

**UNIFORM GUARDIANSHIP, CONSERVATORSHIP, AND
OTHER PROTECTIVE ARRANGEMENTS ACT**

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses guardianships, conservatorships, and other protective arrangements.

Highlighted Provisions:

This bill:

- ▶ enacts the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, including:
 - enacting general provisions;
 - enacting provisions regarding guardianship of a minor;
 - enacting provisions regarding guardianship of an adult;
 - enacting provisions regarding conservatorships;
 - enacting provisions relating to other protective arrangements;
 - providing forms; and
 - enacting miscellaneous provisions, such as severability clause;
- ▶ repeals the Protection of Persons Under Disability and Their Property chapter; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **31A-21-104**, as last amended by Laws of Utah 2009, Chapter 355
- 31 **31A-23a-111**, as last amended by Laws of Utah 2018, Chapter 319
- 32 **31A-23b-401**, as last amended by Laws of Utah 2017, Chapter 168
- 33 **31A-25-208**, as last amended by Laws of Utah 2016, Chapter 138
- 34 **31A-26-213**, as last amended by Laws of Utah 2017, Chapter 168
- 35 **53G-6-302**, as last amended by Laws of Utah 2018, Chapter 64 and renumbered and
- 36 amended by Laws of Utah 2018, Chapter 3
- 37 **53G-6-303**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 38 **53G-6-304**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 39 **62A-3-320**, as last amended by Laws of Utah 2017, Chapter 176
- 40 **62A-14-102**, as last amended by Laws of Utah 2013, Chapter 364
- 41 **62A-14-105**, as last amended by Laws of Utah 2009, Chapter 75
- 42 **63I-2-275**, as last amended by Laws of Utah 2018, Chapter 455
- 43 **75-1-201**, as last amended by Laws of Utah 2013, Chapter 364
- 44 **75-5b-102**, as enacted by Laws of Utah 2008, Chapter 253
- 45 **75-5b-302**, as enacted by Laws of Utah 2008, Chapter 253
- 46 **75-11-114**, as last amended by Laws of Utah 2018, Chapter 27

47 ENACTS:

- 48 **75-5c-101**, Utah Code Annotated 1953
- 49 **75-5c-102**, Utah Code Annotated 1953
- 50 **75-5c-103**, Utah Code Annotated 1953
- 51 **75-5c-104**, Utah Code Annotated 1953
- 52 **75-5c-105**, Utah Code Annotated 1953
- 53 **75-5c-106**, Utah Code Annotated 1953
- 54 **75-5c-107**, Utah Code Annotated 1953
- 55 **75-5c-108**, Utah Code Annotated 1953
- 56 **75-5c-109**, Utah Code Annotated 1953
- 57 **75-5c-110**, Utah Code Annotated 1953
- 58 **75-5c-111**, Utah Code Annotated 1953

- 59 [75-5c-112](#), Utah Code Annotated 1953
- 60 [75-5c-113](#), Utah Code Annotated 1953
- 61 [75-5c-114](#), Utah Code Annotated 1953
- 62 [75-5c-115](#), Utah Code Annotated 1953
- 63 [75-5c-116](#), Utah Code Annotated 1953
- 64 [75-5c-117](#), Utah Code Annotated 1953
- 65 [75-5c-118](#), Utah Code Annotated 1953
- 66 [75-5c-119](#), Utah Code Annotated 1953
- 67 [75-5c-120](#), Utah Code Annotated 1953
- 68 [75-5c-121](#), Utah Code Annotated 1953
- 69 [75-5c-122](#), Utah Code Annotated 1953
- 70 [75-5c-123](#), Utah Code Annotated 1953
- 71 [75-5c-124](#), Utah Code Annotated 1953
- 72 [75-5c-125](#), Utah Code Annotated 1953
- 73 [75-5c-126](#), Utah Code Annotated 1953
- 74 [75-5c-127](#), Utah Code Annotated 1953
- 75 [75-5c-201](#), Utah Code Annotated 1953
- 76 [75-5c-202](#), Utah Code Annotated 1953
- 77 [75-5c-203](#), Utah Code Annotated 1953
- 78 [75-5c-204](#), Utah Code Annotated 1953
- 79 [75-5c-205](#), Utah Code Annotated 1953
- 80 [75-5c-206](#), Utah Code Annotated 1953
- 81 [75-5c-207](#), Utah Code Annotated 1953
- 82 [75-5c-208](#), Utah Code Annotated 1953
- 83 [75-5c-209](#), Utah Code Annotated 1953
- 84 [75-5c-210](#), Utah Code Annotated 1953
- 85 [75-5c-211](#), Utah Code Annotated 1953
- 86 [75-5c-301](#), Utah Code Annotated 1953
- 87 [75-5c-302](#), Utah Code Annotated 1953
- 88 [75-5c-303](#), Utah Code Annotated 1953
- 89 [75-5c-304](#), Utah Code Annotated 1953

- 90 [75-5c-305](#), Utah Code Annotated 1953
- 91 [75-5c-306](#), Utah Code Annotated 1953
- 92 [75-5c-307](#), Utah Code Annotated 1953
- 93 [75-5c-308](#), Utah Code Annotated 1953
- 94 [75-5c-309](#), Utah Code Annotated 1953
- 95 [75-5c-310](#), Utah Code Annotated 1953
- 96 [75-5c-311](#), Utah Code Annotated 1953
- 97 [75-5c-312](#), Utah Code Annotated 1953
- 98 [75-5c-313](#), Utah Code Annotated 1953
- 99 [75-5c-314](#), Utah Code Annotated 1953
- 100 [75-5c-315](#), Utah Code Annotated 1953
- 101 [75-5c-316](#), Utah Code Annotated 1953
- 102 [75-5c-317](#), Utah Code Annotated 1953
- 103 [75-5c-318](#), Utah Code Annotated 1953
- 104 [75-5c-319](#), Utah Code Annotated 1953
- 105 [75-5c-320](#), Utah Code Annotated 1953
- 106 [75-5c-401](#), Utah Code Annotated 1953
- 107 [75-5c-402](#), Utah Code Annotated 1953
- 108 [75-5c-403](#), Utah Code Annotated 1953
- 109 [75-5c-404](#), Utah Code Annotated 1953
- 110 [75-5c-405](#), Utah Code Annotated 1953
- 111 [75-5c-406](#), Utah Code Annotated 1953
- 112 [75-5c-407](#), Utah Code Annotated 1953
- 113 [75-5c-408](#), Utah Code Annotated 1953
- 114 [75-5c-409](#), Utah Code Annotated 1953
- 115 [75-5c-410](#), Utah Code Annotated 1953
- 116 [75-5c-411](#), Utah Code Annotated 1953
- 117 [75-5c-412](#), Utah Code Annotated 1953
- 118 [75-5c-413](#), Utah Code Annotated 1953
- 119 [75-5c-414](#), Utah Code Annotated 1953
- 120 [75-5c-415](#), Utah Code Annotated 1953

- 121 [75-5c-416](#), Utah Code Annotated 1953
- 122 [75-5c-417](#), Utah Code Annotated 1953
- 123 [75-5c-418](#), Utah Code Annotated 1953
- 124 [75-5c-419](#), Utah Code Annotated 1953
- 125 [75-5c-420](#), Utah Code Annotated 1953
- 126 [75-5c-421](#), Utah Code Annotated 1953
- 127 [75-5c-422](#), Utah Code Annotated 1953
- 128 [75-5c-423](#), Utah Code Annotated 1953
- 129 [75-5c-424](#), Utah Code Annotated 1953
- 130 [75-5c-425](#), Utah Code Annotated 1953
- 131 [75-5c-426](#), Utah Code Annotated 1953
- 132 [75-5c-427](#), Utah Code Annotated 1953
- 133 [75-5c-428](#), Utah Code Annotated 1953
- 134 [75-5c-429](#), Utah Code Annotated 1953
- 135 [75-5c-430](#), Utah Code Annotated 1953
- 136 [75-5c-431](#), Utah Code Annotated 1953
- 137 [75-5c-432](#), Utah Code Annotated 1953
- 138 [75-5c-501](#), Utah Code Annotated 1953
- 139 [75-5c-502](#), Utah Code Annotated 1953
- 140 [75-5c-503](#), Utah Code Annotated 1953
- 141 [75-5c-504](#), Utah Code Annotated 1953
- 142 [75-5c-505](#), Utah Code Annotated 1953
- 143 [75-5c-506](#), Utah Code Annotated 1953
- 144 [75-5c-507](#), Utah Code Annotated 1953
- 145 [75-5c-508](#), Utah Code Annotated 1953
- 146 [75-5c-509](#), Utah Code Annotated 1953
- 147 [75-5c-510](#), Utah Code Annotated 1953
- 148 [75-5c-511](#), Utah Code Annotated 1953
- 149 [75-5c-512](#), Utah Code Annotated 1953
- 150 [75-5c-601](#), Utah Code Annotated 1953
- 151 [75-5c-602](#), Utah Code Annotated 1953

- 152 **75-5c-603**, Utah Code Annotated 1953
- 153 **75-5c-604**, Utah Code Annotated 1953
- 154 **75-5c-701**, Utah Code Annotated 1953
- 155 **75-5c-702**, Utah Code Annotated 1953
- 156 **75-5c-703**, Utah Code Annotated 1953
- 157 **75-5c-704**, Utah Code Annotated 1953

158 RENUMBERS AND AMENDS:

- 159 **75-5c-128**, (Renumbered from 75-5-103, as last amended by Laws of Utah 2018,
- 160 Chapter 64)

161 REPEALS:

- 162 **75-5-101**, as enacted by Laws of Utah 1975, Chapter 150
- 163 **75-5-102**, as last amended by Laws of Utah 2004, Chapter 198
- 164 **75-5-104**, as enacted by Laws of Utah 1975, Chapter 150
- 165 **75-5-105**, as enacted by Laws of Utah 1975, Chapter 150
- 166 **75-5-201**, as last amended by Laws of Utah 2018, Chapter 415
- 167 **75-5-202**, as last amended by Laws of Utah 1985, Chapter 41
- 168 **75-5-202.5**, as enacted by Laws of Utah 1985, Chapter 41
- 169 **75-5-203**, as last amended by Laws of Utah 1985, Chapter 41
- 170 **75-5-204**, as last amended by Laws of Utah 1985, Chapter 41
- 171 **75-5-205**, as enacted by Laws of Utah 1975, Chapter 150
- 172 **75-5-206**, as last amended by Laws of Utah 2010, Chapter 392
- 173 **75-5-207**, as last amended by Laws of Utah 1995, Chapter 156
- 174 **75-5-208**, as last amended by Laws of Utah 1985, Chapter 41
- 175 **75-5-209**, as last amended by Laws of Utah 2008, Chapter 3
- 176 **75-5-210**, as enacted by Laws of Utah 1975, Chapter 150
- 177 **75-5-211**, as last amended by Laws of Utah 1985, Chapter 41
- 178 **75-5-212**, as enacted by Laws of Utah 1975, Chapter 150
- 179 **75-5-301**, as last amended by Laws of Utah 1985, Chapter 41
- 180 **75-5-302**, as enacted by Laws of Utah 1975, Chapter 150
- 181 **75-5-303**, as last amended by Laws of Utah 2018, Chapter 455
- 182 **75-5-304**, as last amended by Laws of Utah 2017, Chapter 403

