

AMENDED IN SENATE MAY 20, 2025

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 residential facility, an intermediate care facility, or a *skilled* nursing facility, as defined, that has a secured perimeter, a delayed-egress, *egress lock*, or both a secured perimeter and a delayed ~~egress~~. *egress lock, as specified*. The bill would require court approval for a subsequent placement ~~that seeks to move~~ of a conservatee ~~to in~~ a different type of facility except if the change occurs as a result of an emergency. *The bill would require the State Department of Social Services and the State Department of Public Health to update*

regulations related to these provisions by January 1, 2027, and would authorize those departments to promulgate emergency regulations prior to that date.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
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:

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

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

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

21 (b) (1) Notwithstanding any other law, a conservator may
22 authorize the placement of a conservatee in ~~any of the following~~
23 ~~facilities:~~ *a facility that, to protect residents from harm, uses a*
24 *secured perimeter, a delayed egress lock, or both a secured*
25 *perimeter and a delayed egress lock and that is one of the following*
26 *facility types:*

27 (A) A residential care facility for the ~~elderly operated pursuant~~
28 ~~to Section 1569.698~~ *elderly, as defined in Section 1569.2 of the*
29 *Health and Safety Code,* ~~and~~ that has a care plan that meets the
30 requirements of Section 87705 of Title 22 of the California Code
31 of Regulations.

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

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

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

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

10 ~~(3)~~
11 ~~(2) The placement authorized in of a conservatee in a facility~~
12 ~~described in paragraph (1) shall be authorized only upon a court's~~
13 ~~finding, by clear and convincing evidence, of all of the following:~~

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

17 (B) The conservatee lacks the capacity to give informed consent
18 to this placement and has at least one mental function deficit
19 pursuant to subdivision (a) of Section 811, and this deficit
20 significantly impairs the person's ability to understand and
21 appreciate the consequences of their actions pursuant to subdivision
22 (b) of Section 811.

23 (C) The conservatee needs, or would benefit from, ~~a restricted~~
24 ~~and secure environment; the proposed placement~~, as demonstrated
25 by evidence presented by the physician or psychologist referred
26 to in paragraph (3) of subdivision (g).

27 (D) ~~The court finds that the proposed placement in a facility~~
28 ~~described in subdivision (b) is the least restrictive placement~~
29 ~~appropriate to the needs of the conservatee.~~

30 (c) (1) ~~A~~ *If the court has authorized the placement of a*
31 *conservatee in a facility pursuant to paragraph (2) of subdivision*
32 *(b), a subsequent placement that seeks to move a of the conservatee*
33 *to in a different type of facility listed in described in paragraph*
34 *(1) of subdivision (b) shall require court approval pursuant to*
35 *subdivision (a) of Section 2359: before the change of placement.*

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

38 ~~(B) If an emergency occurs;~~

1 (2) *In an emergency*, the conservator shall follow the applicable
2 procedures set forth in ~~Sections 2352 and~~ *subdivision (c) of Section*
3 *2354, subject to the limitations in Section 2356.*

4 (d) 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 (g).

23 (e) 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 (d) shall be by an
27 accredited practitioner of that religion in lieu of the administration
28 of medications.

29 (f) 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, as described in Section 5675 of the Welfare and Institutions
32 Code, or in an institution for mental disease as described in Section
33 5900 of the Welfare and Institutions Code.

34 (g) 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 a person designated in Section
12 1891.

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

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

38 (k) ~~This~~ Except as provided in paragraph (2) of subdivision (c),
39 this section does not affect the laws that would otherwise apply in
40 an emergency situation.

1 (l) 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.

5 (m) (1) *By January 1, 2027, the State Department of Social*
6 *Services and the State Department of Public Health shall*
7 *coordinate an update to Section 87705 of Title 22 of the California*
8 *Code of Regulations to do both of the following:*

9 (A) *Expand its applicability to all forms of major neurocognitive*
10 *disorders.*

11 (B) *Create consistent regulations for all of the following facility*
12 *types that utilize a secured perimeter, delayed egress lock, or both*
13 *a secured perimeter and delayed egress lock:*

14 (i) *A residential facility as defined in Section 1502 of the Health*
15 *and Safety Code.*

16 (ii) *An intermediate care facility as defined in Section 1250 of*
17 *the Health and Safety Code.*

18 (iii) *A skilled nursing facility as defined in Section 1250 of the*
19 *Health and Safety Code.*

20 (2) *The State Department of Social Services and the State*
21 *Department of Public Health may promulgate emergency*
22 *regulations prior to January 1, 2027.*