

Vermont Uniform Power of Attorney Act

14 V.S.A. Chapter 127

Side-by-Side Comparison

Current Law (eff. July 1, 2023) vs. Draft Amendment with Compensation Provisions (March 26, 2026)

Color key: **Blue header** = column headers | **Blue tint** = section dividers | **Amber tint** = analysis | **Green tint** = compensation provisions

Current Vermont Law 14 V.S.A. Ch. 127 (eff. July 1, 2023)	Revised Draft Amendment (March 26, 2026)
§ 4002. Definitions	
<p>16 defined terms: Agent, Durable, Electronic, Electronic signature, General power of attorney, Good faith, Incapacity/Unavailability, Person, Power of attorney, Presently exercisable general power of appointment, Principal, Property, Record, Sign, State, Stocks and bonds. <i>No definitions for “drafting attorney,” “financial exploitation,” or “monitor.”</i></p>	<p>Adds three new definitions to existing § 4002: (17) “Drafting attorney” — the attorney who prepared the power of attorney executed by the principal. (18) “Financial exploitation” — the wrongful or unauthorized taking, withholding, appropriation, conversion, or use of a principal’s money, assets, or property, or the use of undue influence, coercion, or deception to obtain control over a principal’s money, assets, or property, through the use of authority granted under a power of attorney. (19) “Monitor” — a person designated by the principal pursuant to § 4060 to oversee the conduct of an agent under a power of attorney.</p>
<p>► Analysis: Definitions are placed within the existing § 4002 framework for structural consistency. The “financial exploitation” definition is intentionally broad—it captures undue influence, coercion, and deception in addition to wrongful taking. This defined term replaces the undefined “misuse of authority” language from earlier drafts.</p>	
§ 4014. Agent’s Duties	
<p>(b)(4): Agent shall “keep a record of all receipts, disbursements, and transactions made on behalf of the principal.” <i>No specificity on what documentation records must contain.</i> (h): Agent is not required to disclose unless ordered by a court or requested by: the principal, a guardian, a conservator, another fiduciary, a governmental agency, or upon death by the personal representative. 30-day compliance timeline with additional 30 days if justified. <i>No enforcement mechanism if agent ignores or refuses request.</i></p>	<p>(b)(4) enhanced: Records must now include sufficient documentation to identify: (A) date; (B) amount or value; (C) purpose; and (D) person or entity involved. (h) expanded: Adds two new categories to the mandatory disclosure list: a drafting attorney authorized in the POA or acting pursuant to § 4059, and a monitor designated pursuant to § 4060. Resolves the prior draft’s “shall (may)” ambiguity in favor of mandatory disclosure (“shall”). Uses existing 30/30-day timeline. New (i): An agent who, without reasonable cause, fails to comply within the specified time periods shall be liable to the requesting party for reasonable attorney’s fees and costs incurred in enforcing the request.</p>