- 183 [75-5-305](#), as last amended by Laws of Utah 1977, Chapter 194
- 184 [75-5-306](#), as last amended by Laws of Utah 1977, Chapter 194
- 185 [75-5-307](#), as last amended by Laws of Utah 2012, Chapter 274
- 186 [75-5-308](#), as enacted by Laws of Utah 1975, Chapter 150
- 187 [75-5-309](#), as last amended by Laws of Utah 2018, Chapter 455
- 188 [75-5-310](#), as last amended by Laws of Utah 2017, Chapter 403
- 189 [75-5-310.5](#), as enacted by Laws of Utah 2014, Chapter 142
- 190 [75-5-311](#), as last amended by Laws of Utah 2018, Chapter 455
- 191 [75-5-312](#), as last amended by Laws of Utah 2018, Chapters 244 and 294
- 192 [75-5-312.5](#), as last amended by Laws of Utah 2018, Chapter 244
- 193 [75-5-313](#), as last amended by Laws of Utah 1985, Chapter 41
- 194 [75-5-314](#), as enacted by Laws of Utah 1975, Chapter 150
- 195 [75-5-315](#), as enacted by Laws of Utah 1975, Chapter 150
- 196 [75-5-316](#), as last amended by Laws of Utah 2011, Chapter 366
- 197 [75-5-317](#), as enacted by Laws of Utah 2018, Chapter 294
- 198 [75-5-401](#), as last amended by Laws of Utah 2001, Chapter 375
- 199 [75-5-402](#), as last amended by Laws of Utah 1992, Chapter 30
- 200 [75-5-403](#), as last amended by Laws of Utah 1992, Chapter 30
- 201 [75-5-404](#), as enacted by Laws of Utah 1975, Chapter 150
- 202 [75-5-405](#), as enacted by Laws of Utah 1975, Chapter 150
- 203 [75-5-406](#), as enacted by Laws of Utah 1975, Chapter 150
- 204 [75-5-407](#), as last amended by Laws of Utah 2013, Chapter 364
- 205 [75-5-408](#), as last amended by Laws of Utah 2014, Chapter 142
- 206 [75-5-409](#), as last amended by Laws of Utah 1977, Chapter 194
- 207 [75-5-410](#), as last amended by Laws of Utah 2010, Chapter 324
- 208 [75-5-411](#), as last amended by Laws of Utah 1977, Chapter 194
- 209 [75-5-412](#), as enacted by Laws of Utah 1975, Chapter 150
- 210 [75-5-413](#), as enacted by Laws of Utah 1975, Chapter 150
- 211 [75-5-414](#), as last amended by Laws of Utah 2012, Chapter 274
- 212 [75-5-415](#), as last amended by Laws of Utah 2014, Chapter 142
- 213 [75-5-416](#), as last amended by Laws of Utah 2014, Chapter 142

- 214 75-5-417, as last amended by Laws of Utah 2004, Chapter 89
- 215 75-5-418, as last amended by Laws of Utah 2017, Chapter 403
- 216 75-5-419, as last amended by Laws of Utah 2012, Chapter 274
- 217 75-5-420, as last amended by Laws of Utah 2012, Chapter 274
- 218 75-5-421, as last amended by Laws of Utah 2017, Chapter 403
- 219 75-5-422, as enacted by Laws of Utah 1975, Chapter 150
- 220 75-5-423, as enacted by Laws of Utah 1975, Chapter 150
- 221 75-5-424, as last amended by Laws of Utah 2018, Chapter 244
- 222 75-5-425, as last amended by Laws of Utah 2017, Chapter 403
- 223 75-5-426, as enacted by Laws of Utah 1975, Chapter 150
- 224 75-5-427, as last amended by Laws of Utah 1977, Chapter 194
- 225 75-5-428, as last amended by Laws of Utah 2007, Chapter 306
- 226 75-5-429, as enacted by Laws of Utah 1975, Chapter 150
- 227 75-5-430, as enacted by Laws of Utah 1975, Chapter 150
- 228 75-5-431, as enacted by Laws of Utah 1975, Chapter 150
- 229 75-5-432, as last amended by Laws of Utah 1977, Chapter 194
- 230 75-5-433, as last amended by Laws of Utah 1977, Chapter 194

231

232 *Be it enacted by the Legislature of the state of Utah:*

233 Section 1. Section 31A-21-104 is amended to read:

234 **31A-21-104. Insurable interest and consent -- Scope.**

235 (1) As used in this chapter:

236 (a) For purposes of this section, "exchange" means an exchange made pursuant to
237 Section 1035, Internal Revenue Code, as may be amended.

238 (b) "Insurable interest" in a person means the following, including a circumstance
239 described in Subsection (3):

240 (i) for a person closely related by blood or by law, a substantial interest engendered by
241 love and affection; or

242 (ii) in the case of a person not described in Subsection (1)(b)(i), a lawful and
243 substantial interest in having the life, health, and bodily safety of the person insured continue.

244 (c) "Insurable interest" in property or liability means any lawful and substantial

245 economic interest in the nonoccurrence of the event insured against.

246 (d) "Life settlement" is as defined in Section 31A-36-102.

247 (2) (a) An insurer may not knowingly provide insurance to a person who does not have
248 or expect to have an insurable interest in the subject of the insurance.

249 (b) A person may not knowingly procure, directly, by assignment, or otherwise, an
250 interest in the proceeds of an insurance policy unless that person has or expects to have an
251 insurable interest in the subject of the insurance.

252 (c) In the case of life insurance, the insurable interest requirements of Subsections
253 (2)(a) and (b):

254 (i) are satisfied if the requirements are met:

255 (A) at the effective date of the insurance policy; and

256 (B) at the time of a later procurement, if any, of an interest in the proceeds of an
257 insurance policy; and

258 (ii) do not need to be met at the time that proceeds of an insurance policy are payable if
259 the requirements are met at the times specified in Subsection (2)(c)(i).

260 (d) Except as provided in Subsections (7) and (8), insurance provided in violation of
261 this Subsection (2) is subject to Subsection (6).

262 (e) A policy holder in a group insurance policy does not need an insurable interest if a
263 certificate holder or a person other than the group policyholder who is specified by the
264 certificate holder is the recipient of the proceeds of the group insurance policy.

265 (3) The following is a nonexhaustive list of insurable interests:

266 (a) A person has an unlimited insurable interest in that person's own life and health.

267 (b) A shareholder, member, or partner has an insurable interest in the life of another
268 shareholder, member, or partner for purposes of an insurance contract that is an integral part of
269 a legitimate buy-sell agreement respecting shares, membership interests, or partnership
270 interests in the business.

271 (c) (i) A trust has an insurable interest in the subject of the insurance to the extent that
272 all beneficiaries of the trust have an insurable interest.

273 (ii) A trust violates this section if the trust:

274 (A) is created to give the appearance of an insurable interest, but an insurable interest
275 does not exist; and

276 (B) is used to initiate a policy for an investor or other person who has no insurable
277 interest in the insured.

278 (d) (i) Subject to Subsection (3)(d)(v), an employer or an employer sponsored trust:

279 (A) has an insurable interest in the lives of the employer's:

280 (I) directors;

281 (II) officers;

282 (III) managers;

283 (IV) nonmanagement employees; and

284 (V) retired employees; and

285 (B) may insure a life listed in Subsection (3)(d)(i)(A):

286 (I) on an individual or group basis; and

287 (II) with the written consent of the insured.

288 (ii) (A) A trustee of a trust established by an employer for the sole benefit of the
289 employer has the same insurable interest in the life and health of any person as does the
290 employer.

291 (B) Without limiting the general principle in Subsection (3)(d)(ii)(A), a trustee of a
292 trust established by an employer that provides life, health, disability, retirement, or similar
293 benefits to an individual identified in Subsection (3)(d)(i)(A) has an insurable interest in the
294 life of the individual described in Subsection (3)(d)(i)(A) for whom the benefits are provided.

295 (iii) (A) For the purpose of exchanging life insurance, an individual described in
296 Subsection (3)(d)(i)(A) includes an individual who was formerly included under Subsection
297 (3)(d)(i)(A) if the life insurance to be exchanged:

298 (I) is purchased or acquired while the individual is a current director, officer, manager,
299 or employee; and

300 (II) is exchanged for life insurance in an amount that does not exceed the amount of the
301 insurance being exchanged.

302 (B) Written consent of an individual described in this Subsection (3)(d)(iii) is not
303 required at the time of the exchange of the life insurance.

304 (C) This Subsection (3)(d)(iii) shall be interpreted in a manner consistent with
305 Subsection (2)(c).

306 (iv) (A) If an employer or trustee establishes an insurable interest as provided in this

307 Subsection (3)(d) and all of the employer's business is acquired, purchased, merged into, or
308 otherwise transferred to a subsequent employer, the insurable interest of the original employer
309 or trustee in an individual described in Subsection (3)(d)(i)(A) is automatically transferred to:

310 (I) the subsequent employer; or
311 (II) the trustee of a trust established by the subsequent employer for the subsequent
312 employer's sole benefit.

313 (B) A subsequent employer or a trustee of a trust described in Subsection
314 (3)(d)(iv)(A)(II) may exchange life insurance that is purchased or acquired in an individual
315 described in Subsection (3)(d)(i)(A) by the original employer or trustee without establishing a
316 new insurable interest at the time of the exchange of the insurance.

317 (v) The extent of an employer's or employer sponsored trust's insurable interest for a
318 nonmanagement or retired employee under Subsection (3)(d)(i) is limited to an amount
319 commensurate with the employer's unfunded liabilities at the time insurance on the
320 nonmanagement or retired employee is procured.

321 (4) (a) Except as provided in Subsection (5), an insurer may not knowingly issue an
322 individual life or accident and health insurance policy to a person other than the one whose life
323 or health is at risk unless that person:

324 (i) is 18 years of age or older;
325 (ii) is not under guardianship under Title 75, Chapter [~~5, Protection of Persons Under~~
326 ~~Disability and Their Property~~] 5c, Uniform Guardianship, Conservatorship, and Other
327 Protective Arrangements Act; and
328 (iii) gives written consent to the issuance of the policy.

329 (b) A person shall express consent:
330 (i) by signing an application for the insurance with knowledge of the nature of the
331 document; or
332 (ii) in any other reasonable way.

333 (c) Insurance provided in violation of this Subsection (4) is subject to Subsection (6).

334 (5) (a) A life or accident and health insurance policy may be taken out without consent
335 in a circumstance described in this Subsection (5)(a).

336 (i) A person may obtain insurance on a dependent who does not have legal capacity.
337 (ii) A creditor may, at the creditor's expense, obtain insurance on the debtor in an

338 amount reasonably related to the amount of the debt.

339 (iii) A person may obtain life and accident and health insurance on an immediate
340 family member who is living with or dependent on the person.

341 (iv) A person may obtain an accident and health insurance policy on others that would
342 merely indemnify the policyholder against expenses the person would be legally or morally
343 obligated to pay.

344 (v) The commissioner may adopt rules permitting issuance of insurance for a limited
345 term on the life or health of a person serving outside the continental United States who is in the
346 public service of the United States, if the policyholder is related within the second degree by
347 blood or by marriage to the person whose life or health is insured.

348 (b) Consent may be given by another in a circumstance described in this Subsection
349 (5)(b).

350 (i) A parent, a person having legal custody of a minor, or a guardian of a person under
351 Title 75, Chapter [~~5, Protection of Persons Under Disability and Their Property~~] 5c, Uniform
352 Guardianship, Conservatorship, and Other Protective Arrangements Act, may consent to the
353 issuance of a policy on a dependent child or on a person under guardianship under Title 75,
354 Chapter [~~5, Protection of Persons Under Disability and Their Property~~] 5c, Uniform
355 Guardianship, Conservatorship, and Other Protective Arrangements Act.

356 (ii) A grandparent may consent to the issuance of life or accident and health insurance
357 on a grandchild.

358 (iii) A court of general jurisdiction may give consent to the issuance of a life or
359 accident and health insurance policy on an ex parte application showing facts the court
360 considers sufficient to justify the issuance of that insurance.

361 (6) (a) An insurance policy is not invalid because:

- 362 (i) the insurance policy is issued or procured in violation of Subsection (2); or
- 363 (ii) consent has not been given.

364 (b) Notwithstanding Subsection (6)(a), a court with appropriate jurisdiction may:

365 (i) order the proceeds to be paid to some person who is equitably entitled to the
366 proceeds, other than the one to whom the policy is designated to be payable; or

367 (ii) create a constructive trust in the proceeds or a part of the proceeds on behalf of a
368 person who is equitably entitled to the proceeds, subject to all the valid terms and conditions of

369 the policy other than those relating to insurable interest or consent.

370 (7) This section does not prevent an organization described under Section 501(c)(3),
371 (e), or (f), Internal Revenue Code, as amended, and the regulations made under this section,
372 and which is regulated under Title 13, Chapter 22, Charitable Solicitations Act, from soliciting
373 and procuring, by assignment or designation as beneficiary, a gift or assignment of an interest
374 in life insurance on the life of the donor or assignor or from enforcing payment of proceeds
375 from that interest.

376 (8) (a) Subsection (8)(b) applies if:

377 (i) an insurance policy is transferred pursuant to a life settlement in accordance with
378 Chapter 36, Life Settlements Act; and

379 (ii) before the transfer described in Subsection (8)(a)(i) the insurable interest
380 requirements of Subsection (2)(c)(i) are met for the insurance policy.

