

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1105 (Quirk-Silva)
Version: May 20, 2025
Hearing Date: July 1, 2025
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Conservatorships

DIGEST

This bill expands the types of secured-perimeter facilities in which a conservator, with authorization from the probate court, may place a conservatee with a major neurocognitive disorder.

EXECUTIVE SUMMARY

Under current law, a conservator for a conservatorship established under the Probate Code generally has the authority to determine the conservatee's place of residence without requiring approval from the court. A conservator may not, however, place a conservatee with a major neurocognitive disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM), in a facility with a secured perimeter without a court order; the court can grant the conservator that authority only upon a showing, by clear and convincing evidence, that the conservatee has a major neurocognitive disorder, that the conservatee lacks capacity to consent to the placement, and that the conservatee needs, or would benefit from, the proposed placement. The statute establishing this requirement and the authorization procedure currently refers to only one type of secured-perimeter facility – a residential care facility for the elderly – which appears to be a holdover from when the statute was more narrowly targeted at conservatees with “dementia.”

Recognizing both the need for clarity with respect to a conservator's authority to place a conservatee and the diversity of need among conservatees with major neurocognitive disorders, this bill expands the list of secured-perimeter facility types into which a conservator may place a conservatee with a court order. Under the bill, a conservator could also seek a placement for a conservatee in a residential facility, an intermediate care facility, and a skilled nursing facility. The bill maintains the existing court procedure, including the “clear and convincing” evidentiary burden, for all placements.

The bill also specifies that if, after a court-authorized placement, the conservator wishes to place the conservatee in a different listed placement type, the conservator must seek a new court order and satisfy the same requirements necessary for the initial order. Finally, the bill requires the California Department of Social Services (DSS) and the State Department of Public Health (DPH) to update existing regulations and create consistent regulations for the expanded list of secured-perimeter facility types; these updates must be completed by January 1, 2027.

In response to input from stakeholders, the author has agreed to amendments to clarify the nature of the facilities in question, and to modify the requirements for a conservator who, having already obtained the court's authorization to place the conservatee in a secured-perimeter facility, wishes to move the conservatee to a different secured-perimeter facility.

This bill is sponsored by the California State Association of Psychiatrists and is supported by the California Medical Association, the City of San Diego, and LeadingAge California. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Authorizes a court to appoint a conservator of the person or estate of an adult, or both, provided that the conservatorship is the least-restrictive alternative needed for the protection of the conservatee. (Prob. Code, § 1800.3.)
 - a) A conservator of the person may be appointed for a person who is unable to provide properly for their personal needs for physical health, food, clothing, or shelter. (Prob. Code, § 1801(a).)
 - b) A conservator of the estate may be appointed for a person who is substantially unable to manage their own financial resources or resist fraud or undue influence. (Prob. Code, § 1801 (b).)
- 2) Requires a conservator, upon appointment, to determine the appropriate level of care for the conservatee, which includes information related to the plan for keeping or returning their personal residence or an explanation of the limitations or restrictions on a return of the conservatee to their personal residence in the foreseeable future, and submit this information in writing to the court within 60 days of their appointment. (Prob. Code, § 2352.5(b), (c).)
- 3) Provides the following with respect to the residence of a conservatee:
 - a) If the court's order establishing a conservatorship grants the conservatee the right to establish their own residence, the conservatee may establish their own residence.

