

75-5-410 Who may be appointed conservator -- Priorities.

(1) The court may appoint an individual, or a corporation with general power to serve as trustee, as conservator of the estate of a protected person. The following are entitled to consideration for appointment in the order listed:

- (a) a conservator, guardian of property, or other like fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides;
- (b) an individual or corporation nominated by the protected person if he is 14 or more years of age and has, in the opinion of the court, sufficient mental capacity to make an intelligent choice;
- (c) the court shall appoint a conservator in accordance with the protected person's most recent nomination, unless the potential conservator is disqualified or the court finds other good cause why that person should not serve as conservator. The nomination shall be in writing and shall be signed by the person making the nomination. The nomination shall be in substantially the following form:

Nomination of Conservator

I, (Name), being of sound mind and not acting under duress, fraud, or other undue influence, do hereby nominate (Name, current residence, and relationship, if any, of the nominee) to serve as the conservator of my property in the event that after the date of this instrument I become incapacitated or have other need for protection.

Executed at _____ (city, state)

on this _____ day of _____

_____ (Signature)

- (d) a person who has been nominated by the protected person, by any means other than that described in Subsection (1)(c), if the protected person was 14 years of age or older when the nomination was executed and, in the opinion of the court, that person acted with sufficient mental capacity to make the nomination;
 - (e) the spouse of the protected person;
 - (f) an adult child of the protected person;
 - (g) a parent of the protected person, or a person nominated by the will of a deceased parent;
 - (h) any relative of the protected person with whom he has resided for more than six months prior to the filing of the petition;
 - (i) a person nominated by the person who is caring for him or paying benefits to him.
- (2) A person in the priorities described in Subsection (1)(a), (e), (f), (g), or (h) may nominate in writing a person to serve in his stead. With respect to persons having equal priority, the court is to select the one who is best qualified of those willing to serve. The court, for good cause, may pass over a person having priority and appoint a person having less priority or no priority.

Amended by Chapter 324, 2010 General Session