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<p>► Analysis: <i>Two critical additions: (1) Enhanced recordkeeping specificity means agents can no longer satisfy their duty with vague or incomplete records. (2) The new enforcement mechanism in subsection (i) gives teeth to the records request right—under current law, an agent who stonewalls faces no direct financial consequence short of a full § 4016 petition.</i></p>	
<p>§ 4016. Judicial Relief</p>	
<p>(a): Nine categories of persons with standing: (1) principal or agent; (2) guardian or fiduciary; (3) health-care decision maker; (4) spouse, parent, or descendant; (5) intestate heir; (6) named beneficiary; (7) governmental agency; (8) caregiver or interested person; (9) person asked to accept the POA.</p> <p>(b): Court shall dismiss on principal’s motion unless principal lacks capacity.</p> <p><i>No fee-shifting provision for petitioners.</i></p>	<p>Adds two new standing categories:</p> <p>(10) the drafting attorney who prepared the power of attorney; or</p> <p>(11) a monitor designated by the principal pursuant to § 4060.</p> <p>Subsection (b) unchanged.</p> <p>New (c) [Compensation Provision]: In any proceeding brought under this section by a drafting attorney or a monitor, the court may award reasonable attorney’s fees, costs, and expenses to the petitioner from the principal’s estate or, if the court finds that the agent engaged in financial exploitation, abuse, or misuse of authority, from assets recovered from the agent.</p>
<p>► Analysis: <i>Expanding standing to include the drafting attorney and monitor closes a critical gap: these are often the people best positioned to detect abuse but currently have no procedural mechanism to bring it before a court.</i></p>	
<p>► Compensation Provision: <i>New subsection (c) ensures that attorneys and monitors who bring meritorious judicial petitions can recover their costs. The “may award” standard gives the court discretion to deny fees if a petition was frivolous or not brought in good faith, providing a safeguard against abuse. This complements § 4059(e)–(g) by covering the specific context of court proceedings.</i></p>	
<p>§ 4059. Safe Harbor for Drafting Attorney Reporting Financial Exploitation (NEW)</p>	
<p><i>No equivalent provision in current law.</i></p> <p><i>Drafting attorneys who suspect agent exploitation face a conflict between their duty to protect the principal and confidentiality obligations under the Vermont Rules of Professional Conduct.</i></p> <p><i>No statutory authority to disclose. No immunity. No independent right to request records. No compensation mechanism for protective action.</i></p>	<p>(a) Notwithstanding confidentiality obligations, including the Vermont Rules of Professional Conduct, a drafting attorney who reasonably believes an agent is engaging in financial exploitation may disclose confidential information to: (1) prevent, report, or investigate exploitation; (2) notify a financial institution; (3) notify Adult Protective Services within DAIL; or (4) petition the Probate Court under § 4016.</p> <p>(b) Drafting attorney may request records from the agent under § 4014(h), regardless of whether the POA form checkboxes were checked, if the attorney has a reasonable belief of financial exploitation.</p> <p>(c) Good-faith immunity from both civil liability and disciplinary action.</p> <p>(d) Disclosure limited to information reasonably necessary.</p> <p>(e) [Compensation Provision]: A drafting attorney who takes action authorized under this section, including investigation, disclosure, notification, or filing a petition, shall be entitled to reasonable</p>

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	<p>compensation and reimbursement of costs and expenses, including reasonable attorney’s fees, from the assets of the principal’s estate.</p> <p>(f) [Compensation Provision]: If the Probate Court determines the attorney’s action was taken in good faith and was reasonable, the court shall award reasonable compensation and reimbursement from the principal’s estate. The court may order payment from assets recovered from the agent if the agent engaged in financial exploitation.</p> <p>(g) [Compensation Provision]: A claim for compensation under this section shall not be subordinate to any claim of the agent for compensation or reimbursement.</p> <p>(h) [Formerly (e)] No duty imposed on drafting attorney to monitor agent’s conduct or investigate.</p>
<p>► Analysis: Section 4059 addresses a structural problem: without independent records access (subsection (b)), a safe harbor is of limited practical value. The explicit override of professional conduct rules and disciplinary immunity remove the chilling effect. The duty disclaimer is essential—without it, creating the safe harbor could be construed as creating a new standard of care.</p>	
<p>► Compensation Provision: Subsections (e) through (g) address the practical barrier that without a compensation mechanism, the safe harbor is unlikely to be used. The compensation right runs against the principal’s estate, consistent with agent compensation under § 4013 and guardian compensation under Vermont’s guardianship statutes. Subsection (f) shifts costs to the wrongdoer’s recovered assets where exploitation is found. Subsection (g) ensures the attorney’s claim has priority over the agent’s compensation claim, preventing a bad-faith agent from depleting the estate and then claiming the attorney’s protective efforts cannot be paid.</p>	
<p>§ 4060. Monitor Oversight (NEW)</p>	
<p>No equivalent provision in current law.</p> <p>No statutory mechanism for third-party oversight of agent conduct during the principal’s lifetime. Principal’s only recourse is court action under § 4016.</p>	<p>(a) Designation. Principal may designate one or more monitors. Designation in the POA or a separate notarized writing.</p> <p>(b) [Compensation Provision] Successor monitors. A principal may designate one or more successor monitors to serve if a monitor resigns, dies, becomes incapacitated, or is unable or unwilling to serve.</p> <p>(c) Qualifications/Disqualifications. Must be age 18+. Cannot be: (1) the agent or successor agent; (2) employee/business associate of agent (unless principal expressly authorizes); (3) person convicted of dishonesty, fraud, or financial exploitation.</p> <p>(d) Powers. May: (1) request records under § 4014(h); (2) receive financial statements; (3) communicate with financial institutions; (4) petition Probate Court under § 4016; (5) report to APS/DAIL or law enforcement.</p>