381 (b) An insurance policy described in Subsection (8)(a) is not subject to Subsection
382 (6)(b) and nothing in this section prevents:

383 (i) an owner of life insurance, whether or not the owner is also the subject of the
384 insurance, from entering into a life settlement;

385 (ii) a life settlement producer from soliciting a person to enter into a life settlement;

386 (iii) a person from enforcing payment of proceeds from the interest obtained under a
387 life settlement; or

388 (iv) the execution:

389 (A) of any of the following with respect to the death benefit or ownership of any
390 portion of a settled policy as provided for in Section [31A-36-109](#):

391 (I) an assignment;

392 (II) a sale;

393 (III) a transfer;

394 (IV) a devise; or

395 (V) a bequest; and

396 (B) by any of the following:

397 (I) a life settlement provider;

398 (II) a life settlement purchaser;

399 (III) a financing entity;

- 400 (IV) a related provider trust;
- 401 (V) a special purpose entity;
- 402 (VI) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 403 or
- 404 (VII) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec.
- 405 230.501.

- 406 (9) (a) The insurable interests described in this section:
- 407 (i) are not exclusive;
- 408 (ii) are cumulative of an insurable interest that is not expressly included in this section
- 409 but exists in common law; and
- 410 (iii) are not in lieu of an insurable interest that is not expressly included in this section
- 411 but exists in common law.

412 (b) The inclusion of an insurable interest in this section may not be considered to be
413 excluding another insurable interest that is similar to the insurable interest included in this
414 section.

415 (c) (i) The recognition of an insurable interest in this section by Chapter 89, Laws of
416 Utah 2007, does not imply or create a presumption that the insurable interest did not exist
417 before April 30, 2007.

418 (ii) An insurable interest shall be presumed with respect to a life insurance policy
419 issued before April 30, 2007 to a person whose insurable interest is recognized in this section
420 by Chapter 89, Laws of Utah 2007.

421 Section 2. Section **31A-23a-111** is amended to read:

422 **31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise**
423 **terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

- 424 (1) A license type issued under this chapter remains in force until:
- 425 (a) revoked or suspended under Subsection (5);
- 426 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
- 427 administrative action;
- 428 (c) the licensee dies or is adjudicated incompetent as defined under:
- 429 (i) Title 75, Chapter 5c, Part 3, [~~Guardians of Incapacitated Persons~~] Guardianship of
- 430 Adult; or

- 431 (ii) Title 75, Chapter 5c, Part 4, [~~Protection of Property of Persons Under Disability~~
432 ~~and Minors~~] Conservatorship, and Part 5, Other Protective Arrangements;
- 433 (d) lapsed under Section 31A-23a-113; or
434 (e) voluntarily surrendered.
- 435 (2) The following may be reinstated within one year after the day on which the license
436 is no longer in force:
- 437 (a) a lapsed license; or
438 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
439 not be reinstated after the license period in which the license is voluntarily surrendered.
- 440 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a
441 license, submission and acceptance of a voluntary surrender of a license does not prevent the
442 department from pursuing additional disciplinary or other action authorized under:
- 443 (a) this title; or
444 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
445 Administrative Rulemaking Act.
- 446 (4) A line of authority issued under this chapter remains in force until:
- 447 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;
448 or
449 (b) the supporting license type:
- 450 (i) is revoked or suspended under Subsection (5);
451 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
452 administrative action;
- 453 (iii) lapses under Section 31A-23a-113; or
454 (iv) is voluntarily surrendered; or
455 (c) the licensee dies or is adjudicated incompetent as defined under:
- 456 (i) Title 75, Chapter 5c, Part 3, [~~Guardians of Incapacitated Persons~~] Guardianship of
457 Adult; or
458 (ii) Title 75, Chapter 5c, Part 4, [~~Protection of Property of Persons Under Disability~~
459 ~~and Minors~~] Conservatorship, and Part 5, Other Protective Arrangements.
- 460 (5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an
461 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the

462 commissioner may:

463 (i) revoke:

464 (A) a license; or

465 (B) a line of authority;

466 (ii) suspend for a specified period of 12 months or less:

467 (A) a license; or

468 (B) a line of authority;

469 (iii) limit in whole or in part:

470 (A) a license; or

471 (B) a line of authority;

472 (iv) deny a license application;

473 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

474 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and

475 Subsection (5)(a)(v).

476 (b) The commissioner may take an action described in Subsection (5)(a) if the

477 commissioner finds that the licensee:

478 (i) is unqualified for a license or line of authority under Section 31A-23a-104,

479 31A-23a-105, or 31A-23a-107;

480 (ii) violates:

481 (A) an insurance statute;

482 (B) a rule that is valid under Subsection 31A-2-201(3); or

483 (C) an order that is valid under Subsection 31A-2-201(4);

484 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other

485 delinquency proceedings in any state;

486 (iv) fails to pay a final judgment rendered against the person in this state within 60

487 days after the day on which the judgment became final;

488 (v) fails to meet the same good faith obligations in claims settlement that is required of

489 admitted insurers;

490 (vi) is affiliated with and under the same general management or interlocking

491 directorate or ownership as another insurance producer that transacts business in this state

492 without a license;

- 493 (vii) refuses:
- 494 (A) to be examined; or
- 495 (B) to produce its accounts, records, and files for examination;
- 496 (viii) has an officer who refuses to:
- 497 (A) give information with respect to the insurance producer's affairs; or
- 498 (B) perform any other legal obligation as to an examination;
- 499 (ix) provides information in the license application that is:
- 500 (A) incorrect;
- 501 (B) misleading;
- 502 (C) incomplete; or
- 503 (D) materially untrue;
- 504 (x) violates an insurance law, valid rule, or valid order of another regulatory agency in
- 505 any jurisdiction;
- 506 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- 507 (xii) improperly withholds, misappropriates, or converts money or properties received
- 508 in the course of doing insurance business;
- 509 (xiii) intentionally misrepresents the terms of an actual or proposed:
- 510 (A) insurance contract;
- 511 (B) application for insurance; or
- 512 (C) life settlement;
- 513 (xiv) is convicted of:
- 514 (A) a felony; or
- 515 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- 516 (xv) admits or is found to have committed an insurance unfair trade practice or fraud;
- 517 (xvi) in the conduct of business in this state or elsewhere:
- 518 (A) uses fraudulent, coercive, or dishonest practices; or
- 519 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
- 520 (xvii) has had an insurance license or other professional or occupational license, or an
- 521 equivalent to an insurance license or other professional or occupational license:
- 522 (A) denied;
- 523 (B) suspended;

- 524 (C) revoked; or
- 525 (D) surrendered to resolve an administrative action;
- 526 (xviii) forges another's name to:
 - 527 (A) an application for insurance; or
 - 528 (B) a document related to an insurance transaction;
- 529 (xix) improperly uses notes or another reference material to complete an examination
- 530 for an insurance license;
- 531 (xx) knowingly accepts insurance business from an individual who is not licensed;
- 532 (xxi) fails to comply with an administrative or court order imposing a child support
- 533 obligation;
- 534 (xxii) fails to:
 - 535 (A) pay state income tax; or
 - 536 (B) comply with an administrative or court order directing payment of state income
 - 537 tax;
- 538 (xxiii) violates or permits others to violate the federal Violent Crime Control and Law
- 539 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is
- 540 prohibited from engaging in the business of insurance; or
- 541 (xxiv) engages in a method or practice in the conduct of business that endangers the
- 542 legitimate interests of customers and the public.
- 543 (c) For purposes of this section, if a license is held by an agency, both the agency itself
- 544 and any individual designated under the license are considered to be the holders of the license.
- 545 (d) If an individual designated under the agency license commits an act or fails to
- 546 perform a duty that is a ground for suspending, revoking, or limiting the individual's license,
- 547 the commissioner may suspend, revoke, or limit the license of:
 - 548 (i) the individual;
 - 549 (ii) the agency, if the agency:
 - 550 (A) is reckless or negligent in its supervision of the individual; or
 - 551 (B) knowingly participates in the act or failure to act that is the ground for suspending,
 - 552 revoking, or limiting the license; or
 - 553 (iii) (A) the individual; and
 - 554 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

555 (6) A licensee under this chapter is subject to the penalties for acting as a licensee
556 without a license if:

- 557 (a) the licensee's license is:
- 558 (i) revoked;
 - 559 (ii) suspended;
 - 560 (iii) limited;
 - 561 (iv) surrendered in lieu of administrative action;
 - 562 (v) lapsed; or
 - 563 (vi) voluntarily surrendered; and
- 564 (b) the licensee:
- 565 (i) continues to act as a licensee; or
 - 566 (ii) violates the terms of the license limitation.

567 (7) A licensee under this chapter shall immediately report to the commissioner:

568 (a) a revocation, suspension, or limitation of the person's license in another state, the
569 District of Columbia, or a territory of the United States;

570 (b) the imposition of a disciplinary sanction imposed on that person by another state,
571 the District of Columbia, or a territory of the United States; or

572 (c) a judgment or injunction entered against that person on the basis of conduct
573 involving:

- 574 (i) fraud;
- 575 (ii) deceit;
- 576 (iii) misrepresentation; or
- 577 (iv) a violation of an insurance law or rule.

578 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a
579 license in lieu of administrative action may specify a time, not to exceed five years, within
580 which the former licensee may not apply for a new license.

581 (b) If no time is specified in an order or agreement described in Subsection (8)(a), the
582 former licensee may not apply for a new license for five years from the day on which the order
583 or agreement is made without the express approval by the commissioner.

584 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
585 a license issued under this part if so ordered by a court.

586 (10) The commissioner shall by rule prescribe the license renewal and reinstatement
587 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

588 Section 3. Section **31A-23b-401** is amended to read:

589 **31A-23b-401. Revoking, suspending, surrendering, lapsing, limiting, or otherwise**
590 **terminating a license -- Rulemaking for renewal or reinstatement.**

591 (1) A license as a navigator under this chapter remains in force until:

592 (a) revoked or suspended under Subsection (4);

593 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
594 administrative action;

595 (c) the licensee dies or is adjudicated incompetent as defined under:

596 (i) Title 75, Chapter 5c, Part 3, [~~Guardians of Incapacitated Persons~~] Guardianship of
597 Adult; or

598 (ii) Title 75, Chapter 5c, Part 4, [~~Protection of Property of Persons Under Disability~~
599 ~~and Minors~~] Conservatorship, or Part 5, Other Protective Arrangements;

600 (d) lapsed under this section; or

601 (e) voluntarily surrendered.

602 (2) The following may be reinstated within one year after the day on which the license
603 is no longer in force:

604 (a) a lapsed license; or

605 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
606 not be reinstated after the license period in which the license is voluntarily surrendered.

607 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a
608 license, submission and acceptance of a voluntary surrender of a license does not prevent the
609 department from pursuing additional disciplinary or other action authorized under:

610 (a) this title; or

611 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
612 Administrative Rulemaking Act.

613 (4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an
614 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the
615 commissioner may:

616 (i) revoke a license;

- 617 (ii) suspend a license for a specified period of 12 months or less;
- 618 (iii) limit a license in whole or in part;
- 619 (iv) deny a license application;
- 620 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
- 621 (vi) take a combination of actions under Subsections (4)(a)(i) through (iv) and
- 622 Subsection (4)(a)(v).
- 623 (b) The commissioner may take an action described in Subsection (4)(a) if the
- 624 commissioner finds that the licensee:
- 625 (i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or
- 626 31A-23b-206;
- 627 (ii) violated:
- 628 (A) an insurance statute;
- 629 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 630 (C) an order that is valid under Subsection 31A-2-201(4);
- 631 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
- 632 delinquency proceedings in any state;
- 633 (iv) failed to pay a final judgment rendered against the person in this state within 60
- 634 days after the day on which the judgment became final;
- 635 (v) refused:
- 636 (A) to be examined; or
- 637 (B) to produce its accounts, records, and files for examination;
- 638 (vi) had an officer who refused to:
- 639 (A) give information with respect to the navigator's affairs; or
- 640 (B) perform any other legal obligation as to an examination;
- 641 (vii) provided information in the license application that is:
- 642 (A) incorrect;
- 643 (B) misleading;
- 644 (C) incomplete; or
- 645 (D) materially untrue;
- 646 (viii) violated an insurance law, valid rule, or valid order of another regulatory agency
- 647 in any jurisdiction;

- 648 (ix) obtained or attempted to obtain a license through misrepresentation or fraud;
- 649 (x) improperly withheld, misappropriated, or converted money or properties received
- 650 in the course of doing insurance business;
- 651 (xi) intentionally misrepresented the terms of an actual or proposed:
- 652 (A) insurance contract;
- 653 (B) application for insurance; or
- 654 (C) application for public program;
- 655 (xii) is convicted of a felony;
- 656 (xiii) admitted or is found to have committed an insurance unfair trade practice or
- 657 fraud;
- 658 (xiv) in the conduct of business in this state or elsewhere:
- 659 (A) used fraudulent, coercive, or dishonest practices; or
- 660 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- 661 (xv) had an insurance license, navigator license, or its equivalent, denied, suspended,
- 662 or revoked in another state, province, district, or territory;
- 663 (xvi) forged another's name to:
- 664 (A) an application for insurance;
- 665 (B) a document related to an insurance transaction;
- 666 (C) a document related to an application for a public program; or
- 667 (D) a document related to an application for premium subsidies;
- 668 (xvii) improperly used notes or another reference material to complete an examination
- 669 for a license;
- 670 (xviii) knowingly accepted insurance business from an individual who is not licensed;
- 671 (xix) failed to comply with an administrative or court order imposing a child support
- 672 obligation;
- 673 (xx) failed to:
- 674 (A) pay state income tax; or
- 675 (B) comply with an administrative or court order directing payment of state income
- 676 tax;
- 677 (xxi) violated or permitted others to violate the federal Violent Crime Control and Law
- 678 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is

679 prohibited from engaging in the business of insurance; or

680 (xxii) engaged in a method or practice in the conduct of business that endangered the
681 legitimate interests of customers and the public.

