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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2093

03/10/2021

Authored by Baker

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act

1.2 relating to protected persons; creating a crime for administering controlled

1.3 substances without a prescription; creating a crime for violating the bill of rights

1.4 for protected persons; amending Minnesota Statutes 2020, sections 524.5-120;

1.5 609.2325, subdivision 1.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2020, section 524.5-120, is amended to read:

1.8 **524.5-120 BILL OF RIGHTS FOR PERSONS SUBJECT TO GUARDIANSHIP**

1.9 **OR CONSERVATORSHIP.**

1.10 (a) The person subject to guardianship or person subject to conservatorship retains all

1.11 rights not restricted by court order and these rights must be enforced by the court. These

1.12 rights include the right to:

1.13 (1) treatment with dignity and respect;

1.14 (2) due consideration of current and previously stated personal desires and preferences,

1.15 including but not limited to medical treatment preferences, cultural practices, religious

1.16 beliefs, and other preferences and opinions in decisions made by the guardian or conservator;

1.17 (3) participate in decision making about and receive timely and appropriate health care

1.18 and medical treatment that does not violate known preferences or conscientious, religious,

1.19 or moral beliefs of the person subject to guardianship or person subject to conservatorship;

1.20 (4) exercise control of all aspects of life unless delegated specifically to the guardian or

1.21 conservator by court order;

2.1 (5) guardianship or conservatorship services individually suited to the conditions and
2.2 needs of the person subject to guardianship or the person subject to conservatorship;

2.3 (6) petition the court to prevent or initiate a change in abode;

2.4 (7) care, comfort, social and recreational needs, employment and employment supports,
2.5 training, education, habilitation, and rehabilitation care and services, within available
2.6 resources;

2.7 (8) be consulted concerning, and to decide to the extent possible, the reasonable care
2.8 and disposition of the clothing, furniture, vehicles, and other personal property and effects
2.9 of the person subject to guardianship or person subject to conservatorship, to object to the
2.10 disposition of personal property and effects, and to petition the court for a review of the
2.11 guardian's or conservator's proposed disposition;

2.12 (9) personal privacy;

2.13 (10) communicate, visit, or interact with others, including receiving visitors or making
2.14 or receiving telephone calls, personal mail, or electronic communications including through
2.15 social media, or participating in social activities, unless the guardian has good cause to
2.16 believe restriction is necessary because interaction with the person poses a risk of significant
2.17 physical, psychological, or financial harm to the person subject to guardianship, and there
2.18 is no other means to avoid the significant harm. In all cases, the guardian shall provide
2.19 written notice of the restrictions imposed to the court, to the person subject to guardianship,
2.20 and to the person subject to restrictions. The person subject to guardianship or the person
2.21 subject to restrictions may petition the court to remove or modify the restrictions;

2.22 (11) marry and procreate, unless court approval is required;

2.23 (12) elect or object to sterilization as provided in section 524.5-313, paragraph (c), clause
2.24 (4), item (iv);

2.25 (13) at any time, petition the court for termination or modification of the guardianship
2.26 or conservatorship, and any decisions made by the guardian or conservator in relation to
2.27 powers granted, or for other appropriate relief;

2.28 (14) be represented by an attorney in any proceeding or for the purpose of petitioning
2.29 the court;

2.30 (15) vote, unless restricted by the court;

2.31 (16) be consulted concerning, and make decisions to the extent possible, about personal
2.32 image and name, unless restricted by the court; and

3.1 (17) execute a health care directive, including both health care instructions and the
3.2 appointment of a health care agent, if the court has not granted a guardian any of the powers
3.3 or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4).

3.4 (b) It is a crime for a legal guardian to prevent the protected person from exercising the
3.5 rights enumerated in paragraph (a) and the legal guardian may be sentenced to imprisonment
3.6 for not more than one year or to pay a fine of not more than \$3,000, or both.

3.7 Sec. 2. Minnesota Statutes 2020, section 609.2325, subdivision 1, is amended to read:

3.8 Subdivision 1. **Crimes.** (a) A caregiver who intentionally administers a controlled
3.9 substance to a vulnerable adult without a valid prescription or administers the controlled
3.10 substance in a manner inconsistent with the terms of a valid prescription, with intent to
3.11 produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult
3.12 to any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion,
3.13 is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

3.14 This paragraph does not apply to therapeutic conduct.

3.15 (b) A caregiver, facility staff person, or person providing services in a facility who
3.16 engages in sexual contact or penetration, as defined in section 609.341, under circumstances
3.17 other than those described in sections 609.342 to 609.345, with a resident, patient, or client
3.18 of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision
3.19 3.