- b) If the court order is not limited, the conservator must select the least restrictive appropriate residence that is available and necessary to meet the needs of the conservatee, and that is in the conservatee's best interest; the conservatee may select any such residence that meets these criteria within the state without a court order, subject to (c)-(e), below.
 - c) There is a presumption that the conservatee's personal residence at the time the conservatorship proceeding was commenced is the least restrictive appropriate residence for the conservatee; in any hearing to determine if removal of the conservatee from their home is appropriate, the presumption may be overcome by clear and convincing evidence.¹
 - d) A conservatee may not be placed in a mental health treatment facility against their will by the conservator; instead, a conservatee may be placed in a mental health treatment facility against their will only pursuant to the provisions of the Lanterman-Petris-Short (LPS) Act.
 - e) A conservator may place a conservatee with a major neurocognitive disorder in a secured perimeter residential care facility for the elderly with an order of the court obtained through procedures in 5)-6), below. (Welf. & Inst. Code, §§ 2351, 2352, 2352.5, 2356, 2356.5.)
- 4) States that the Legislature finds and declares all of the following:
- a) That a person with a major neurocognitive disorder, as defined in the last published edition of the DSM, should have a conservatorship to serve the person's unique and special needs.
 - b) 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.
 - c) 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. (Welf. & Inst. Code, § 2356.5.(a).)
- 5) Permits a conservator to authorize the placement of a conservatee in a secured perimeter residential facility for the elderly, as defined, and which has a care plan that meets specified regulations, upon a court's finding, by clear and convincing evidence, of all of the following:
- a) The conservatee has a major neurocognitive disorder, as defined in the last published edition of the DSM.

¹ This presumption does not apply to a conservatee with developmental disabilities for whom the Director of Developmental Services or a regional center is appointed as conservator, as specified. (Welf. & Inst. Code, § 2352.5(e).)

- b) The conservatee lacks the capacity to give informed consent to this placement and has at least one mental function deficit, as defined.
 - c) The conservatee needs, or would benefit from, a restricted and secure environment, as demonstrated by evidence presented by the licensed physician or licensed psychologist supporting the conservator's petition.
 - d) The court finds that the proposed placement in a locked facility is the least restrictive placement appropriate to the needs of the conservatee. (Welf. & Inst. Code, § 2356.5(b).)
- 6) Provides that the authority under 4) may be granted pursuant to a petition filed with the court as follows:
- a) The conservatee shall be represented by an attorney; upon granting or denying the petition, the court shall discharge the attorney or order continuation of the legal representation, as specified.
 - b) The conservatee shall be present at the hearing, except under specified circumstances.
 - c) The petition shall be supported by the declaration of a licensed physician, or a licensed psychologist within the scope of their licensure, regarding each of the findings required to be made for any power requested, except that the psychologist has at least two years of experience in diagnosing major neurocognitive disorders.
 - d) The petition may be filed by the conservator; the conservatee; or the spouse, domestic partner, or any relative or friend of the conservatee.
 - e) A copy of the petition and notice of the time and place of the hearing must be personally served on the conservatee and their attorney, and delivered to specified family members of the conservatee, no fewer than 15 days before the date of the hearing, unless the court waives or shortens the notice period for good cause, as specified.
 - f) The court may determine the matter on the papers, without a hearing, if the attorney for the petitioner and the attorney for the conservatee so stipulate and further stipulate that there is no issue of fact to be determined. (Welf. & Inst. Code, § 2356.5(f), 2357.)
- 7) Requires, if a conservator is authorized to place a conservatee in a secured facility pursuant to 5), the court investigator to annually investigate and report to the court; the investigator shall specifically advise the conservatee of their right to object to the conservator's authorization, and the investigator's report shall include whether the authorization is warranted. (Welf. & Inst. Code, § 2356.5(g).)
- 8) Requires, if a conservatee objects to the authority under 5), or the investigator determines that the authority is not warranted, the court to provide a copy of the report to the conservatee's attorney of record; within 30 days of receiving the report, the attorney must either:
- a) File a petition with the court regarding the status of the conservatee; or

- b) File a written report with the court stating that the attorney has met with the conservatee and determined that the petition would be inappropriate. (Welf. & Inst. Code, § 2356.5(g).)