682 (c) For purposes of this section, if a license is held by an agency, both the agency itself
683 and any individual designated under the license are considered to be the holders of the license.

684 (d) If an individual designated under the agency license commits an act or fails to
685 perform a duty that is a ground for suspending, revoking, or limiting the individual's license,
686 the commissioner may suspend, revoke, or limit the license of:

687 (i) the individual;

688 (ii) the agency, if the agency:

689 (A) is reckless or negligent in its supervision of the individual; or

690 (B) knowingly participates in the act or failure to act that is the ground for suspending,
691 revoking, or limiting the license; or

692 (iii) (A) the individual; and

693 (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

694 (5) A licensee under this chapter is subject to the penalties for acting as a licensee
695 without a license if:

696 (a) the licensee's license is:

697 (i) revoked;

698 (ii) suspended;

699 (iii) surrendered in lieu of administrative action;

700 (iv) lapsed; or

701 (v) voluntarily surrendered; and

702 (b) the licensee:

703 (i) continues to act as a licensee; or

704 (ii) violates the terms of the license limitation.

705 (6) A licensee under this chapter shall immediately report to the commissioner:

706 (a) a revocation, suspension, or limitation of the person's license in another state, the
707 District of Columbia, or a territory of the United States;

708 (b) the imposition of a disciplinary sanction imposed on that person by another state,
709 the District of Columbia, or a territory of the United States; or

710 (c) a judgment or injunction entered against that person on the basis of conduct
711 involving:

712 (i) fraud;

713 (ii) deceit;

714 (iii) misrepresentation; or

715 (iv) a violation of an insurance law or rule.

716 (7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a
717 license in lieu of administrative action may specify a time, not to exceed five years, within
718 which the former licensee may not apply for a new license.

719 (b) If no time is specified in an order or agreement described in Subsection (7)(a), the
720 former licensee may not apply for a new license for five years from the day on which the order
721 or agreement is made without the express approval of the commissioner.

722 (8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
723 a license issued under this chapter if so ordered by a court.

724 (9) The commissioner shall by rule prescribe the license renewal and reinstatement
725 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

726 Section 4. Section **31A-25-208** is amended to read:

727 **31A-25-208. Revoking, suspending, surrendering, lapsing, limiting, or otherwise**
728 **terminating a license -- Rulemaking for renewal and reinstatement.**

729 (1) A license type issued under this chapter remains in force until:

730 (a) revoked or suspended under Subsection (4);

731 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
732 administrative action;

733 (c) the licensee dies or is adjudicated incompetent as defined under:

734 (i) Title 75, Chapter 5c, Part 3, [~~Guardians of Incapacitated Persons~~] Guardianship of
735 Adult; or

736 (ii) Title 75, Chapter 5c, Part 4, [~~Protection of Property of Persons Under Disability~~
737 ~~and Minors~~] Conservatorship, or Part 5, Other Protective Arrangements;

738 (d) lapsed under Section [31A-25-210](#); or

739 (e) voluntarily surrendered.

740 (2) The following may be reinstated within one year after the day on which the license

741 is no longer in force:

742 (a) a lapsed license; or

743 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
744 not be reinstated after the license period in which the license is voluntarily surrendered.

745 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a
746 license, submission and acceptance of a voluntary surrender of a license does not prevent the
747 department from pursuing additional disciplinary or other action authorized under:

748 (a) this title; or

749 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
750 Administrative Rulemaking Act.

751 (4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an
752 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the
753 commissioner may:

754 (i) revoke a license;

755 (ii) suspend a license for a specified period of 12 months or less;

756 (iii) limit a license in whole or in part; or

757 (iv) deny a license application.

758 (b) The commissioner may take an action described in Subsection (4)(a) if the
759 commissioner finds that the licensee:

760 (i) is unqualified for a license under Section [31A-25-202](#), [31A-25-203](#), or [31A-25-204](#);

761 (ii) has violated:

762 (A) an insurance statute;

763 (B) a rule that is valid under Subsection [31A-2-201\(3\)](#); or

764 (C) an order that is valid under Subsection [31A-2-201\(4\)](#);

765 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
766 delinquency proceedings in any state;

767 (iv) fails to pay a final judgment rendered against the person in this state within 60
768 days after the day on which the judgment became final;

769 (v) fails to meet the same good faith obligations in claims settlement that is required of
770 admitted insurers;

771 (vi) is affiliated with and under the same general management or interlocking

772 directorate or ownership as another third party administrator that transacts business in this state
773 without a license;

- 774 (vii) refuses:
 - 775 (A) to be examined; or
 - 776 (B) to produce its accounts, records, and files for examination;
- 777 (viii) has an officer who refuses to:
 - 778 (A) give information with respect to the third party administrator's affairs; or
 - 779 (B) perform any other legal obligation as to an examination;
- 780 (ix) provides information in the license application that is:
 - 781 (A) incorrect;
 - 782 (B) misleading;
 - 783 (C) incomplete; or
 - 784 (D) materially untrue;
- 785 (x) has violated an insurance law, valid rule, or valid order of another regulatory
786 agency in any jurisdiction;
- 787 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- 788 (xii) has improperly withheld, misappropriated, or converted money or properties
789 received in the course of doing insurance business;
- 790 (xiii) has intentionally misrepresented the terms of an actual or proposed:
 - 791 (A) insurance contract; or
 - 792 (B) application for insurance;
- 793 (xiv) has been convicted of a felony;
- 794 (xv) has admitted or been found to have committed an insurance unfair trade practice
795 or fraud;
- 796 (xvi) in the conduct of business in this state or elsewhere has:
 - 797 (A) used fraudulent, coercive, or dishonest practices; or
 - 798 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- 799 (xvii) has had an insurance license or its equivalent, denied, suspended, or revoked in
800 any other state, province, district, or territory;
- 801 (xviii) has forged another's name to:
 - 802 (A) an application for insurance; or

803 (B) a document related to an insurance transaction;

804 (xix) has improperly used notes or any other reference material to complete an
805 examination for an insurance license;

806 (xx) has knowingly accepted insurance business from an individual who is not
807 licensed;

808 (xxi) has failed to comply with an administrative or court order imposing a child
809 support obligation;

810 (xxii) has failed to:

811 (A) pay state income tax; or

812 (B) comply with an administrative or court order directing payment of state income
813 tax;

814 (xxiii) has violated or permitted others to violate the federal Violent Crime Control and
815 Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is
816 prohibited from engaging in the business of insurance; or

817 (xxiv) has engaged in methods and practices in the conduct of business that endanger
818 the legitimate interests of customers and the public.

819 (c) For purposes of this section, if a license is held by an agency, both the agency itself
820 and any individual designated under the license are considered to be the holders of the agency
821 license.

822 (d) If an individual designated under the agency license commits an act or fails to
823 perform a duty that is a ground for suspending, revoking, or limiting the individual's license,
824 the commissioner may suspend, revoke, or limit the license of:

825 (i) the individual;

826 (ii) the agency if the agency:

827 (A) is reckless or negligent in its supervision of the individual; or

828 (B) knowingly participated in the act or failure to act that is the ground for suspending,
829 revoking, or limiting the license; or

830 (iii) (A) the individual; and

831 (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

832 (5) A licensee under this chapter is subject to the penalties for acting as a licensee
833 without a license if:

- 834 (a) the licensee's license is:
- 835 (i) revoked;
- 836 (ii) suspended;
- 837 (iii) limited;
- 838 (iv) surrendered in lieu of administrative action;
- 839 (v) lapsed; or
- 840 (vi) voluntarily surrendered; and
- 841 (b) the licensee:
- 842 (i) continues to act as a licensee; or
- 843 (ii) violates the terms of the license limitation.
- 844 (6) A licensee under this chapter shall immediately report to the commissioner:
- 845 (a) a revocation, suspension, or limitation of the person's license in any other state, the
- 846 District of Columbia, or a territory of the United States;
- 847 (b) the imposition of a disciplinary sanction imposed on that person by any other state,
- 848 the District of Columbia, or a territory of the United States; or
- 849 (c) a judgment or injunction entered against the person on the basis of conduct
- 850 involving:
- 851 (i) fraud;
- 852 (ii) deceit;
- 853 (iii) misrepresentation; or
- 854 (iv) a violation of an insurance law or rule.
- 855 (7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a
- 856 license in lieu of administrative action may specify a time, not to exceed five years, within
- 857 which the former licensee may not apply for a new license.
- 858 (b) If no time is specified in the order or agreement described in Subsection (7)(a), the
- 859 former licensee may not apply for a new license for five years from the day on which the order
- 860 or agreement is made without the express approval of the commissioner.
- 861 (8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
- 862 a license issued under this part if so ordered by the court.
- 863 (9) The commissioner shall by rule prescribe the license renewal and reinstatement
- 864 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

865 Section 5. Section 31A-26-213 is amended to read:

866 **31A-26-213. Revoking, suspending, surrendering, lapsing, limiting, or otherwise**
867 **terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

868 (1) A license type issued under this chapter remains in force until:

869 (a) revoked or suspended under Subsection (5);

870 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
871 administrative action;

872 (c) the licensee dies or is adjudicated incompetent as defined under:

873 (i) Title 75, Chapter 5c, Part 3, [~~Guardians of Incapacitated Persons~~] Guardianship of
874 Adult; or

875 (ii) Title 75, Chapter 5c, Part 4, [~~Protection of Property of Persons Under Disability~~
876 ~~and Minors~~] Conservatorship, or Part 5, Other Protective Arrangements;

877 (d) lapsed under Section 31A-26-214.5; or

878 (e) voluntarily surrendered.

879 (2) The following may be reinstated within one year after the day on which the license
880 is no longer in force:

881 (a) a lapsed license; or

882 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
883 not be reinstated after the license period in which it is voluntarily surrendered.

884 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a
885 license, submission and acceptance of a voluntary surrender of a license does not prevent the
886 department from pursuing additional disciplinary or other action authorized under:

887 (a) this title; or

888 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
889 Administrative Rulemaking Act.

890 (4) A license classification issued under this chapter remains in force until:

891 (a) the qualifications pertaining to a license classification are no longer met by the
892 licensee; or

893 (b) the supporting license type:

894 (i) is revoked or suspended under Subsection (5); or

895 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of

896 administrative action.

