

AMENDED IN ASSEMBLY APRIL 2, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1105

Introduced by Assembly Member Quirk-Silva
(Coauthors: Assembly Members Alanis and Macedo)
(Coauthor: Senator Ochoa Bogh)

February 20, 2025

An act to amend Section 2356.5 of the Probate Code, relating to conservatorships.

LEGISLATIVE COUNSEL’S DIGEST

AB 1105, as amended, Quirk-Silva. Conservatorships.

Existing law, the Guardianship-Conservatorship Law, generally establishes the standards and procedures for the appointment and termination of an appointment for a guardian or conservator of a person, an estate, or both. Existing law authorizes a conservator to authorize the placement of a conservatee in a secured perimeter residential care facility for the elderly upon a court making specific findings.

This bill would also authorize a conservator to authorize the placement of a conservatee in a facility with a secured delayed egress, or other appropriate placement, based on the level of need, under the same circumstances: residential facility, an intermediate care facility, or a nursing facility, as defined, that has a secured perimeter, a delayed egress, or both a secured perimeter and a delayed egress. The bill would require court approval for a subsequent placement that seeks to move a conservatee to a different type of facility except if the change occurs as a result of an emergency.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2356.5 of the Probate Code is amended to read:

2356.5. (a) The Legislature hereby finds and declares all of the following:

(1) That a person with a major neurocognitive disorder, as defined in the last published edition of the Diagnostic and Statistical Manual of Mental Disorders, should have a conservatorship to serve the person's unique and special needs.

(2) That, by adding powers to the probate conservatorship for people with major neurocognitive disorders, their unique and special needs can be met. This will reduce costs to the conservatee and the family of the conservatee, reduce costly administration by state and county government, and safeguard the basic dignity and rights of the conservatee.

(3) That it is the intent of the Legislature to recognize that the administration of psychotropic medications has been, and can be, abused by caregivers and, therefore, granting powers to a conservator to authorize these medications for the treatment of major neurocognitive disorders requires the protections specified in this section.

(b) (1) Notwithstanding any other law, a conservator may authorize the placement of a conservatee in ~~a secured perimeter~~ any of the following facilities:

(A) A residential care facility for the elderly operated pursuant to Section 1569.698 of the Health and Safety Code, and that has a care plan that meets the requirements of Section 87705 of Title 22 of the California Code of Regulations, ~~or in a facility with a secured delayed egress, or other appropriate placement, based on the level of need, upon Regulations.~~

(B) A residential facility as defined in Section 1502 of the Health and Safety Code.

(C) An intermediate care facility as defined in Section 1250 of the Health and Safety Code.

(D) A nursing facility as defined in Section 1250 of the Health and Safety Code.

(2) A conservatee shall not be placed in a facility pursuant to paragraph (1) unless the facility has a secured perimeter, a delayed egress, or both a secured perimeter and a delayed egress.

1 (3) *The placement authorized in paragraph (1) shall be upon a*
2 *court's finding, by clear and convincing evidence, of all of the*
3 *following:*

4 ~~(1)~~

5 (A) The conservatee has a major neurocognitive disorder, as
6 defined in the last published edition of the Diagnostic and
7 Statistical Manual of Mental Disorders.

8 ~~(2)~~

9 (B) The conservatee lacks the capacity to give informed consent
10 to this placement and has at least one mental function deficit
11 pursuant to subdivision (a) of Section 811, and this deficit
12 significantly impairs the person's ability to understand and
13 appreciate the consequences of their actions pursuant to subdivision
14 (b) of Section 811.

15 ~~(3)~~

16 (C) The conservatee needs, or would benefit from, a restricted
17 and secure environment, as demonstrated by evidence presented
18 by the physician or psychologist referred to in paragraph (3) of
19 subdivision ~~(f)~~; (g).

20 ~~(4)~~

21 (D) The court finds that the proposed placement in a facility
22 described in subdivision (b) is the least restrictive placement
23 appropriate to the needs of the conservatee.

