
REDLINE STATUTORY AMENDMENT

Vermont Uniform Power of Attorney Act

Sec. 1. 14 V.S.A. chapter 127 is amended by adding § 4059 to read:

§ 4059. Safe harbor for attorney reporting financial exploitation

(a) As used in this section, “**drafting attorney**” means the attorney who prepared the power of attorney executed by the principal.

(b) Notwithstanding any provision of law relating to confidentiality, a drafting attorney who reasonably believes that an agent acting under a power of attorney is engaging in financial exploitation, abuse, or misuse of the authority granted under the power of attorney may disclose confidential information to the extent reasonably necessary to:

1. prevent or investigate financial exploitation of the principal;
2. notify a financial institution involved in transactions conducted by the agent;
3. notify Vermont Adult Protective Services; or
4. petition the Probate Division of the Superior Court for review of the agent’s conduct.

(c) A drafting attorney who makes a disclosure under this section in good faith shall be immune from civil liability arising from the disclosure.

(d) A disclosure authorized by this section shall be limited to information reasonably necessary to accomplish the purposes described in subsection (b) of this section.

(New section – no existing language to strike.)

Sec. 2. 14 V.S.A. § 4016 is amended to read:

§ 4016. Judicial relief

Current statute (excerpt)

The following persons may petition a court to construe a power of attorney or review the agent’s conduct and grant appropriate relief.

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(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

1. the principal or the agent;
2. a guardian or other fiduciary acting for the principal, including an executor or administrator of the estate of a deceased principal;
3. a person authorized to make health-care decisions for the principal;
4. the principal's spouse, parent, or descendant;
5. an individual who would qualify as an heir of the principal under the laws of intestacy;
6. a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal who has a financial interest in the principal's estate;
7. a governmental agency having regulatory authority to protect the welfare of the principal;
8. the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare;
9. a person asked to accept the power of attorney;
10. **the drafting attorney who prepared the power of attorney; or**
11. **a monitor designated by the principal pursuant to section 4060 of this title.**

(b) Upon motion by the principal, the court shall dismiss a petition filed under this section unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

Sec. 3. 14 V.S.A. § 4014 is amended to read:

§ 4014. Agent's duties

Current statutory requirement

Agents must:

keep a record of all receipts, disbursements, and transactions made on behalf of the principal.

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(b) With respect to any action taken by the agent under a power of attorney, the agent shall:

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal
including sufficient documentation to identify:

- (A) the date of each transaction;**
 - (B) the amount or value of the transaction;**
 - (C) the purpose of the transaction; and**
 - (D) the person or entity involved in the transaction.**
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Add new subsection

(h)

An agent shall (may) provide records of receipts, disbursements, or transactions conducted on behalf of the principal upon request by:

1. the principal;
 2. a guardian or conservator;
 3. a governmental agency having authority to protect the welfare of the principal;
 4. **a drafting attorney authorized in the power of attorney; or**
 5. **a monitor designated by the principal.**
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Sec. 4. 14 V.S.A. chapter 127 is amended by adding § 4060 to read:

§ 4060. Monitor oversight

(a) A principal may designate one or more persons to serve as a **monitor** of the agent's conduct under a power of attorney.

(b) A monitor may:

1. request records relating to the agent's exercise of authority;
2. receive copies of financial statements or account records relating to the principal's property;
3. communicate with financial institutions regarding transactions conducted by the agent;
and
4. petition the Probate Division of the Superior Court for review of the agent's conduct.

(c) A monitor shall have no authority to act as an agent for the principal solely by reason of serving as a monitor.

(d) A person who in good faith provides records or information to a monitor pursuant to this section shall be immune from civil liability arising from such disclosure.

(New section – no current language.)

Sec. 5. 14 V.S.A. § 4051 is amended to read:

§ 4051. Statutory form power of attorney

After the section titled “SPECIAL INSTRUCTIONS (OPTIONAL)”, add the following:

Optional Oversight of Agent

The principal may authorize one or more oversight measures regarding the conduct of the agent by checking the applicable boxes below:

Oversight of Agent (optional)

- The attorney who prepared this power of attorney may receive account statements or financial records relating to transactions conducted by the agent.
- The attorney who prepared this power of attorney may request an accounting from the agent regarding actions taken on behalf of the principal.
- The attorney who prepared this power of attorney may petition the Probate Division of the Superior Court if the attorney reasonably believes the agent is engaging in financial exploitation or misuse of authority.
- The agent shall provide periodic written reports of transactions conducted on behalf of the principal to the following person or persons:

Frequency of reporting:

- Monthly
- Quarterly
- Annually
- Other: _____

Sec. 6. Effective date

This act shall take effect on July 1 following passage.

Resulting Changes to Vermont UPOA

The amendment would:

1. Add **safe-harbor protections for drafting attorneys** reporting financial exploitation
2. Expand **standing to petition courts** in POA abuse cases
3. Strengthen **agent recordkeeping requirements**
4. Create a **statutory monitor role**
5. Add **oversight options to the statutory POA form**

DRAFT FOR REVIEW