897 (5) (a) If the commissioner makes a finding under Subsection (5)(b) as part of an
898 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the
899 commissioner may:

900 (i) revoke:

901 (A) a license; or

902 (B) a license classification;

903 (ii) suspend for a specified period of 12 months or less:

904 (A) a license; or

905 (B) a license classification;

906 (iii) limit in whole or in part:

907 (A) a license; or

908 (B) a license classification;

909 (iv) deny a license application;

910 (v) assess a forfeiture under Subsection [31A-2-308\(1\)\(b\)\(i\)](#) or [\(1\)\(c\)\(i\)](#); or

911 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and

912 Subsection (5)(a)(v).

913 (b) The commissioner may take an action described in Subsection (5)(a) if the
914 commissioner finds that the licensee:

915 (i) is unqualified for a license or license classification under Section [31A-26-202](#),
916 [31A-26-203](#), [31A-26-204](#), or [31A-26-205](#);

917 (ii) has violated:

918 (A) an insurance statute;

919 (B) a rule that is valid under Subsection [31A-2-201\(3\)](#); or

920 (C) an order that is valid under Subsection [31A-2-201\(4\)](#);

921 (iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other
922 delinquency proceedings in any state;

923 (iv) fails to pay a final judgment rendered against the person in this state within 60
924 days after the judgment became final;

925 (v) fails to meet the same good faith obligations in claims settlement that is required of
926 admitted insurers;

- 927 (vi) is affiliated with and under the same general management or interlocking
928 directorate or ownership as another insurance adjuster that transacts business in this state
929 without a license;
- 930 (vii) refuses:
- 931 (A) to be examined; or
932 (B) to produce its accounts, records, and files for examination;
- 933 (viii) has an officer who refuses to:
- 934 (A) give information with respect to the insurance adjuster's affairs; or
935 (B) perform any other legal obligation as to an examination;
- 936 (ix) provides information in the license application that is:
- 937 (A) incorrect;
938 (B) misleading;
939 (C) incomplete; or
940 (D) materially untrue;
- 941 (x) has violated an insurance law, valid rule, or valid order of another regulatory
942 agency in any jurisdiction;
- 943 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
944 (xii) has improperly withheld, misappropriated, or converted money or properties
945 received in the course of doing insurance business;
- 946 (xiii) has intentionally misrepresented the terms of an actual or proposed:
- 947 (A) insurance contract; or
948 (B) application for insurance;
- 949 (xiv) has been convicted of a felony;
- 950 (xv) has admitted or been found to have committed an insurance unfair trade practice
951 or fraud;
- 952 (xvi) in the conduct of business in this state or elsewhere has:
- 953 (A) used fraudulent, coercive, or dishonest practices; or
954 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- 955 (xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in
956 any other state, province, district, or territory;
- 957 (xviii) has forged another's name to:

- 958 (A) an application for insurance; or
- 959 (B) a document related to an insurance transaction;
- 960 (xix) has improperly used notes or any other reference material to complete an
- 961 examination for an insurance license;
- 962 (xx) has knowingly accepted insurance business from an individual who is not
- 963 licensed;
- 964 (xxi) has failed to comply with an administrative or court order imposing a child
- 965 support obligation;
- 966 (xxii) has failed to:
- 967 (A) pay state income tax; or
- 968 (B) comply with an administrative or court order directing payment of state income
- 969 tax;
- 970 (xxiii) has violated or permitted others to violate the federal Violent Crime Control and
- 971 Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is
- 972 prohibited from engaging in the business of insurance; or
- 973 (xxiv) has engaged in methods and practices in the conduct of business that endanger
- 974 the legitimate interests of customers and the public.
- 975 (c) For purposes of this section, if a license is held by an agency, both the agency itself
- 976 and any individual designated under the license are considered to be the holders of the license.
- 977 (d) If an individual designated under the agency license commits an act or fails to
- 978 perform a duty that is a ground for suspending, revoking, or limiting the individual's license,
- 979 the commissioner may suspend, revoke, or limit the license of:
- 980 (i) the individual;
- 981 (ii) the agency, if the agency:
- 982 (A) is reckless or negligent in its supervision of the individual; or
- 983 (B) knowingly participated in the act or failure to act that is the ground for suspending,
- 984 revoking, or limiting the license; or
- 985 (iii) (A) the individual; and
- 986 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
- 987 (6) A licensee under this chapter is subject to the penalties for conducting an insurance
- 988 business without a license if:

- 989 (a) the licensee's license is:
- 990 (i) revoked;
- 991 (ii) suspended;
- 992 (iii) limited;
- 993 (iv) surrendered in lieu of administrative action;
- 994 (v) lapsed; or
- 995 (vi) voluntarily surrendered; and
- 996 (b) the licensee:
- 997 (i) continues to act as a licensee; or
- 998 (ii) violates the terms of the license limitation.
- 999 (7) A licensee under this chapter shall immediately report to the commissioner:
- 1000 (a) a revocation, suspension, or limitation of the person's license in any other state, the
- 1001 District of Columbia, or a territory of the United States;
- 1002 (b) the imposition of a disciplinary sanction imposed on that person by any other state,
- 1003 the District of Columbia, or a territory of the United States; or
- 1004 (c) a judgment or injunction entered against that person on the basis of conduct
- 1005 involving:
- 1006 (i) fraud;
- 1007 (ii) deceit;
- 1008 (iii) misrepresentation; or
- 1009 (iv) a violation of an insurance law or rule.
- 1010 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a
- 1011 license in lieu of administrative action may specify a time not to exceed five years within
- 1012 which the former licensee may not apply for a new license.
- 1013 (b) If no time is specified in the order or agreement described in Subsection (8)(a), the
- 1014 former licensee may not apply for a new license for five years without the express approval of
- 1015 the commissioner.
- 1016 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
- 1017 a license issued under this part if so ordered by a court.
- 1018 (10) The commissioner shall by rule prescribe the license renewal and reinstatement
- 1019 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1020 Section 6. Section 53G-6-302 is amended to read:

1021 **53G-6-302. Child's school district of residence -- Determination -- Responsibility**
1022 **for providing educational services.**

1023 (1) As used in this section:

1024 (a) "Health care facility" means the same as that term is defined in Section 26-21-2.

1025 (b) "Human services program" means the same as that term is defined in Section
1026 62A-2-101.

1027 (2) The school district of residence of a minor child whose custodial parent or legal
1028 guardian resides within Utah is:

1029 (a) the school district in which the custodial parent or legal guardian resides; or

1030 (b) the school district in which the child resides:

1031 (i) while in the custody or under the supervision of a Utah state agency;

1032 (ii) while under the supervision of a private or public agency which is in compliance
1033 with Section 62A-4a-606 and is authorized to provide child placement services by the state;

1034 (iii) while living with a responsible adult resident of the district, if a determination has
1035 been made in accordance with rules made by the State Board of Education in accordance with
1036 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1037 (A) the child's physical, mental, moral, or emotional health will best be served by
1038 considering the child to be a resident for school purposes;

1039 (B) exigent circumstances exist that do not permit the case to be appropriately
1040 addressed under Section 53G-6-402; and

1041 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iii)
1042 does not violate any other law or rule of the State Board of Education;

1043 (iv) while the child is receiving services from a health care facility or human services
1044 program, if a determination has been made in accordance with rules made by the State Board of
1045 Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1046 (A) the child's physical, mental, moral, or emotional health will best be served by
1047 considering the child to be a resident for school purposes;

1048 (B) exigent circumstances exist that do not permit the case to be appropriately
1049 addressed under Section 53G-6-402; and

1050 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv)

1051 does not violate any other law or rule of the State Board of Education; or

1052 (v) if the child is married or has been determined to be an emancipated minor by a
1053 court of law or by a state administrative agency authorized to make that determination.

1054 (3) A minor child whose custodial parent or legal guardian does not reside in the state
1055 is considered to be a resident of the district in which the child lives, unless that designation
1056 violates any other law or rule of the State Board of Education, if:

1057 (a) the child is married or an emancipated minor under Subsection (2)(b)(v);

1058 (b) the child lives with a resident of the district who is a responsible adult and whom
1059 the district agrees to designate as the child's legal guardian under Section [53G-6-303](#);

1060 (c) if permissible under policies adopted by a local school board, it is established to the
1061 satisfaction of the local school board that:

1062 (i) the child lives with a responsible adult who is a resident of the district and is the
1063 child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

1064 (ii) the child's presence in the district is not for the primary purpose of attending the
1065 public schools;

1066 (iii) the child's physical, mental, moral, or emotional health will best be served by
1067 considering the child to be a resident for school purposes; and

1068 (iv) the child is prepared to abide by the rules and policies of the school and school
1069 district in which attendance is sought; or

1070 (d) it is established to the satisfaction of the local school board that:

1071 (i) the child's parent or guardian moves from the state;

1072 (ii) the child's parent or guardian executes a power of attorney under Section

1073 ~~[75-5-103]~~ [75-5c-128](#) that:

1074 (A) meets the requirements of Subsection (4); and

1075 (B) delegates powers regarding care, custody, or property, including schooling, to a
1076 responsible adult with whom the child resides;

1077 (iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the
1078 district;

1079 (iv) the child's physical, mental, moral, or emotional health will best be served by
1080 considering the child to be a resident for school purposes;

1081 (v) the child is prepared to abide by the rules and policies of the school and school

1082 district in which attendance is sought; and

1083 (vi) the child's attendance in the school will not be detrimental to the school or school
1084 district.

1085 (4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the
1086 district may require the person with whom the child lives to be designated as the child's
1087 custodian in a durable power of attorney, issued by the party who has legal custody of the child,
1088 granting the custodian full authority to take any appropriate action, including authorization for
1089 educational or medical services, in the interests of the child.

1090 (b) Both the party granting and the party empowered by the power of attorney shall
1091 agree to:

1092 (i) assume responsibility for any fees or other charges relating to the child's education
1093 in the district; and

1094 (ii) if eligibility for fee waivers is claimed under Section [53G-7-504](#), provide the
1095 school district with all financial information requested by the district for purposes of
1096 determining eligibility for fee waivers.

1097 (c) Notwithstanding Section [~~75-5-103~~] [75-5c-128](#), a power of attorney meeting the
1098 requirements of this section and accepted by the school district shall remain in force until the
1099 earliest of the following occurs:

1100 (i) the child reaches the age of 18, marries, or becomes emancipated;

1101 (ii) the expiration date stated in the document; or

1102 (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee,
1103 or by order of a court of competent jurisdiction.

1104 (5) A power of attorney does not confer legal guardianship.

1105 (6) Each school district is responsible for providing educational services for all
1106 children of school age who are residents of the district.

1107 Section 7. Section **53G-6-303** is amended to read:

1108 **53G-6-303. Guardianship for residency purposes by responsible adult --**
1109 **Procedure to obtain -- Termination.**

1110 (1) For purposes of this part, "responsible adult" means a person 21 years of age or
1111 older who is a resident of this state and is willing and able to provide reasonably adequate food,
1112 clothing, shelter, and supervision for a minor child.

1113 (2) A local board of education may adopt a policy permitting it to designate a
1114 responsible adult residing in the school district as legal guardian of a child whose custodial
1115 parent or legal guardian does not reside within the state upon compliance with the following
1116 requirements:

1117 (a) submission to the school district of a signed and notarized affidavit by the child's
1118 custodial parent or legal guardian stating that:

1119 (i) the child's presence in the district is not for the primary purpose of attending the
1120 public schools;

1121 (ii) the child's physical, mental, moral, or emotional health would best be served by a
1122 transfer of guardianship to the Utah resident;

1123 (iii) the affiant is aware that designation of a guardian under this section is equivalent
1124 to a court-ordered guardianship under [~~Section 75-5-206~~] Title 75, Chapter 5c, Part 2,
1125 Guardianship of Minor, and will suspend or terminate any existing parental or guardianship
1126 rights in the same manner as would occur under a court-ordered guardianship;

1127 (iv) the affiant consents and submits to any such suspension or termination of parental
1128 or guardianship rights;

1129 (v) the affiant consents and submits to the jurisdiction of the state district court in
1130 which the school district is located in any action relating to the guardianship or custody of the
1131 child in question;

1132 (vi) the affiant designates a named responsible adult as agent, authorized to accept
1133 service on behalf of the affiant of any process, notice, or demand required or permitted to be
1134 served in connection with any action under Subsection (2)(a)(v); and

1135 (vii) it is the affiant's intent that the child become a permanent resident of the state and
1136 reside with and be under the supervision of the named responsible adult;

1137 (b) submission to the school district of a signed and notarized affidavit by the
1138 responsible adult stating that:

1139 (i) the affiant is a resident of the school district and desires to become the guardian of
1140 the child;

1141 (ii) the affiant consents and submits to the jurisdiction of the state district court in
1142 which the school district is located in any action relating to the guardianship or custody of the
1143 child in question;

1144 (iii) the affiant will accept the responsibilities of guardianship for the duration,
1145 including the responsibility to provide adequate supervision, discipline, food, shelter,
1146 educational and emotional support, and medical care for the child if designated as the child's
1147 guardian; and

1148 (iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

1149 (c) submission to the school district of a signed and notarized affidavit by the child
1150 stating that:

1151 (i) the child desires to become a permanent resident of Utah and reside with and be
1152 responsible to the named responsible adult; and

1153 (ii) the child will abide by all applicable rules of any public school which the child may
1154 attend after guardianship is awarded; and

1155 (d) if the child's custodial parent or legal guardian cannot be found in order to execute
1156 the statement required under Subsection (2)(a), the responsible adult must submit an affidavit
1157 to that effect to the district. The district shall also submit a copy of the statement to the
1158 Criminal Investigations and Technical Services Division of the Department of Public Safety,
1159 established in Section [53-10-103](#).

