

**ASSEMBLY BILL**

**No. 1105**

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**Introduced by Assembly Member Quirk-Silva**

February 20, 2025

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1105, as introduced, 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.

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

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

- 1     SECTION 1. Section 2356.5 of the Probate Code is amended  
2     to read:  
3     2356.5. (a) The Legislature hereby finds and declares all of  
4     the following:

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

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

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

17 (b) Notwithstanding any other law, a conservator may authorize  
18 the placement of a conservatee in a secured perimeter residential  
19 care facility for the elderly operated pursuant to Section 1569.698  
20 of the Health and Safety Code, and that has a care plan that meets  
21 the requirements of Section 87705 of Title 22 of the California  
22 Code of Regulations, *or in a facility with a secured delayed egress,*  
23 *or other appropriate placement, based on the level of need,* upon  
24 a court's finding, by clear and convincing evidence, of all of the  
25 following:

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

29 (2) The conservatee lacks the capacity to give informed consent  
30 to this placement and has at least one mental function deficit  
31 pursuant to subdivision (a) of Section 811, and this deficit  
32 significantly impairs the person's ability to understand and  
33 appreciate the consequences of their actions pursuant to subdivision  
34 (b) of Section 811.

35 (3) The conservatee needs, or would benefit from, a restricted  
36 and secure environment, as demonstrated by evidence presented  
37 by the physician or psychologist referred to in paragraph (3) of  
38 subdivision (f).

1 (4) The court finds that the proposed placement in a ~~looked~~  
2 facility *described in subdivision (b)* is the least restrictive  
3 placement appropriate to the needs of the conservatee.

4 (c) Notwithstanding any other law, a conservator of a person  
5 may authorize the administration of medications appropriate for  
6 the care and treatment of a major neurocognitive disorder, upon a  
7 court's finding, by clear and convincing evidence, of all of the  
8 following:

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

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

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

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

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

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

36 (1) The conservatee shall be represented by an attorney pursuant  
37 to Chapter 4 (commencing with Section 1470) of Part 1. Upon  
38 granting or denying authority to a conservator under this section,  
39 the court shall discharge the attorney or order the continuation of

1 the legal representation, consistent with the standard set forth in  
2 subdivision (a) of Section 1470.

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

5 (3) The petition shall be supported by a declaration of a licensed  
6 physician, or a licensed psychologist within the scope of their  
7 licensure, regarding each of the findings required to be made under  
8 this section for any power requested, except that the psychologist  
9 has at least two years of experience in diagnosing major  
10 neurocognitive disorders.

11 (4) The petition may be filed by ~~any of the persons~~ *a person*  
12 designated in Section 1891.

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

29 (1) File a petition with the court regarding the status of the  
30 conservatee.

31 (2) File a written report with the court stating that the attorney  
32 has met with the conservatee and determined that the petition  
33 would be inappropriate.

34 (h) A petition to terminate authority granted under this section  
35 shall be governed by Section 2359.

36 (i) This section does not affect a conservatorship of the estate  
37 of a person who has a major neurocognitive disorder.

38 (j) This section does not affect the laws that would otherwise  
39 apply in ~~an emergency situation~~ *situation*.

- 1 (k) This section does not affect current law regarding the power
- 2 of a probate court to fix the residence of a conservatee or to
- 3 authorize medical treatment for a conservatee who has not been
- 4 determined to have a major neurocognitive disorder.

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