This bill:

- 1) Modifies the types of facilities into which a conservator may authorize the placement of a conservatee with a court order under 5), above, to permit a conservator to authorize the placement of a conservatee in a facility that, to protect residents from harm, uses a secured perimeter, a delayed egress lock, or both, and that is one of the following facility types:
 - a) A residential care facility for the elderly, as defined (already permitted under current law).
 - b) A residential facility, as defined.
 - c) An intermediate care facility, as defined.
 - d) A skilled nursing facility, as defined.
- 2) Conforms the provisions requiring the court to make the findings in 5), above, by clear and convincing evidence to reflect the expanded list of potential placement types.
- 3) Provides that, if a court has authorized the placement of a conservatee in a facility pursuant to 1), a subsequent placement of the conservatee in a different type of facility listed in 1) requires court approval before the change of placement; except that in an emergency, the conservator may follow specified existing emergency procedures.
- 4) Requires the DSS and the DPH to coordinate an update to Section 87705 of Title 22 of the California Code of Regulations to do both of the following:
 - a) Expand its applicability to all forms of major neurocognitive disorders.
 - b) Create consistent regulations for all of the following facility types that utilize a secured perimeter, delayed egress lock, or both: a residential facility; an intermediate care facility; and a skilled nursing facility.
- 5) Permits DSS and DPH to promulgate emergency regulations pursuant to 4) prior to January 1, 2027.

COMMENTS

1. Author's comment

According to the author:

AB 1105 ensures that Californians living with Major Neurocognitive Disorders (MND) can receive care in safe, appropriate, and secure settings. Right now,

probate conservatorships are limited to facilities that often can't meet the complex needs of individuals with severe cognitive or behavioral impairments which then leads individuals to end up in hospitals, homeless, or even incarcerated. AB 1105 expands placement choices to include skilled nursing facilities and other secure environments, while keeping strong court protections in place. This bill closes a critical gap in California's care system, promotes human dignity, and provides courts and families with much-needed tools to secure appropriate care for vulnerable individuals.

2. Background on Probate Code conservatorships

As explained by the California Supreme Court;

Prior to 1957, a petition for guardianship presented the only procedure available for a party to assume administration of the estate of an adult unable to manage his affairs. Except in the case of minors, a guardianship requires both allegation and proof of the insanity or incompetency of the proposed ward...

Believing that the stigma of the label "incompetent" discouraged persons unable to conduct their affairs from seeking appointment of a guardian, the State Bar of California recommended, and the Legislature established, the new protective relationship of conservatorship.²

The Legislature had two goals for Probate Code conservatorships: the establishment of the conservatorship as an alternative to guardianship to avoid the stigma of the term "guardian," and to expand the role beyond the traditional guardian role to allow the appointment of a conservator for a person "who was neither insane nor incompetent, but who, for a variety of reasons, needed direction in the management of [their] affairs."³

Consistent with these goals, the Probate Code authorizes appointment of a "conservator of the person" if clear and convincing evidence shows that the conservatee cannot provide properly for their physical health, food, clothing or shelter needs.⁴ A "conservator of the estate" may be appointed by a court for a person who is substantially unable to manage their own financial resources or to resist fraud or undue influence.⁵ The conservatorship cannot be granted unless it is the least restrictive alternative needed for the protection of the conservatee.⁶ Probate conservatorships last

² *Board of Regents v. Davis* (1975) 14 Cal.3d 33, 37-38.

³ *Id.* at pp. 38-39.

⁴ Prob. Code, § 1801(a).

⁵ *Id.*, § 1801(b).

⁶ *Id.*, § 1800.3(b).

until the conservatee dies or until terminated by the court, but are reviewed regularly by the investigator and the court.⁷

While a court-ordered conservator has the care, custody, and control of the conservatee, that authority does not automatically extend to any and all decisions about the conservatee's life.⁸ Instead, the boundaries of the rights transferred to the conservator and the rights retained by the conservatee are set by the court.⁹ Absent a court order to the contrary, a conservatee retains a number of rights, including the right to vote, the right to make medical decisions, and the right to receive visitors, telephone calls, and personal mail.¹⁰

3. A conservatee's rights with respect to their residence

As a general rule, a conservator is authorized to establish the residence of the conservatee anywhere in the state without a court order, absent a court order reserving that right to the conservatee.¹¹ This power is tempered by the requirement that the conservator choose the least-restrictive residence appropriate for the conservatee that is available and meets the conservatee's needs.¹² There is a rebuttable presumption that the conservatee's personal residence at the time the conservatorship proceeding commences is the least restrictive appropriate residence; the conservator can overcome that presumption only with clear and convincing evidence to the contrary.¹³

