

HB1483/356783/3

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 1483

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and P. Young” and substitute “P. Young, and Rosenberg”; in line 6, strike “enforce” and substitute “recognize”; in line 10, after “person;” insert “prohibiting a certain petition under certain circumstances;”; in line 11, after “facts” insert “and include a certain statement”; in line 16, after “parties;” insert “establishing a certain immunity from civil liability under certain circumstances; requiring an authorized decision maker to provide certain notifications within a certain period of time under certain circumstances;”; and in line 17, strike “persons” and substitute “parties”.

AMENDMENT NO. 2

On page 4, strike in their entirety lines 13 through 15, inclusive, and substitute:

**(3) “HEALTH CARE FACILITY” MEANS:**

**(I) AN ASSISTED LIVING PROGRAM;**

**(II) A HOSPICE;**

**(III) A HOSPITAL; OR**

**(IV) A NURSING HOME.**

**(4) (I) “INTERESTED PARTY” MEANS A PERSON WHO IS:**

(Over)

**1. APPOINTED AS A GUARDIAN OF THE PERSON UNDER § 13-705 OF THE ESTATES AND TRUSTS ARTICLE;**

**2. APPOINTED AS A GUARDIAN OF THE PROPERTY UNDER § 13-201 OF THE ESTATES AND TRUSTS ARTICLE;**

**3. AN AGENT UNDER AN ADVANCE DIRECTIVE THAT IS VALID UNDER TITLE 5, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE;**

**4. A SURROGATE DECISION MAKER UNDER § 5-605 OF THE HEALTH – GENERAL ARTICLE; OR**

**5. AN ATTORNEY IN FACT UNDER A DURABLE POWER OF ATTORNEY THAT IS VALID UNDER TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE.**

**(II) “INTERESTED PARTY” DOES NOT INCLUDE A PERSON DESCRIBED UNDER § 13-707(A)(10) OF THE ESTATES AND TRUSTS ARTICLE.**

**(5) “PETITIONER” MEANS A PERSON WHO FILES A PETITION INDIVIDUALLY OR JOINTLY WITH ANOTHER PERSON UNDER SUBSECTION (D) OF THIS SECTION SEEKING VISITATION WITH AN ALLEGED INCAPACITATED OR PROTECTED PERSON.”;**

in line 16, strike “(4)” and substitute “(6)”; in line 19, strike “ENFORCE” and substitute “RECOGNIZE”; strike beginning with “VISIT” in line 20 down through “FROM” in line 21 and substitute “HAVE VISITATION WITH”; in line 22, after “OTHERWISE” insert “OR THE ADULT IS INCAPACITATED AND THE VISITATION IS NOT IN THE ADULT’S BEST INTEREST”; and in line 26, after “PERSON” insert “, IF THE SPOUSE AND THE PERSON ARE NOT LEGALLY SEPARATED”.

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AMENDMENT NO. 3

On page 5, in line 2, strike “PERSONS” and substitute “PARTIES”; in line 3, after “(D)” insert “(1)”; in line 6, after “VISITATION” insert “BY THAT PETITIONER”; after line 7, insert:

“(2) A PETITION MAY NOT BE MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE AUTHORIZED DECISION MAKER OF THE ALLEGED INCAPACITATED OR PROTECTED PERSON IS A PUBLIC GUARDIAN.”;

in line 8, after “SHALL” insert “:

(1);

in lines 10, 12, and 15, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “(I)”, “(II)”, and “(III)”, respectively; in line 16, after “VISITATION” insert “;AND

(2) INCLUDE A STATEMENT BY THE PETITIONER THAT THE PETITIONER AGREES TO ABIDE BY ANY ORDER OF THE COURT ISSUED AS A CONDITION OF EVALUATING THE PETITION AND THE PETITIONER, INCLUDING A BACKGROUND CHECK, JUDGMENT SEARCH, OR MENTAL HEALTH SCREENING OR EVALUATION”;

in line 18, after “ON” insert “:

(1);

in the same line, strike the comma and substitute “:

(2);

(Over)

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in line 19, strike the comma and substitute “;

**(3)**”;

in line 20, strike the second comma and substitute “;

**(4) THE AUTHORIZED DECISION MAKER FOR THE ALLEGED INCAPACITATED OR PROTECTED PERSON;**

**(5) THE ATTENDING PHYSICIAN, NURSE PRACTITIONER, OR PHYSICIAN ASSISTANT FOR THE ALLEGED INCAPACITATED OR PROTECTED PERSON;**

