67 or designating an individual to have custody and control of the
68 disposition of the principal's body upon the death of the principal.
69 Such written document may also designate another individual as an
70 alternate to the individual designated to have custody and control of

71 the disposition of the principal's body upon the death of the principal.
72 Such disposition shall include, but not be limited to, cremation,
73 incineration, disposition of cremains, burial, method of interment,
74 alkaline hydrolysis and cryogenic preservation.

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

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

85 (2) "STATUTORY POWER OF ATTORNEY - SHORT FORM

86 Notice: The powers granted by this document are broad and
87 sweeping. They are defined in Connecticut Uniform Power of Attorney
88 Act, which expressly permits the use of any other or different form of
89 power of attorney desired by the parties concerned. The grantor of any
90 power of attorney or the agent may make application to a court of
91 probate for an accounting as provided in subsection (b) of section 45a-
92 175 of the general statutes. This power of attorney does not authorize
93 the agent to make health care decisions for you.

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

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

100 If more than one agent is designated and the principal wishes each

T19
.....

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

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

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

125 Fourth: LIMITATION ON AGENT'S AUTHORITY

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

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

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

T20 Name of Successor Agent: _____

T21

T22 Successor Agent's Address: _____

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

T23 Name of Second Successor Agent: _____

T24

T25 Second Successor Agent's Address: _____

135 Sixth: EFFECTIVE DATE

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

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

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

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

T26

T27

....

T28

Witness

T29

T30

....

T31

Witness

T32

STATE OF

T33

} ss:

T34

COUNTY OF

T35

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

148

149 Commissioner of the Superior Court

150 Notary Public

151 My commission expires:"

152 (3) "STATUTORY POWER OF ATTORNEY - LONG FORM

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

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

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

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

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

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

181 subparagraph (N).)

182 To strike out any [subdivision] subparagraph the principal must
183 draw a line through the text of that [subdivision] subparagraph AND
184 write his initials in the box opposite.

- T36 (A) [real estate transactions (real property)] Real property; ()
- T37 (B) [chattel and goods transactions (tangible personal ()
- T38 property)] Tangible personal property;
- T39 (C) [bond, share and commodity transactions (stocks and ()
- T40 bonds)] Stocks and bonds; ()
- T41 ~~(D)~~ Commodities and options; ()
- T42 ~~[(D)]~~ ~~(E)~~ [banking transactions (banks and other financial ()
- T43 institutions)] Banks and other financial institutions;
- T44 ~~[(E)]~~ ~~(F)~~ [business operating transactions (operation of entity or ()
- T45 business)] Operation of entity or business;
- T46 ~~[(F)]~~ ~~(G)~~ [insurance transactions (insurance and annuities)] ()
- T47 Insurance and annuities;
- T48 ~~[(G)]~~ ~~(H)~~ [estate transactions (estates, trusts, and other beneficial ()
- T49 interests)] Estates, trusts and other beneficial interests;
- T50 ~~[(H)]~~ ~~(I)~~ [claims] Claims and litigation; ()
- T51 ~~[(I)]~~ ~~(J)~~ [personal relationships and affairs (personal and family ()
- T52 maintenance)] Personal and family maintenance;
- T53 ~~[(J)]~~ ~~(K)~~ [benefits from military service (benefits from governmental ()
- T54 programs or civil or military service)] Benefits from
- T55 governmental programs or civil or military service;
- T56 ~~[(K)]~~ records, reports and statements; ()]
- T57 (L) [retirement] Retirement plans; ()
- T58 (M) [taxes] Taxes; ()
- T59 (N) [all] All other matters; ()
- T60
- T61
- T62
- T63

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

188 [(Strike out below and initial in the opposite box any one or more of
189 the subdivisions as to which the principal does NOT desire to give the
190 agent authority. To strike out any subdivision the principal must draw
191 a line through the text of that subdivision AND write his initials in the
192 box opposite.)]