There are also certain circumstances in which a conservator must obtain the court's explicit permission to change the conservatee's residence. If a conservator wishes to move the conservatee's residence location to a place outside of the state, the conservator must first get the permission of the court, after notifying specified family members and friends who have asked to receive notice relating to the conservatee.¹⁴

A second circumstance requiring court authorization, relevant to this bill, is when the conservator wishes to place a conservatee with a major neurocognitive disorder in a secured perimeter facility for the elderly, as defined, that has a health plan adequate for the conservatee's needs.¹⁵ In such cases, the conservator must petition the court to approve the placement, and the court must find, by clear and convincing evidence, all of the following:

⁷ *Id.*, §§ 1850-51, 1860.

⁸ *Id.*, §§ 1835.5, 2351.

⁹ *Id.*, § 1835.5.

¹⁰ *Id.*, §§ 1880, 1910, 2351.

¹¹ *Id.*, § 2351.

¹² *Id.*, §§ 2352, 2352.5.

¹³ *Id.*, § 2352.5.

¹⁴ *See* Prob. Code, § 2352.

¹⁵ *Id.*, § 2356.5(b).

- The conservatee has a major neurocognitive disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).
- The conservatee lacks the capacity to give informed consent to the placement and has at least one mental function deficit, as defined, and that this deficit impairs the conservatee's ability to understand and appreciate the consequences of their actions, as defined.
- The conservatee needs, or would benefit from, a restricted and secure environment, as demonstrated by evidence presented by a licensed physician or licensed psychologist within the scope of their licensure, provided that the psychologist has at least two years of experience in diagnosing major neurocognitive disorders.
- The proposed placement in a locked facility is the least-restrictive placement appropriate to the needs of the conservatee.¹⁶

In a proceeding to place the conservatee in a locked facility, the conservatee must be represented by counsel and must be present at the hearing unless the conservatee is unwilling to attend or unable to attend due to an established medical reason.¹⁷ If the court grants the petition, the court conservatorship investigator must annually investigate the placement and report to the court on whether the conservatee objects or whether it appears that the placement is no longer warranted.¹⁸ In such cases, the conservatee's attorney must either file a petition to terminate the conservator's placement authority or report to the court why such a petition would be inappropriate.¹⁹

4. The risks of abuse of Probate conservatorships

If not carefully monitored, Probate conservatorships carry a significant risk of abuse: a conservator granted control of a person's finances is uniquely positioned to isolate and take advantage of their conservatee. For decades, news exposés²⁰ revealing flaws in California's conservatorship system²¹ and the high-profile conservatorship of Britney Spears²² have led the Legislature to respond with additional conservatorship reform

¹⁶ *Id.*, § 2356.5(b), (f).

¹⁷ *Id.*, §§ 1893, 2356.5(f).

¹⁸ *Id.*, § 2356.5(g).

¹⁹ *Ibid.*

²⁰ E.g., de Sá, *Santa Clara County's court-appointed personal and estate managers are handing out costly and questionable bills*, Mercury News (June 30, 2012); Saavedra, *Money-draining probate system "like a plague on our senior citizens,"* Orange County Register (September 23, 2018).

²¹ Fields, Larrubia, & Leonard, *Guardians for Profit* series (Nov. 13-17, 2005) Los Angeles Times.

²² E.g., Newberry, *Britney Spears hasn't fully controlled her life for years. Fans insist it's time to #FreeBritney* (Sep. 18, 2019) Los Angeles Times, available at <https://www.latimes.com/california/story/2019-09-17/britney-spears-conservatorship-free-britney> (link current as of June 26, 2025).

and oversight measures.²³ Recent reforms included increasing the reporting requirements for conservators²⁴ and raising the burden of proof for establishing that a resident's personal residence is not the least-restrictive alternative.²⁵

The authority addressed in this bill – the authority to place a conservatee with a major cognitive disorder in a secured perimeter facility – carries with it severe implications for the conservatee's liberty and the potential that the conservatee could be neglected or abused with little or no recourse. Accordingly, changes to the statutory authority in question warrants extra attention to avoid reducing protections for conservatees.