1160 (3) The district may require the responsible adult, in addition to the documents set forth
1161 in Subsection (2), to also submit any other documents which are relevant to the appointment of
1162 a guardian of a minor or which the district reasonably believes to be necessary in connection
1163 with a given application to substantiate any claim or assertion made in connection with the
1164 application for guardianship.

1165 (4) Upon receipt of the information and documentation required under Subsections (2)
1166 and (3), and a determination by the board that the information is accurate, that the requirements
1167 of this section have been met, and that the interests of the child would best be served by
1168 granting the requested guardianship, the school board or its authorized representative may
1169 designate the applicant as guardian of the child by issuing a designation of guardianship letter
1170 to the applicant.

1171 (5) (a) If a local school board has adopted a policy permitting the board to designate a
1172 guardian under this section, a denial of an application for appointment of a guardian may be
1173 appealed to the district court in which the school district is located.

1174 (b) The court shall uphold the decision of the board unless it finds, by clear and

1175 convincing evidence, that the board's decision was arbitrary and capricious.

1176 (c) An applicant may, rather than appealing the board's decision under Subsection
1177 (5)(b), file an original Petition for Appointment of Guardian with the district court, which
1178 action shall proceed as if no decision had been made by the school board.

1179 (6) A responsible adult obtaining guardianship under this section has the same rights,
1180 authority, and responsibilities as a guardian appointed under ~~[Section 75-5-201]~~ Title 75,
1181 Chapter 5c, Part 2, Guardianship of Minor.

1182 (7) (a) The school district shall deliver the original documents filed with the school
1183 district, together with a copy of the designation of guardianship issued by the district, in person
1184 or by any form of mail requiring a signed receipt, to the clerk of the state district court in which
1185 the school district is located.

1186 (b) The court may not charge the school district a fee for filing guardianship papers
1187 under this section.

1188 (8) (a) The authority and responsibility of a custodial parent or legal guardian
1189 submitting an affidavit under this section may be restored by the district, and the guardianship
1190 obtained under this section terminated by the district:

1191 (i) upon submission to the school district in which the guardianship was obtained of a
1192 signed and notarized statement by the person who consented to guardianship under Subsection
1193 (2)(a) requesting termination of the guardianship; or

1194 (ii) by the person accepting guardianship under Subsection (2)(b) requesting the
1195 termination of the guardianship.

1196 (b) If the school district determines that it would not be in the best interests of the child
1197 to terminate the guardianship, the district may refer the request for termination to the state
1198 district court in which the documents were filed under Subsection (5) for further action
1199 consistent with the interests of the child.

1200 (9) The school district shall retain copies of all documents required by this section
1201 until the child in question has reached the age of 18 unless directed to surrender the documents
1202 by a court of competent jurisdiction.

1203 (10) (a) Intentional submission to a school district of fraudulent or misleading
1204 information under this part is punishable under Section 76-8-504.

1205 (b) A school district which has reason to believe that a party has intentionally

1206 submitted false or misleading information under this part may, after notice and opportunity for
1207 the party to respond to the allegation:

1208 (i) void any guardianship, authorization, or action which was based upon the false or
1209 misleading information; and

1210 (ii) recover, from the party submitting the information, the full cost of any benefits
1211 received by the child on the basis of the false or misleading information, including tuition, fees,
1212 and other unpaid school charges, together with any related costs of recovery.

1213 (c) A student whose guardianship or enrollment has been terminated under this section
1214 may, upon payment of all applicable tuition and fees, continue in enrollment until the end of
1215 the school year unless excluded from attendance for cause.

1216 Section 8. Section **53G-6-304** is amended to read:

1217 **53G-6-304. Recognition of guardianship.**

1218 (1) A document issued by other than a court of law which purports to award
1219 guardianship to a person who is not a legal resident of the jurisdiction in which the
1220 guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah
1221 court.

1222 (2) The procedure for obtaining approval under Subsection (1) is the procedure
1223 required under Title 75, Chapter 5c, Part 2, [~~Guardians of Minors~~] Guardianship of Minor, for
1224 obtaining a court appointment of a guardian.

1225 Section 9. Section **62A-3-320** is amended to read:

1226 **62A-3-320. Emergency protective services -- Forcible entry.**

1227 (1) Adult Protective Services shall, immediately upon court order, provide emergency
1228 protective services to a court-designated vulnerable adult.

1229 (2) A court may, without notice, order emergency protective services immediately upon
1230 receipt of a petition for emergency protective services when a court finds that:

1231 (a) the subject of the petition is a vulnerable adult;

1232 (b) (i) the vulnerable adult does not have a court-appointed guardian or conservator; or

1233 (ii) the guardian or conservator is not effectively performing the guardian's or
1234 conservator's duties;

1235 (c) an emergency exists; and

1236 (d) the welfare, safety, or best interests of the vulnerable adult requires emergency

1237 protective services.

1238 (3) An emergency protective services order shall specifically designate the services that
1239 are approved and the facts that support the provision of those services.

1240 (4) Services authorized in an emergency protective services order may include
1241 hospitalization, nursing, custodial care, or a change in residence.

1242 (5) An emergency protective services order expires five business days after the day on
1243 which the court issues the order unless an appropriate party petitions for [temporary
1244 guardianship pursuant to Section ~~75-5-310~~] an emergency guardianship pursuant to Section
1245 75-5c-208 or the division files a new petition for an emergency services order.

1246 (6) If a petition for guardianship or an additional emergency protective services petition
1247 is filed within five business days after the day on which the court issues the original emergency
1248 protective services order, a court may extend the duration of the original order an additional 15
1249 business days after the day on which the subsequent petition is filed to allow for a court hearing
1250 on the petition.

1251 (7) To implement an emergency protective services order, a court may authorize
1252 forcible entry by a peace officer into the premises where the vulnerable adult may be found.

1253 Section 10. Section **62A-14-102** is amended to read:

1254 **62A-14-102. Definitions.**

1255 As used in this chapter:

1256 (1) "Conservator" is as defined in Section 75-1-201.

1257 (2) "Court" is as defined in Section 75-1-201.

1258 (3) "Estate" is as defined in Section 75-1-201.

1259 (4) "Guardian" is as defined in Section 75-1-201.

1260 (5) "Incapacitated" means a person who has been determined by a court[, pursuant to
1261 ~~Section 75-5-303;~~] to be incapacitated, as defined in Section 75-1-201, after the office has
1262 determined that the person is 18 years of age or older and suffers from a mental or physical
1263 impairment as part of the prepetition assessment in Section 62A-14-107.

1264 (6) "Office" means the Office of Public Guardian.

1265 (7) "Property" is as defined in Section 75-1-201.

1266 (8) "Ward" means an incapacitated person for whom the office has been appointed as
1267 guardian or conservator.

1268 Section 11. Section **62A-14-105** is amended to read:

1269 **62A-14-105. Powers and duties of the office.**

1270 (1) The office shall:

1271 (a) before January 1, 2000, develop and operate a statewide program to:

1272 (i) educate the public about the role and function of guardians and conservators; and

1273 (ii) serve as a guardian, conservator, or both for a ward upon appointment by a court

1274 when no other person is able and willing to do so and the office petitioned for or agreed in

1275 advance to the appointment;

1276 (b) possess and exercise all the powers and duties specifically given to the office by

1277 virtue of being appointed as guardian or conservator of a ward, including the power to access a

1278 ward's records;

1279 (c) review and monitor the personal and, if appropriate, financial status of each ward

1280 for whom the office has been appointed to serve as guardian or conservator;

1281 (d) train and monitor each employee and volunteer, and monitor each contract provider

1282 to whom the office has delegated a responsibility for a ward;

1283 (e) retain all court-delegated powers and duties for a ward;

1284 (f) report on the personal and financial status of a ward as required by a court in

1285 accordance with Title 75, Chapter [~~5, Protection of Persons Under Disability and Their~~

1286 ~~Property~~] 5c, Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act;

1287 (g) handle a ward's funds in accordance with the department's trust account system;

1288 (h) request that the department's audit plan, established pursuant to Section 63I-5-401,

1289 include the requirement of an annual audit of all funds and property held by the office on behalf

1290 of wards;

1291 (i) maintain accurate records concerning each ward, the ward's property, and office

1292 services provided to the ward;

1293 (j) make reasonable and continuous efforts to find a family member, friend, or other

1294 person to serve as a ward's guardian or conservator;

1295 (k) after termination as guardian or conservator, distribute a ward's property in

1296 accordance with Title 75, Chapter [~~5, Protection of Persons Under Disability and Their~~

1297 ~~Property~~] 5c, Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act;

1298 (l) submit recommendations for changes in state law and funding to the governor and

1299 the Legislature and report to the governor and Legislature, upon request; and

1300 (m) establish, implement, and enforce rules.

1301 (2) The office may:

1302 (a) petition a court pursuant to Title 75, Chapter [~~5, Protection of Persons Under~~

1303 ~~Disability and Their Property~~] 5c, Uniform Guardianship, Conservatorship, and Other

1304 Protective Arrangements Act, to be appointed an incapacitated person's guardian, conservator,

1305 or both after conducting a prepetition assessment under Section 62A-14-107;

1306 (b) develop and operate a statewide program to recruit, train, supervise, and monitor

1307 volunteers to assist the office in providing guardian and conservator services;

1308 (c) delegate one or more responsibilities for a ward to an employee, volunteer, or

1309 contract provider, except as provided in Subsection 62A-14-107(1);

1310 (d) solicit and receive private donations to provide guardian and conservator services

1311 under this chapter; and

1312 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative

1313 Rulemaking Act, to:

1314 (i) effectuate policy; and

1315 (ii) carry out the office's role as guardian and conservator of wards as provided in this

1316 chapter.

1317 Section 12. Section **63I-2-275** is amended to read:

1318 **63I-2-275. Repeal dates -- Title 75.**

1319 [~~Subsection 75-5-303(5)(d) is repealed on July 1, 2028.~~]

1320 Section 13. Section **75-1-201** is amended to read:

1321 **75-1-201. General definitions.**

1322 Subject to additional definitions contained in the subsequent chapters that are

1323 applicable to specific chapters, parts, or sections, and unless the context otherwise requires, in

1324 this [~~code~~] title:

1325 (1) "Agent" includes an attorney-in-fact under a durable or nondurable power of

1326 attorney, an individual authorized to make decisions concerning another's health care, and an

1327 individual authorized to make decisions for another under a natural death act.

1328 (2) "Application" means a written request to the registrar for an order of informal

1329 probate or appointment under [~~Title 75,~~] Chapter 3, Part 3, Informal Probate and Appointment

1330 Proceedings.

1331 (3) "Beneficiary," as it relates to trust beneficiaries, includes a person who has any
1332 present or future interest, vested or contingent, and also includes the owner of an interest by
1333 assignment or other transfer; as it relates to a charitable trust, includes any person entitled to
1334 enforce the trust; as it relates to a "beneficiary of a beneficiary designation," refers to a
1335 beneficiary of an insurance or annuity policy, of an account with POD designation, of a security
1336 registered in beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar
1337 benefit plan, or other nonprobate transfer at death; and, as it relates to a "beneficiary designated
1338 in a governing instrument," includes a grantee of a deed, a devisee, a trust beneficiary, a
1339 beneficiary of a beneficiary designation, a donee, appointee, or taker in default of a power of
1340 appointment, and a person in whose favor a power of attorney or a power held in any
1341 individual, fiduciary, or representative capacity is exercised.

1342 (4) "Beneficiary designation" refers to a governing instrument naming a beneficiary of
1343 an insurance or annuity policy, of an account with POD designation, of a security registered in
1344 beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar benefit plan, or
1345 other nonprobate transfer at death.