193 OPTIONAL ESTATE PLANNING POWERS

194 YOU SHOULD SEEK LEGAL ADVICE BEFORE INCLUDING THE
195 FOLLOWING POWERS:

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

199 [YOU SHOULD SEEK LEGAL ADVICE BEFORE]

200 [INCLUDING THE FOLLOWING POWERS:]

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

- T64 (O) Create, amend, revoke or terminate an inter vivos trust, ()
T65 provided in the case of a trust established for a disabled
T66 person pursuant to 42 USC 1396p (d)(4)(A) or 42 USC
T67 1396p (d)(4)(C), the creation of such trust by an agent
T68 shall be only as permitted by federal law;
- T69
- T70 (P) Make a gift, subject to the limitations of the Connecticut ()
T71 Uniform Power of Attorney Act and any special
T72 instructions in this power of attorney. Unless otherwise
T73 provided in the special instructions, gifts per recipient
T74 may not exceed the annual dollar limits of the federal
T75 gift tax exclusion under Internal Revenue Code Section
T76 2503(b), or if the principal's spouse agrees to consent to a
T77 split gift pursuant to Internal Revenue Code Section
T78 2513, in an amount per recipient not to exceed twice the
T79 annual federal gift tax exclusion limit. In addition, an
T80 agent must determine that gifts are consistent with the

- T81 principal's objectives if actually known by the agent and,
- T82 if unknown, as the agent determines is consistent with
- T83 the principal's best interest based on all relevant factors;
- T84
- T85 (Q) Create or change rights of survivorship; ()
- T86
- T87 (R) Create or change a beneficiary designation; ()
- T88
- T89 (S) Authorize another person to exercise the authority ()
- T90 granted under this power of attorney;
- T91
- T92 (T) Waive the principal's right to be a beneficiary of a joint ()
- T93 and survivor annuity, including a survivor benefit under
- T94 a retirement plan;
- T95
- T96 (U) Exercise fiduciary powers that the principal has authority ()
- T97 to delegate;
- T98
- T99 (V) Disclaim or refuse an interest in property, including a ()
- T100 power of appointment.

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

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

208 Fourth: LIMITATION ON AGENT'S AUTHORITY

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

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

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

T101 Name of Successor Agent: _____
 T102
 T103 Successor Agent's Address: _____

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

T104 Name of Second Successor Agent: _____
 T105
 T106 Second Successor Agent's Address: _____

218 Sixth: EFFECTIVE DATE

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

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

223 (Signature of Principal) (Seal)

224 (ACKNOWLEDGMENT)

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

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

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

234 The execution of this statutory long form power of attorney shall be

235 duly acknowledged by the principal in the manner prescribed for the
236 acknowledgment of a conveyance of real property.

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

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

T107

T108

....

T109

Witness

T110

T111

....

T112

Witness

T113

STATE OF

T114

}

ss:

T115

COUNTY OF

T116

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

244

245 Commissioner of the Superior Court

246 Notary Public

247 My commission expires:"

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

251 (a) Except as otherwise provided in sections 1-350 to 1-353b,

252 inclusive, as amended by this act, on [October 1, 2015] and after
253 October 1, 2016, said sections apply to:

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

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

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

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

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

272 (a) Except as authorized by a court of competent jurisdiction, a
273 conservator shall comply with a conserved person's individual health
274 care instructions and other wishes, if any, expressed while the
275 conserved person had capacity and to the extent known to the
276 conservator, and the conservator may not revoke the conserved
277 person's advance health care directive or a directive executed in
278 accordance with subdivision (10) of section 1-351l, as amended by this
279 act, or section 45a-318, as amended by this act, unless the appointing
280 court expressly so authorizes.

281 Sec. 6. Subsection (c) of section 19a-580f of the 2016 supplement to

282 the general statutes, as amended by section 51 of public act 15-240, is
283 repealed and the following is substituted in lieu thereof (*Effective*
284 *October 1, 2016*):

285 (c) A power of attorney for health care decisions properly executed
286 prior to October 1, 2006, shall have the same power and effect as
287 provided under section [1-55] 1-54a of the general statutes, revision of
288 1958, revised to January 1, [2015] 2005, in effect at the time of its
289 execution.