**(6) THE PRINCIPAL ADMINISTRATOR, OR THE ADMINISTRATOR’S DESIGNEE, AND THE MEDICAL DIRECTOR OF A HEALTH CARE FACILITY PROVIDING SERVICES TO THE ALLEGED INCAPACITATED OR PROTECTED PERSON, IF ANY;**”;

in line 21, before “ANY” insert “**(7)**”; in line 22, strike the first “**THE**” and substitute “**ANY**”; in line 24, after “**PETITION**” insert “**OR HAS IN THE PAST EXPRESSED AN OBJECTION TO VISITATION BY THE PETITIONER**”; in line 26, after “**THE**” insert “**ALLEGATION OF AN**”; in the same line, after “**PERSON’S**” insert “**CURRENT OR PRIOR**”; and in line 27, strike “**PROCURED BY UNDUE INFLUENCE**” and substitute “**NOT BASED ON RELIABLE EVIDENCE**”.

**AMENDMENT NO. 4**

On page 6, in line 1, strike “**ELDER**”; in the same line, strike “**;** **OR**” and substitute “**OR NEGLECT OR HAS BEEN THE SUBJECT OF A PROTECTIVE ORDER ISSUED BY A**

COURT THAT RESTRICTED OR PROHIBITED CONDUCT BY THE PETITIONER;”; after line 1, insert:

“(II) VISITATION IS CONTRARY TO THE WISHES OF THE ALLEGED INCAPACITATED OR PROTECTED PERSON;

(III) THE AUTHORIZED DECISION MAKER IS ACTING BASED ON A RECOMMENDATION OF AN ATTENDING PHYSICIAN OR A PROTECTIVE ORDER ISSUED BY A COURT;

(IV) THE PETITIONER’S AFFIDAVIT DOES NOT QUALIFY THE PETITIONER AS AN INTERESTED PARTY;

(V) STATEMENTS, WRITINGS, OR ACTIONS BY THE ALLEGED INCAPACITATED OR PROTECTED PERSON DEMONSTRATE THAT THE ALLEGED INCAPACITATED OR PROTECTED PERSON:

1. DOES NOT WANT VISITATION WITH THE PETITIONER; OR

2. INTENDED TO VEST COMPLETE AUTHORITY OVER VISITATION WITH THE AUTHORIZED DECISION MAKER; OR”;

in line 2, strike “(II)” and substitute “(VI)”; in line 8, after “MONITORED” insert “AT THE PETITIONER’S EXPENSE”; in line 11, strike “ANY PARTY TO A PROCEEDING” and substitute “THE PETITIONER”; in line 15, after “THAT” insert “IS CLAIMED TO HAVE”; in the same line, strike “INTERFERES” and substitute “INTERFERED”; in line 16, strike “DENIES” and substitute “DENIED”; and after line 19, insert:

**“(4) AN AUTHORIZED DECISION MAKER, A HEALTH CARE FACILITY, OR AN EMPLOYEE OR AGENT OF A HEALTH CARE FACILITY WHO DENIES OR RESTRICTS A VISIT OR VISITATION SHALL BE IMMUNE FROM CIVIL LIABILITY IF THE RESTRICTION OR DENIAL IS BASED ON:**

**(I) A COURT ORDER ISSUED TO DENY OR RESTRICT VISITATION; OR**

**(II) A GOOD FAITH BELIEF THAT A VISIT OR VISITATION IS NOT IN THE BEST INTEREST OF AN ALLEGED INCAPACITATED OR PROTECTED PERSON.**

**(J) ON WRITTEN REQUEST BY AN INTERESTED PARTY, AN AUTHORIZED DECISION MAKER SHALL, WITHIN 72 HOURS AFTER RECEIPT OF THE REQUEST, IDENTIFY IN WRITING OR BY ELECTRONIC COMMUNICATION:**

**(1) THE HEALTH CARE FACILITY OR OTHER LOCATION WHERE THE ALLEGED INCAPACITATED OR PROTECTED PERSON IS RESIDING;**

**(2) ALL CURRENT FUNERAL ARRANGEMENTS; OR**

**(3) THE BURIAL LOCATION OR DISPOSITION OF THE BODY OF THE DECEASED ALLEGED INCAPACITATED OR PROTECTED PERSON.”.**