5. This bill expands the types of residential facilities in which a Probate conservator may, pursuant to a court order, place a conservatee with a major neurocognitive disorder

As noted above, current law permits a conservator to place a conservatee with a major neurocognitive disorder in a residential facility for the elderly with a secured perimeter only when the court expressly grants the conservator that authority upon a clear and convincing showing that the placement is necessary.²⁶ Until 2018, this provision authorized the placement of a conservatee with “dementia” in a residential facility for the elderly; SB 417 (Morrell, Ch. 122, Stats. 2017) replaced “dementia” with “major neurocognitive disorders” to reflect the terminology used in the latest edition of the DSM.²⁷ SB 417 did not, however, address whether residential facilities for the elderly would be appropriate for all conservatees with major neurocognitive disorders needing a heightened level of care.

Committee staff has received mixed information regarding the placement of conservatees with major neurocognitive disorders in secured-perimeter facilities other than residential facilities for the elderly. Some information provided suggests that courts are granting petitions to place conservatees in facility types not expressly listed in the statute. Other information suggests that courts believe they do not have the authorization to authorize a placement in any type of secured-perimeter facility not listed in the statute. Furthermore, it is possible to read the statute as requiring court approval for a secured-perimeter facility only if it is a residential nursing facility, and that by negative implication, a conservator need not obtain court approval for other types of secured-perimeter placements.

²³ Many of the reforms passed in 2006 were put on hold as part of Great Recession Budget cuts (SB 78 (Committee on Budget and Fiscal Review, Ch. 10, Stats. 2011)); some of those were later enacted, conditional upon an appropriation, in 2021 (AB 1194 (Low, Ch. 417, Stats. 2021)).

²⁴ SB 280 (Laird, Ch. 705, Stats. 2023).

²⁵ SB 303 (Wieckowski, Ch. 847, Stats. 2019).

²⁶ Prob. Code, § 2356.5.

²⁷ SB 417 (Morrell, Ch. 122, Stats. 2017); *see* Sen. Com. on Judiciary, com. on Sen. Bill No. 417 (2017-2018 Reg. Sess.) as amended Feb. 15, 2017.

This bill is intended to clarify the scope of a conservator's authority to place a conservatee with a major neurocognitive disorder in a secured-perimeter facility. First, the bill expands the list of secured-perimeter facilities for which a conservator may seek authorization to place a conservatee with a major neurocognitive disorder, to include a residential care facility, an intermediate care facility, and a skilled nursing facility; the bill also makes clear that these facility types, along with a residential care facility for the elderly, are the only secured-perimeter facility types into which a conservatee may be placed, and that a court order is necessary to authorize all such placements. The bill maintains the existing procedure for obtaining a court order authorizing a secured-perimeter placement, including the requirement that the need for the placement be established by clear and convincing evidence. Additionally, the bill requires the conservator to seek court approval to move a conservatee between the listed placement types, using the same procedure and under the same burden of proof as for an initial placement.

After discussions with stakeholders, the author has agreed to modify this requirement to require a new court order when the new placement would not have specified regulations for patient protection. For a move to a placement with the requisite patient-protection regulations, the amendments require the new placement to be treated as a "change of residence" which requires the conservator to provide notice to the court and persons entitled to receive notices about the conservatee after the fact.²⁸ The amendments are set forth in Comment 6 of this analysis, below.

The bill also requires DSS and DPH to update regulations currently titled "Care of Persons with Dementia"²⁹ to expand its applicability to major neurocognitive disorders, consistent with the DSM, and to create consistent regulations for the facility types included in the statute. The updates must be completed by January 1, 2027, and the bill permits DSS and DPH to promulgate emergency regulations up until that time. Stakeholders emphasize that these updates will meaningfully benefit the lives of conservatees.

6. Amendments

As noted above, the author has agreed to amend the bill in response to stakeholder feedback about the language relating to secured-perimeter facilities and the procedures for when a conservator who has received court authorization to place a conservatee in a secured-perimeter facility wishes to move the conservatee to another covered secured-perimeter facility. The amendments are listed below, subject to any nonsubstantive changes the Office of Legislative Counsel may make.

