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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3771

02/26/2020 Authored by Nornes The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

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 2018, 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 2018, section 524.5-120, is amended to read:

1.8 524.5-120 BILL OF RIGHTS FOR WARDS AND PROTECTED PERSONS.

1.9 (a) The ward or protected person retains all rights not restricted by court order and these
1.10 rights must be enforced by the court. These rights include the right to:

1.11 (1) treatment with dignity and respect;

1.12 (2) due consideration of current and previously stated personal desires, medical treatment
1.13 preferences, religious beliefs, and other preferences and opinions in decisions made by the
1.14 guardian or conservator;

1.15 (3) receive timely and appropriate health care and medical treatment that does not violate
1.16 known conscientious, religious, or moral beliefs of the ward or protected person;

1.17 (4) exercise control of all aspects of life not delegated specifically by court order to the
1.18 guardian or conservator;

1.19 (5) guardianship or conservatorship services individually suited to the ward's or protected
1.20 person's conditions and needs;

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

2.1 (7) care, comfort, social and recreational needs, training, education, habilitation, and
 2.2 rehabilitation care and services, within available resources;

2.3 (8) be consulted concerning, and to decide to the extent possible, the reasonable care
 2.4 and disposition of the ward's or protected person's clothing, furniture, vehicles, and other
 2.5 personal effects, to object to the disposition of personal property and effects, and to petition
 2.6 the court for a review of the guardian's or conservator's proposed disposition;

2.7 (9) personal privacy;

2.8 (10) communication and visitation with persons of the ward's or protected person's
 2.9 choice, provided that if the guardian has found that certain communication or visitation may
 2.10 result in harm to the ward's or protected person's health, safety, or well-being, that
 2.11 communication or visitation may be restricted but only to the extent necessary to prevent
 2.12 the harm;

2.13 (11) marry and procreate, unless court approval is required, and to consent or object to
 2.14 sterilization as provided in section 524.5-313, paragraph (c), clause (4), item (iv);

2.15 (12) petition the court for termination or modification of the guardianship or
 2.16 conservatorship or for other appropriate relief;

2.17 (13) be represented by an attorney in any proceeding or for the purpose of petitioning
 2.18 the court;

2.19 (14) vote, unless restricted by the court; and

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

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

2.26 Sec. 2. Minnesota Statutes 2018, section 609.2325, subdivision 1, is amended to read:

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

3.1 This paragraph does not apply to therapeutic conduct.

3.2 (b) A caregiver, facility staff person, or person providing services in a facility who
3.3 engages in sexual contact or penetration, as defined in section 609.341, under circumstances
3.4 other than those described in sections 609.342 to 609.345, with a resident, patient, or client
3.5 of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision
3.6 3.