1346 (5) "Child" includes any individual entitled to take as a child under this code by
1347 intestate succession from the parent whose relationship is involved and excludes any person
1348 who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

1349 (6) "Claims," in respect to estates of decedents and protected persons, includes
1350 liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise,
1351 and liabilities of the estate which arise at or after the death of the decedent or after the
1352 appointment of a conservator, including funeral expenses and expenses of administration.
1353 "Claims" does not include estate or inheritance taxes, or demands or disputes regarding title of
1354 a decedent or protected person to specific assets alleged to be included in the estate.

1355 (7) "Conservator" means a person who is appointed by a court to manage the estate of a
1356 protected person.

1357 (8) "Court" means any of the courts of record in this state having jurisdiction in matters
1358 relating to the affairs of decedents.

1359 (9) "Descendant" of an individual means all of his descendants of all generations, with
1360 the relationship of parent and child at each generation being determined by the definition of

1361 child and parent contained in this title.

1362 (10) "Devise," when used as a noun, means a testamentary disposition of real or
1363 personal property and, when used as a verb, means to dispose of real or personal property by
1364 will.

1365 (11) "Devisee" means any person designated in a will to receive a devise. For the
1366 purposes of [~~Title 75;~~] Chapter 3, Probate of Wills and Administration, in the case of a devise
1367 to an existing trust or trustee, or to a trustee in trust described by will, the trust or trustee is the
1368 devisee, and the beneficiaries are not devisees.

1369 (12) "Disability" means cause for a protective order as described by Section [~~75-5-401~~]
1370 [75-5c-502](#) or [75-5c-503](#).

1371 (13) "Distributee" means any person who has received property of a decedent from his
1372 personal representative other than as a creditor or purchaser. A testamentary trustee is a
1373 distributee only to the extent of distributed assets or increment thereto remaining in his hands.
1374 A beneficiary of a testamentary trust to whom the trustee has distributed property received from
1375 a personal representative is a distributee of the personal representative. For purposes of this
1376 provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to
1377 the extent of the devised assets.

1378 (14) "Estate" includes the property of the decedent, trust, or other person whose affairs
1379 are subject to this title as originally constituted and as it exists from time to time during
1380 administration.

1381 (15) "Exempt property" means that property of a decedent's estate which is described in
1382 Section [75-2-403](#).

1383 (16) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

1384 (17) "Foreign personal representative" means a personal representative of another
1385 jurisdiction.

1386 (18) "Formal proceedings" means proceedings conducted before a judge with notice to
1387 interested persons.

1388 (19) "Governing instrument" means a deed, will, trust, insurance or annuity policy,
1389 account with POD designation, security registered in beneficiary form (TOD), pension,
1390 profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of
1391 appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of

1392 any similar type.

1393 (20) "Guardian" means a person who has qualified as a guardian of a minor [~~or~~
1394 ~~incapacitated person~~] by court appointment or an adult pursuant to testamentary or court
1395 appointment[~~, or by written instrument as provided in Section 75-5-202.5~~], but excludes one
1396 who is merely a guardian ad litem.

1397 (21) "Heirs," except as controlled by Section 75-2-711, means persons, including the
1398 surviving spouse and state, who are entitled under the statutes of intestate succession to the
1399 property of a decedent.

1400 (22) "Incapacitated" or "incapacity" is measured by functional limitations and means a
1401 judicial determination after proof by clear and convincing evidence that an adult's ability to do
1402 the following is impaired to the extent that the individual lacks the ability, even with
1403 appropriate technological assistance, to meet the essential requirements for financial protection
1404 or physical health, safety, or self-care:

1405 (a) receive and evaluate information;

1406 (b) make and communicate decisions; or

1407 (c) provide for necessities such as food, shelter, clothing, health care, or safety.

1408 (23) "Informal proceedings" mean those conducted without notice to interested persons
1409 by an officer of the court acting as a registrar for probate of a will or appointment of a personal
1410 representative.

1411 (24) "Interested person" includes heirs, devisees, children, spouses, creditors,
1412 beneficiaries, and any others having a property right in or claim against a trust estate or the
1413 estate of a decedent, ward, or protected person. It also includes persons having priority for
1414 appointment as personal representative, other fiduciaries representing interested persons, a
1415 settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but
1416 incapacitated. The meaning as it relates to particular persons may vary from time to time and
1417 shall be determined according to the particular purposes of, and matter involved in, any
1418 proceeding.

1419 (25) "Issue" of a person means descendant as defined in Subsection (9).

1420 (26) "Joint tenants with the right of survivorship" and "community property with the
1421 right of survivorship" includes coowners of property held under circumstances that entitle one
1422 or more to the whole of the property on the death of the other or others, but excludes forms of

1423 coownership registration in which the underlying ownership of each party is in proportion to
1424 that party's contribution.

1425 (27) "Lease" includes an oil, gas, or other mineral lease.

1426 (28) "Letters" includes letters testamentary, letters of guardianship, letters of
1427 administration, and letters of conservatorship.

1428 (29) "Minor" means a person who is under 18 years of age.

1429 (30) "Mortgage" means any conveyance, agreement, or arrangement in which property
1430 is used as security.

1431 (31) "Nonresident decedent" means a decedent who was domiciled in another
1432 jurisdiction at the time of his death.

1433 (32) "Organization" includes a corporation, limited liability company, business trust,
1434 estate, trust, partnership, joint venture, association, government or governmental subdivision or
1435 agency, or any other legal or commercial entity.

1436 (33) "Parent" includes any person entitled to take, or who would be entitled to take if
1437 the child died without a will, as a parent under this code by intestate succession from the child
1438 whose relationship is in question and excludes any person who is only a stepparent, foster
1439 parent, or grandparent.

1440 (34) "Payor" means a trustee, insurer, business entity, employer, government,
1441 governmental agency or subdivision, or any other person authorized or obligated by law or a
1442 governing instrument to make payments.

1443 (35) "Person" means an individual or an organization.

1444 (36) (a) "Personal representative" includes executor, administrator, successor personal
1445 representative, special administrator, and persons who perform substantially the same function
1446 under the law governing their status.

1447 (b) "General personal representative" excludes special administrator.

1448 (37) "Petition" means a written request to the court for an order after notice.

1449 (38) "Proceeding" includes action at law and suit in equity.

1450 (39) "Property" includes both real and personal property or any interest therein and
1451 means anything that may be the subject of ownership.

1452 (40) "Protected person" means a person for whom a conservator has been appointed. A
1453 "minor protected person" means a minor for whom a conservator has been appointed because

1454 of minority.

1455 (41) "Protective proceeding" means a proceeding described in Section [~~75-5-401~~]

1456 [75-5c-501](#).

1457 (42) "Record" means information that is inscribed on a tangible medium or that is

1458 stored in an electronic or other medium and is retrievable in perceivable form.

1459 (43) "Registrar" refers to the official of the court designated to perform the functions of

1460 registrar as provided in Section [75-1-307](#).

1461 (44) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of

1462 indebtedness, certificate of interest, or participation in an oil, gas, or mining title or lease or in

1463 payments out of production under such a title or lease, collateral trust certificate, transferable

1464 share, voting trust certificate, and, in general, any interest or instrument commonly known as a

1465 security, or any certificate of interest or participation, any temporary or interim certificate,

1466 receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of

1467 the foregoing.

1468 (45) "Settlement," in reference to a decedent's estate, includes the full process of

1469 administration, distribution, and closing.

1470 (46) "Sign" means, with present intent to authenticate or adopt a record other than a

1471 will:

1472 (a) to execute or adopt a tangible symbol; or

1473 (b) to attach to or logically associate with the record an electronic symbol, sound, or

1474 process.

1475 (47) "Special administrator" means a personal representative as described in Sections

1476 [75-3-614](#) through [75-3-618](#).

1477 (48) "State" means a state of the United States, the District of Columbia, the

1478 Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of

1479 the United States, or a Native American tribe or band recognized by federal law or formally

1480 acknowledged by a state.

1481 (49) "Successor personal representative" means a personal representative, other than a

1482 special administrator, who is appointed to succeed a previously appointed personal

1483 representative.

1484 (50) "Successors" means persons, other than creditors, who are entitled to property of a

1485 decedent under the decedent's will or this title.

1486 (51) "Supervised administration" refers to the proceedings described in [~~Title 75,~~
1487 Chapter 3, Part 5, Supervised Administration.

1488 (52) "Survive," except for purposes of Part 3 of Article VI, Uniform TOD Security
1489 Registration Act, means that an individual has neither predeceased an event, including the
1490 death of another individual, nor is considered to have predeceased an event under Section
1491 75-2-104 or 75-2-702. The term includes its derivatives, such as "survives," "survived,"
1492 "survivor," and "surviving."

1493 (53) "Testacy proceeding" means a proceeding to establish a will or determine
1494 intestacy.

1495 (54) "Testator" includes an individual of either sex.

1496 (55) "Trust" includes a health savings account, as defined in Section 223, Internal
1497 Revenue Code, any express trust, private or charitable, with additions thereto, wherever and
1498 however created. The term also includes a trust created or determined by judgment or decree
1499 under which the trust is to be administered in the manner of an express trust. The term
1500 excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal
1501 representatives, trust accounts as defined in [~~Title 75,~~] Chapter 6, Nonprobate Transfers,
1502 custodial arrangements pursuant to any Uniform Transfers To Minors Act, business trusts
1503 providing for certificates to be issued to beneficiaries, common trust funds, voting trusts,
1504 preneed funeral plans under Title 58, Chapter 9, Funeral Services Licensing Act, security
1505 arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends,
1506 interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any
1507 arrangement under which a person is nominee or escrowee for another.

1508 (56) "Trustee" includes an original, additional, and successor trustee, and cotrustee,
1509 whether or not appointed or confirmed by the court.

1510 (57) "Ward" means a person for whom a guardian has been appointed. A "minor ward"
1511 is a minor for whom a guardian has been appointed solely because of minority.

1512 (58) "Will" includes codicil and any testamentary instrument which merely appoints an
1513 executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits
1514 the right of an individual or class to succeed to property of the decedent passing by intestate
1515 succession.

1516 Section 14. Section **75-5b-102** is amended to read:

1517 **75-5b-102. Definitions.**

1518 In this chapter:

1519 (1) "Adult" means an individual who has attained 18 years of age.

1520 (2) "Conservator" means a person appointed by the court to administer the property of
1521 an adult, including a person appointed under [~~Title 75;~~] Chapter 5c, Part 4, [~~Protection of~~
1522 ~~Property of Persons Under Disability and Minors~~] Conservatorship.

1523 (3) "Emergency" means circumstances that likely will result in substantial harm to a
1524 respondent's health, safety, or welfare, and in which the appointment of a guardian is necessary
1525 because no other person has authority to and is willing to act on the respondent's behalf.

1526 (4) "Guardian" means a person appointed by the court to make decisions regarding the
1527 person of an adult, including a person appointed under [~~Title 75;~~] Chapter 5c, Part 3,
1528 [~~Guardians of Incapacitated Persons~~] Guardianship of Adult.

1529 (5) "Guardianship order" means an order appointing a guardian.

1530 (6) "Guardianship proceeding" means a proceeding in which an order for the
1531 appointment of a guardian is sought or has been issued.

1532 (7) "Home state" means the state in which the respondent was physically present for at
1533 least six consecutive months immediately before the filing of a petition for the appointment of
1534 a guardian or protective order. A period of temporary absence counts as part of the six-month
1535 period.

1536 (8) "Incapacitated person" means an adult for whom a guardian has been appointed.

1537 (9) "Party" means the respondent, petitioner, guardian, conservator, or any other person
1538 allowed by the court to participate in a guardianship or protective proceeding.

1539 (10) "Person," except in the terms "incapacitated person" or "protected person," means
1540 an individual, corporation, business trust, estate, trust, partnership, limited liability company,
1541 association, joint venture, government or governmental subdivision, agency or instrumentality,
1542 public corporation, or any other legal or commercial entity.

1543 (11) "Protected person" means an adult for whom a protective order has been made.

1544 (12) "Protective order" means an order appointing a conservator or another court order
1545 related to management of an adult's property.

1546 (13) "Protective proceeding" means a judicial proceeding in which a protective order is

1547 sought or has been issued.

1548 (14) "Record" means information that is inscribed on a tangible medium or that is
1549 stored in an electronic or other medium and is retrievable in perceivable form.

1550 (15) "Respondent" means an adult for whom a protective order or the appointment of a
1551 guardian is sought.