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	<p>(e) Limitations. No authority to act as agent. Cannot direct or control agent.</p> <p>(f) Duty of care. Good faith and reasonable diligence. Not liable for agent’s actions unless monitor knowingly participated in or concealed a breach.</p> <p>(g) Compensation. Entitled to reimbursement of reasonable expenses. POA may provide for reasonable compensation.</p> <p>(h) [Compensation Provision] Enhanced compensation. A monitor shall be entitled to reasonable compensation for services rendered and reimbursement of reasonable costs and expenses, payable from the principal’s estate, unless the power of attorney provides otherwise.</p> <p>(i) Resignation and removal. Written notice to principal (or if incapacitated, to agent, successor monitor, and guardian). Court may remove for cause.</p> <p>(j) Third-party immunity. Good-faith providers of records/information to a monitor are immune from civil liability.</p>
<p>► Analysis: <i>The monitor role creates a private oversight mechanism that operates without court involvement unless problems are found. The governance framework—qualifications, duty of care, compensation, resignation/removal—parallels the existing agent provisions in §§ 4011–4018.</i></p>	
<p>► Compensation Provision: <i>The successor monitor provision (b) parallels § 4011’s successor agent structure—without it, the oversight mechanism disappears if the monitor becomes unavailable. The enhanced compensation provision (h) follows the same pattern as agent compensation under § 4013. Allowing the principal to override this (“unless the power of attorney provides otherwise”) preserves principal autonomy for cases where the monitor is a family friend who would serve without compensation.</i></p>	
<p>§ 4070. Forfeiture of Inheritance for Abuse of Power of Attorney (NEW)</p>	
<p><i>No equivalent provision in current law.</i></p> <p>Vermont’s slayer statute (14 V.S.A. § 322) bars inheritance by a person who intentionally and unlawfully kills the decedent, but does not address financial exploitation by fiduciaries.</p>	<p>(a) Disqualification. Agent found by a court to have committed financial exploitation through POA authority is disqualified from inheriting from the principal’s estate.</p> <p>(b) Scope. Applies to: (1) wills; (2) intestate succession; (3) nonprobate transfers; (4) beneficiary designations.</p> <p>(c) Effect. Property passes as if the agent had predeceased the principal.</p> <p>(d) Standard of proof. (1) Criminal conviction creates conclusive presumption. (2) Civil determination requires clear and convincing evidence.</p>

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	<p>(e) Standing. (1) Personal representative; (2) heir or devisee; (3) creditor or interested person; (4) governmental agency (APS/DAIL); (5) drafting attorney; (6) monitor.</p> <p>(f) Statute of limitations. 2 years from death or discovery (whichever later); 5-year outside limit.</p> <p>(g) Remedies. In addition to forfeiture: (1) restitution; (2) constructive trust; (3) surcharge; (4) other equitable relief.</p> <p>(h) Proportional forfeiture. Court may limit forfeiture where: (1) exploitation was limited relative to estate; (2) agent made substantial restitution; (3) complete forfeiture would be disproportionate.</p> <p>(i) Relationship to other law. Remedies supplement other civil/criminal remedies (§§ 4017, 4059, 322). Court shall account for prior awards to avoid double recovery.</p>
<p>► Analysis: Key design choices: (1) Clear and convincing evidence standard balances severity against due process. (2) Proportional forfeiture prevents unjust all-or-nothing outcomes. (3) Statute of limitations provides finality with a 2-year discovery window. (4) Connecting drafting attorney and monitor to forfeiture standing closes the loop. Policy question: Should forfeiture apply to pending estates?</p>	
<p>§ 4017. Agent’s Liability</p>	
<p>Agent who violates this chapter is liable for: (1) restoring property value; (2) reimbursing fees/costs paid on agent’s behalf; (3) reimbursing principal’s fees/costs in pursuing rectification; (4) other amounts the court may award.</p> <p><i>No treble damages. No enhanced penalties for willful or exploitative conduct.</i></p>	<p>Existing (1)–(4) preserved unchanged.</p> <p>New (b): The court may award treble damages where the agent’s violation was willful or involved financial exploitation as defined in subdivision 4002(18).</p>
<p>► Analysis: Policy question: Should treble damages be triggered by any willful violation, or limited to financial exploitation only? A broad willfulness trigger strengthens deterrence but may face opposition; a narrower trigger is more defensible but leaves willful non-exploitative violations at single damages.</p>	
<p>§ 4051. Statutory Form Power of Attorney</p>	
<p>Current statutory form includes: designation of agent and successor agent; grant of general authority; specific authority requiring initialing; Special Instructions section; nomination of guardian; effective date; signature, witness, and notarization blocks; agent acknowledgment.</p> <p><i>No oversight provisions. No reference to monitors, drafting attorney oversight, or periodic reporting.</i></p>	<p>After the “Special Instructions” section, adds:</p> <p>OVERSIGHT OF AGENT (OPTIONAL)</p> <p>“If no boxes are checked below, no oversight measures apply unless ordered by a court.”</p> <p>Drafting Attorney Oversight: <input type="checkbox"/> receive records; <input type="checkbox"/> request accounting; <input type="checkbox"/> petition Probate Court.</p>

