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Re: terms used in 9710(a)

“family member” — DEFINE?

“person with a known close relationship” — DEFINE?

Chapter 231 of Title 18 (Advance directives) includes related definitions

§ 9701 (18) "Interested individual" means:

(A) the principal's spouse, adult child, parent, adult sibling, adult grandchild, reciprocal beneficiary, or clergy person; or

(B) any adult who has exhibited special care and concern for the principal and who is personally familiar with the principal's values.

The terms used in H.874 should be defined in this section and should at least relate to the existing definitions. (Note parallel definitions in Title 14:

14 V.S.A. **§ 3061. Definitions**

(4) "Near relative" means a parent, stepparent, brother, sister, grandparent, spouse, domestic partner, or adult child.

(5) "Interested person" means a responsible adult who has a direct interest in a person in need of guardianship and includes the person in need of guardianship, a near relative, a close friend, a guardian, public official, social worker, physician, agent named in an advance directive or in a power of attorney, person nominated as guardian in an advance directive, or member of the clergy.]

What if the person has an instructional advance directive with relevant directions and no agent? There is no acknowledgement of/provision for this in the bill. Nor does it indicate that the person in question has been determined to lack capacity.

Since there's always a possibility of an agent being “unavailable” there should be a provision in statute for **prohibiting** family or specific individuals appointed under this new section, similar to what's here:

18 V.S.A. § 9702. Advance directive

(a) An adult may do any or all of the following in an advance directive:

(10) **identify those individuals or entities, whether or not otherwise qualified to bring an action under section 9718 of this title, who shall or shall not have authority to bring an action under that section;**

and

18 V.S.A. § 9718. Petition for review by probate division of the superior court

(a) A petition may be filed in probate division of the superior court under this section by:

(1) a principal, guardian, agent, ombudsman, or interested individual **other than one identified in an advance directive**, pursuant to subdivision 9702(a)(10) of this title, as not authorized to bring an action under this section