24 (c) *(1) A subsequent placement that seeks to move a conservatee*
25 *to a different type of facility listed in subdivision (b) shall require*
26 *court approval pursuant to subdivision (a) of Section 2359.*

27 (2) (A) *This subdivision does not apply if the placement change*
28 *occurs as a result of an emergency as defined in Section 1991.*

29 (B) *If an emergency occurs, the conservator shall follow the*
30 *applicable procedures set forth in Sections 2352 and 2356.*

31 ~~(e)~~

32 (d) Notwithstanding any other law, a conservator of a person
33 may authorize the administration of medications appropriate for
34 the care and treatment of a major neurocognitive disorder, upon a
35 court's finding, by clear and convincing evidence, of all of the
36 following:

37 (1) The conservatee has a major neurocognitive disorder, as
38 defined in the last published edition of the Diagnostic and
39 Statistical Manual of Mental Disorders.

(2) The conservatee lacks the capacity to give informed consent to the administration of medications appropriate to the care of a major neurocognitive disorder, has at least one mental function deficit pursuant to subdivision (a) of Section 811, and this deficit or deficits significantly impairs the person's ability to understand and appreciate the consequences of their actions pursuant to subdivision (b) of Section 811.

(3) The conservatee needs, or would benefit from, appropriate medication, as demonstrated by evidence presented by the physician or psychologist referred to in paragraph (3) of subdivision ~~(f)~~: (g).

~~(d)~~

(e) Pursuant to subdivision (b) of Section 2355, in the case of a person who is an adherent of a religion whose tenets and practices call for a reliance on prayer alone for healing, the treatment required by the conservator under subdivision ~~(e)~~ (d) shall be by an accredited practitioner of that religion in lieu of the administration of medications.

~~(e)~~

(f) A conservatee who is to be placed in a facility pursuant to this section shall not be placed in a mental health rehabilitation center, as described in Section 5675 of the Welfare and Institutions Code, or in an institution for mental disease as described in Section 5900 of the Welfare and Institutions Code.

~~(f)~~

(g) A petition for authority to act under this section is governed by Section 2357, except as follows:

(1) The conservatee shall be represented by an attorney pursuant to Chapter 4 (commencing with Section 1470) of Part 1. Upon granting or denying authority to a conservator under this section, the court shall discharge the attorney or order the continuation of the legal representation, consistent with the standard set forth in subdivision (a) of Section 1470.

(2) The conservatee shall be produced at the hearing, unless excused pursuant to Section 1893.

(3) The petition shall be supported by a declaration of a licensed physician, or a licensed psychologist within the scope of their licensure, regarding each of the findings required to be made under this section for any power requested, except that the psychologist

1 has at least two years of experience in diagnosing major
2 neurocognitive disorders.

3 (4) The petition may be filed by a person designated in Section
4 1891.

5 ~~(g)~~

6 (h) The court investigator shall annually investigate and report
7 to the court pursuant to Sections 1850 and 1851 if the conservator
8 is authorized to act under this section. In addition to the other
9 matters provided in Section 1851, the conservatee shall be
10 specifically advised by the investigator that the conservatee has
11 the right to object to the conservator's powers granted under this
12 section, and the report shall also include whether powers granted
13 under this section are warranted. If the conservatee objects to the
14 conservator's powers granted under this section, or the investigator
15 determines that some change in the powers granted under this
16 section is warranted, the court shall provide a copy of the report
17 to the attorney of record for the conservatee. If an attorney has not
18 been appointed for the conservatee, one shall be appointed pursuant
19 to Chapter 4 (commencing with Section 1470) of Part 1. The
20 attorney shall, within 30 days after receiving this report, do either
21 of the following:

22 (1) File a petition with the court regarding the status of the
23 conservatee.

24 (2) File a written report with the court stating that the attorney
25 has met with the conservatee and determined that the petition
26 would be inappropriate.

27 ~~(h)~~

28 (i) A petition to terminate authority granted under this section
29 shall be governed by Section 2359.

30 ~~(i)~~

31 (j) This section does not affect a conservatorship of the estate
32 of a person who has a major neurocognitive disorder.

33 ~~(j)~~

34 (k) This section does not affect the laws that would otherwise
35 apply in an emergency situation.

36 ~~(k)~~

37 (l) This section does not affect current law regarding the power
38 of a probate court to fix the residence of a conservatee or to

- 1 authorize medical treatment for a conservatee who has not been
- 2 determined to have a major neurocognitive disorder.

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