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	<p>Monitor Designation: <input type="checkbox"/> designate monitor pursuant to § 4060 (fields for name, address, telephone).</p> <p>[Compensation Provision] Successor Monitor: Adds field for designating a successor monitor on the statutory form.</p> <p>Periodic Reporting: <input type="checkbox"/> agent shall provide periodic written reports. Frequency: Monthly / Quarterly / Annually / Other.</p>
<p>► Analysis: Policy question: The current approach is opt-in. The committee should consider whether default-on oversight with ability to opt out would better protect vulnerable principals. Opt-in risks under-utilization by principals who don't understand the options or who execute forms without legal counsel.</p>	
<p>► Compensation Provision: Adding the successor monitor field to the statutory form implements the successor-monitor provision in § 4060(b), ensuring that principals who use the standard form have a clear, simple way to appoint both a primary and backup monitor.</p>	
Applicability & Effective Date	
<p>Existing law effective July 1, 2023 (2023, No. 60, § 1). 14 V.S.A. § 4063 governs the relationship between the UPOA and previously executed powers of attorney.</p>	<p>Sec. 9. Applicability:</p> <p>(a) Sections 1–5 and 8 apply to POAs created on or after the effective date AND, to the extent consistent with § 4063, to POAs created before the effective date.</p> <p>(b) Section 6 (forfeiture) applies to estates of decedents dying on or after the effective date, regardless of when the POA was executed.</p> <p>(c) Section 7 (treble damages) applies to violations occurring on or after the effective date.</p> <p>Sec. 10. Effective July 1 following passage.</p>
<p>► Analysis: The granular applicability structure avoids blanket retroactivity concerns while extending oversight protections to existing POAs where constitutionally permissible. The forfeiture provision's application to estates of decedents dying after the effective date is the broadest reach. Policy question: Should the forfeiture provision also apply to estates already in probate?</p>	
Summary: Compensation Provisions Added by Revision	
<p>Current law provides no compensation mechanism for third parties who detect or report agent misconduct. Agent compensation is addressed under § 4013. No parallel exists for attorneys or monitors who take protective action.</p>	<p>1. § 4059(e)–(g) — Drafting Attorney Compensation. Right to reasonable compensation and reimbursement from the estate; court may shift costs to recovered assets; attorney's claim has priority over agent's.</p> <p>2. § 4016(c) — Attorney's Fees in Judicial Proceedings. Court may award fees and costs to drafting attorney or monitor petitioner; discretion to deny for frivolous petitions.</p> <p>3. § 4060(b) — Successor Monitors. Principal may designate successor monitors, paralleling § 4011's successor agent framework.</p>

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	<p>4. § 4060(h) — Monitor Compensation. Reasonable compensation for services and reimbursement of expenses, payable from estate unless POA provides otherwise.</p> <p>5. § 4051 — Successor Monitor on Form. Adds successor monitor field to statutory form.</p>
<p>► Compensation Provision: <i>These provisions collectively address the practical barrier that without financial support, the safe harbor and monitor oversight mechanisms are unlikely to be used. The compensation structure is consistent with existing UPOA treatment of agent compensation (§ 4013) and guardian compensation under Vermont’s guardianship statutes. The cost-shifting mechanism in § 4059(f) ensures that where exploitation is found, the cost of protecting the principal falls on the wrongdoer rather than the estate.</i></p>	

Legend & Conventions

► **Analysis rows** (amber) provide commentary on critical changes and open policy questions.

► **Compensation Provision rows** (green) highlight provisions added by the compensation revision.

Bold text in the Revised Draft column highlights new or amended language.

[Compensation Provision] labels within the revised draft column identify provisions from the compensation revision.

Italicized text indicates editorial observations rather than statutory language.

Current law text is drawn from 14 V.S.A. Chapter 127 as enacted by 2023 No. 60 and amended by 2024 No. 161 (Adj. Sess.).