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

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

308 (2) Any conservator of the person authorized pursuant to
309 subdivision (5) of subsection (a) of section 45a-656 to act on behalf of a
310 conserved person, or any agent authorized [pursuant to subdivision
311 (14) of section 1-52] to act on behalf of a principal, including any agent
312 authorized to act on behalf of a principal pursuant to subdivision (10)
313 of section 1-351l, as amended by this act, may execute in advance of

314 such conserved person's or principal's death a written document,
315 subscribed by such conservator or agent and attested by two
316 witnesses, either: (A) Directing the disposition of such conserved
317 person's or principal's body upon the death of such conserved person
318 or principal, which document may also designate an individual to
319 have custody and control of such conserved person's or principal's
320 body and to act as agent to carry out such directions; or (B) if there are
321 no directions for disposition, designating an individual to have
322 custody and control of the disposition of such conserved person's or
323 principal's body upon the death of such conserved person or principal.
324 Such disposition shall include, but not be limited to, cremation,
325 incineration, disposition of cremains, burial, method of interment,
326 alkaline hydrolysis and cryogenic preservation. Any such document
327 may designate an alternate to an individual designated under
328 subparagraph (A) or (B) of this subdivision. A document executed by a
329 conservator pursuant to this subdivision shall include provisions
330 indicating that such document (i) is valid if the person is under
331 conservatorship at the time of his or her death, and (ii) terminates
332 upon the termination of the conservatorship when such termination
333 occurs prior to the death of the conserved person.

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

338 (a) (1) A conserved person may, at any time, petition the court of
339 probate having jurisdiction for the termination of a conservatorship. A
340 petition for termination of a conservatorship shall be determined by a
341 preponderance of the evidence. The conserved person shall not be
342 required to present medical evidence at such a hearing. A hearing on
343 the petition shall be held not later than thirty days after the date the
344 petition was filed in the Court of Probate, unless the hearing is
345 continued for good cause. If such hearing is not held within such
346 thirty-day period or continuance period, if applicable, the
347 conservatorship shall terminate. If the court of probate having

348 jurisdiction finds a conserved person to be capable of caring for
349 himself or herself, the court shall, upon hearing and after notice, order
350 that the conservatorship of the person be terminated. [The court may
351 also order the reinstatement of any authority of any agent under a
352 power of attorney that was previously limited, suspended or
353 terminated by the court because of the conservatorship.] If the court
354 finds upon hearing and after notice which the court prescribes, that a
355 conserved person is capable of managing his or her own affairs, the
356 court shall order that the conservatorship of the estate be terminated
357 and that the remaining portion of the conserved person's property be
358 restored to the conserved person. The court may order the
359 reinstatement of any authority of any agent under a power of attorney
360 that was previously limited or suspended by the court because of the
361 conservatorship. (2) If the court finds upon hearing and after notice
362 which the court prescribes that a conserved person has no assets of any
363 kind remaining except for that amount allowed by subsection (c) of
364 section 17b-80, the court may order that the conservatorship of the
365 estate be terminated. The court shall thereupon order distribution of
366 the remaining assets to the conservator of the person or, if there is no
367 conservator or the conservator declines or is unable to accept or the
368 conservator is the Commissioner of Social Services, to some suitable
369 person, to be determined by the court, to hold for the benefit of the
370 conserved person, upon such conservator or person giving such
371 probate bond, if any, as the court orders. (3) If any conserved person
372 having a conservator dies, the conserved person's property other than
373 property which has accrued from the sale of the conserved person's
374 real property shall be delivered to the conserved person's executor or
375 administrator. The unexpended proceeds of the conserved person's
376 real property sold as aforesaid shall go into the hands of the executor
377 or administrator, to be distributed as such real property would have
378 been.

379 Sec. 9. (*Effective from passage*) Sections 1 to 57, inclusive, of public act
380 15-240 shall take effect October 1, 2016."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	1-350e(a) and (b)
Sec. 2	<i>October 1, 2016</i>	1-3511(a)
Sec. 3	<i>October 1, 2016</i>	1-352(a)
Sec. 4	<i>October 1, 2016</i>	1-353b
Sec. 5	<i>October 1, 2016</i>	19a-580e(a)
Sec. 6	<i>October 1, 2016</i>	19a-580f(c)
Sec. 7	<i>October 1, 2016</i>	45a-318(a)(1) and (2)
Sec. 8	<i>October 1, 2016</i>	45a-660(a)
Sec. 9	<i>from passage</i>	New section