²⁸ See Prob. Code, § 2352.

²⁹ See Cal. Code Regs., Tit. 22, § 87705.

Amendment 1

On page 2, in line 23, delete “, to protect residents from harm,”

Amendment 2

On page 2, in line 24, delete “lock” and insert “device”

Amendment 3

On page 2, in line 25, delete “lock” and insert “device”

Amendment 4

On page 3, in line 24, delete “the proposed placement” and insert “a restricted and secured environment”

Amendment 5

On page 3, in line 30, after “(c)(1)” insert:

Subject to paragraph (2), if the court has authorized the placement of the conservatee in a facility pursuant to paragraph (2) of subdivision (b), a subsequent placement of the conservatee in a different facility of any type described in paragraph (1) of subdivision (b) shall be considered a change in residence.

(2)

Amendment 6

On page 24, delete line 33 after “different”, delete lines 34-35, and insert:

facility described in paragraph (1) of subdivision (b) that does not have regulations to protect the rights, health, and safety of residents, pursuant to subparagraph (B) of paragraph (1) of subdivision (m) shall require court approval before the change of placement.

Amendment 7

On page 4, delete lines 1-3.

Amendment 8

On page 5, in line 38, delete “Except as provided in paragraph (2) of subdivision (c),”

Amendment 9

On page 6, in line 7, after “update to” insert “their regulations, including”

Amendment 10

On page 6, in line 11, after “regulations” insert “, including regulations to protect the rights, health, and safety of residents,”

Amendment 11

On page 6, in line 12, delete “lock” and insert “device”

Amendment 13

On page 6, in line 13, delete “lock” and insert “device”

7. Arguments in support

According to the California State Association of Psychiatrists:

Individuals with major neurocognitive disorders, including conditions such as Alzheimer’s disease and other dementias, often require structured and secure environments to ensure their safety and well-being. Existing law allows conservators to authorize placement in secured perimeter residential care facilities for the elderly. AB 1105 builds upon this framework by authorizing placement in facilities with secured delayed egress or other appropriate settings based on the level of need. This flexibility ensures that conservatees receive individualized care in the least restrictive environment while addressing their unique medical and safety requirements.

By expanding placement options, AB 1105 enhances the ability of conservators to make the best possible decisions for those under their care, reducing the risk of elopement, self-harm, or unintended exposure to dangerous situations. This bill is particularly significant in addressing the needs of vulnerable individuals who may not be able to advocate for themselves.

SUPPORT

California Association of Psychiatrists (sponsor)
California Medical Association
City of San Diego
LeadingAge California

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation:

SB 280 (Laird, 705, Stats. 2023) required a conservator, beginning January 1, 2025, to file, within specified time frames, a care plan for the care, custody, and control of the conservatee; the care plan must include specified information, including a description of the conservatee's living arrangement, any plans to modify the living arrangement, and the necessary level of care for the conservatee.

AB 2616 (Low, 2022) would have required a guardian or conservator to avoid all conflicts of interest and the appearance of conflicts of interest, and would have required a guardian or conservator to avoid any interaction with an entity that benefits the guardian or conservator and that is not directly in the best interests of the ward or conservatee. AB 2616 died in the Assembly Appropriations Committee.

SB 602 (Laird, 2021) was similar to SB 280, except that it imposed shorter time frames and higher monetary penalties for failing to timely file a care plan. SB 602 died in the Assembly Appropriations Committee.

SB 303 (Wieckowski, Ch. 847, Stats. 2019) raised the burden of establishing that the conservatee's personal residence is the least restrictive appropriate residence for the conservatee to clear and convincing evidence.

SB 413 (Morrell, Ch. 122, Stats. 2017) expanded the provisions permitting a conservator to place a conservatee with dementia in a secured perimeter residential care facility for the elderly, to include conservatees with major neurocognitive disorders.

PRIOR VOTES:

Assembly Floor (Ayes 73, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