1552 (16) "Significant-connection state" means a state, other than the home state, with which
1553 a respondent has a significant connection other than mere physical presence and in which
1554 substantial evidence concerning the respondent is available.

1555 (17) "State" means a state of the United States, the District of Columbia, Puerto Rico,
1556 the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular
1557 possession subject to the jurisdiction of the United States.

1558 Section 15. Section **75-5b-302** is amended to read:

1559 **75-5b-302. Accepting guardianship or conservatorship transferred from another**
1560 **state.**

1561 (1) To confirm transfer of a guardianship or conservatorship transferred to this state
1562 under provisions similar to Section **75-5b-301**, the guardian or conservator shall petition the
1563 court in this state to accept the guardianship or conservatorship. The petition shall include a
1564 certified copy of the other state's provisional order of transfer.

1565 (2) Notice of a petition under Subsection (1) shall be given by the petitioner to those
1566 persons who would be entitled to notice if the petition were a petition for the appointment of a
1567 guardian or issuance of a protective order in both the transferring state and this state. The
1568 notice shall be given in the same manner as notice is given in this state.

1569 (3) On the court's own motion or on request of the incapacitated or protected person, or
1570 other person required to be notified of the proceeding, the court shall hold a hearing on a
1571 petition filed pursuant to Subsection (1).

1572 (4) The court shall issue an order provisionally granting a petition filed under
1573 Subsection (1) unless:

1574 (a) an objection is made and the objector establishes that transfer of the proceeding
1575 would be contrary to the interests of the incapacitated or protected person; or

1576 (b) the guardian or conservator is ineligible for appointment in this state.

1577 (5) The court shall issue a final order accepting the proceeding and appointing the

1578 guardian or conservator as guardian or conservator in this state upon its receipt from the court
1579 from which the proceeding is being transferred of a final order issued under provisions similar
1580 to Section 75-5b-301 transferring the proceeding to this state.

1581 (6) Not later than 90 days after issuance of a final order accepting transfer of a
1582 guardianship or conservatorship, the court shall determine whether the guardianship or
1583 conservatorship needs to be modified to conform to the law of this state.

1584 (7) In granting a petition under this section, the court shall recognize a guardianship or
1585 conservatorship order from the other state, including the determination of the incapacitated or
1586 protected person's incapacity and the appointment of the guardian or conservator.

1587 (8) The denial by a court of this state of a petition to accept a guardianship or
1588 conservatorship transferred from another state does not affect the ability of the guardian or
1589 conservator to seek appointment as guardian or conservator in this state under [~~Title 75;~~
1590 Chapter 5c, Part 3, [~~Guardians of Incapacitated Persons~~] Guardianship of Adult, if the court has
1591 jurisdiction to make an appointment other than by reason of the provisional order of transfer.

1592 Section 16. Section **75-5c-101** is enacted to read:

1593 **CHAPTER 5c. UNIFORM GUARDIANSHIP, CONSERVATORSHIP,**
1594 **AND OTHER PROTECTIVE ARRANGEMENTS ACT**

1595 **Part 1. General Provisions**

1596 **75-5c-101. Title.**

1597 This chapter may be cited as the "Uniform Guardianship, Conservatorship, and Other
1598 Protective Arrangements Act."

1599 Section 17. Section **75-5c-102** is enacted to read:

1600 **75-5c-102. Definitions.**

1601 In this chapter:

1602 (1) "Adult" means an individual at least 18 years of age or an emancipated individual
1603 under 18 years of age.

1604 (2) "Adult subject to conservatorship" means an adult for whom a conservator has been
1605 appointed under this chapter.

1606 (3) "Adult subject to guardianship" means an adult for whom a guardian has been
1607 appointed under this chapter.

1608 (4) "Claim" includes a claim against an individual or conservatorship estate, whether

1609 arising in contract, tort, or otherwise.

1610 (5) "Conservator" means a person appointed by a court to make decisions with respect
1611 to the property or financial affairs of an individual subject to conservatorship. The term
1612 includes a coconservator.

1613 (6) "Conservatorship estate" means the property subject to conservatorship under this
1614 chapter.

1615 (7) "Full conservatorship" means a conservatorship that grants the conservator all
1616 powers available under this chapter.

1617 (8) "Full guardianship" means a guardianship that grants the guardian all powers
1618 available under this chapter.

1619 (9) "Guardian" means a person appointed by the court to make decisions with respect
1620 to the personal affairs of an individual. The term includes a coguardian but does not include a
1621 guardian ad litem.

1622 (10) "Guardian ad litem" means a person appointed to inform the court about, and to
1623 represent, the needs and best interest of an individual.

1624 (11) "Individual subject to conservatorship" means an adult or minor for whom a
1625 conservator has been appointed under this chapter.

1626 (12) "Individual subject to guardianship" means an adult or minor for whom a guardian
1627 has been appointed under this chapter.

1628 (13) (a) "Less restrictive alternative" means an approach to meeting an individual's
1629 needs which restricts fewer rights of the individual than would the appointment of a guardian
1630 or conservator.

1631 (b) "Less restrictive alternative" includes supported decision making, appropriate
1632 technological assistance, appointment of a representative payee, and appointment of an agent
1633 by the individual, including appointment under a power of attorney for health care or power of
1634 attorney for finances.

1635 (14) "Letters of office" means a record issued by a court certifying a guardian's or
1636 conservator's authority to act.

1637 (15) "Limited conservatorship" means a conservatorship that grants the conservator
1638 less than all powers available under this chapter, grants powers over only certain property, or
1639 otherwise restricts the powers of the conservator.

1640 (16) "Limited guardianship" means a guardianship that grants the guardian less than all
1641 powers available under this chapter or otherwise restricts the powers of the guardian.

1642 (17) "Minor" means an unemancipated individual under 18 years of age.

1643 (18) "Minor subject to conservatorship" means a minor for whom a conservator has
1644 been appointed under this chapter.

1645 (19) "Minor subject to guardianship" means a minor for whom a guardian has been
1646 appointed under this chapter.

1647 (20) "Parent" does not include an individual whose parental rights have been
1648 terminated.

1649 (21) "Person" means an individual, estate, business or nonprofit entity, public
1650 corporation, government or governmental subdivision, agency, or instrumentality, or other
1651 legal entity.

1652 (22) "Property" includes tangible and intangible property.

1653 (23) "Protective arrangement instead of conservatorship" means a court order entered
1654 under Section [75-5c-503](#).

1655 (24) "Protective arrangement instead of guardianship" means a court order entered
1656 under Section [75-5c-502](#).

1657 (25) "Protective arrangement under Part 5" means a court order entered under Section
1658 [75-5c-502](#) or [75-5c-503](#).

1659 (26) "Record," used as a noun, means information that is inscribed on a tangible
1660 medium or that is stored in an electronic or other medium and is retrievable in perceivable
1661 form.

1662 (27) "Respondent" means an individual for whom appointment of a guardian or
1663 conservator or a protective arrangement instead of guardianship or conservatorship is sought.

1664 (28) "Sign" means, with present intent to authenticate or adopt a record:

1665 (a) to execute or adopt a tangible symbol; or

1666 (b) to attach to or logically associate with the record an electronic symbol, sound, or
1667 process.

1668 (29) "Standby guardian" means a person appointed by the court under Section
1669 [75-5c-207](#).

1670 (30) "State" means a state of the United States, the District of Columbia, Puerto Rico,

1671 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
1672 of the United States. The term includes a federally recognized Indian tribe.

1673 (31) "Supported decision making" means assistance from one or more persons of an
1674 individual's choosing in understanding the nature and consequences of potential personal and
1675 financial decisions, which enables the individual to make the decisions, and in communicating
1676 a decision once made if consistent with the individual's wishes.

1677 Section 18. Section **75-5c-103** is enacted to read:

1678 **75-5c-103. Supplemental principles of law and equity applicable.**

1679 Unless displaced by a particular provision of this chapter, the principles of law and
1680 equity supplement its provisions.

1681 Section 19. Section **75-5c-104** is enacted to read:

1682 **75-5c-104. Subject-matter jurisdiction.**

1683 (1) Except to the extent jurisdiction is precluded by Title 78B, Chapter 13, Utah
1684 Uniform Child Custody Jurisdiction and Enforcement Act, the district court has jurisdiction
1685 over a guardianship for a minor domiciled or present in this state. The court has jurisdiction
1686 over a conservatorship or protective arrangement instead of conservatorship for a minor
1687 domiciled or having property in this state.

1688 (2) The district court has jurisdiction over a guardianship, conservatorship, or
1689 protective arrangement under Part 5, Other Protective Arrangements, for an adult as provided
1690 in Chapter 5b, Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

1691 (3) After notice is given in a proceeding for a guardianship, conservatorship, or
1692 protective arrangement under Part 5, Other Protective Arrangements, and until termination of
1693 the proceeding, the court in which the petition is filed has:

1694 (a) exclusive jurisdiction to determine the need for the guardianship, conservatorship,
1695 or protective arrangement;

1696 (b) exclusive jurisdiction to determine how property of the respondent must be
1697 managed, expended, or distributed to or for the use of the respondent, an individual who is
1698 dependent in fact on the respondent, or other claimant;

1699 (c) nonexclusive jurisdiction to determine the validity of a claim against the respondent
1700 or property of the respondent or a question of title concerning the property; and

1701 (d) if a guardian or conservator is appointed, exclusive jurisdiction over issues related

1702 to administration of the guardianship or conservatorship.

1703 (4) A court that appoints a guardian or conservator, or authorizes a protective
1704 arrangement under Part 5, Other Protective Arrangements, has exclusive and continuing
1705 jurisdiction over the proceeding until the court terminates the proceeding or the appointment or
1706 protective arrangement expires by its terms.

1707 Section 20. Section **75-5c-105** is enacted to read:

1708 **75-5c-105. Transfer of proceeding.**

1709 (1) This section does not apply to a guardianship or conservatorship for an adult which
1710 is subject to the transfer provisions of Chapter 5b, Part 3, Transfer of Jurisdiction.

1711 (2) After appointment of a guardian or conservator, the court that made the
1712 appointment may transfer the proceeding to a court in another county in this state or another
1713 state if transfer is in the best interest of the individual subject to the guardianship or
1714 conservatorship.

1715 (3) If a proceeding for a guardianship or conservatorship is pending in another state or
1716 a foreign country and a petition for guardianship or conservatorship for the same individual is
1717 filed in a court in this state, the court shall notify the court in the other state or foreign country
1718 and, after consultation with that court, assume or decline jurisdiction, whichever is in the best
1719 interest of the respondent.

1720 (4) A guardian or conservator appointed in another state or country may petition the
1721 court for appointment as a guardian or conservator in this state for the same individual if
1722 jurisdiction in this state is or will be established. The appointment may be made on proof of
1723 appointment in the other state or foreign country and presentation of a certified copy of the part
1724 of the court record in the other state or country specified by the court in this state.

1725 (5) Notice of hearing on a petition under Subsection (4), together with a copy of the
1726 petition, must be given to the respondent, if the respondent is at least 12 years of age at the time
1727 of the hearing, and to the persons that would be entitled to notice if the procedures for
1728 appointment of a guardian or conservator under this chapter were applicable. The court shall
1729 make the appointment unless it determines the appointment would not be in the best interest of
1730 the respondent.

1731 (6) Not later than 14 days after appointment under Subsection (5), the guardian or
1732 conservator shall give a copy of the order of appointment to the individual subject to

1733 guardianship or conservatorship, if the individual is at least 12 years of age, and to all persons
1734 given notice of the hearing on the petition.

1735 Section 21. Section **75-5c-106** is enacted to read:

1736 **75-5c-106. Venue.**

1737 (1) Venue for a guardianship proceeding for a minor is in:

1738 (a) the county in which the minor resides or is present at the time the proceeding
1739 commences; or

1740 (b) the county in which another proceeding concerning the custody or parental rights of
1741 the minor is pending.

1742 (2) Venue for a guardianship proceeding or protective arrangement instead of
1743 guardianship for an adult is in:

1744 (a) the county in which the respondent resides;

1745 (b) if the respondent has been admitted to an institution by court order, the county in
1746 which the court is located; or

1747 (c) if the proceeding is for appointment of an emergency guardian for an adult, the
1748 county in which the respondent is present.

1749 (3) Venue for a conservatorship proceeding or protective arrangement instead of
1750 conservatorship is in:

1751 (a) the county in which the respondent resides, whether or not a guardian has been
1752 appointed in another county or other jurisdiction; or

1753 (b) if the respondent does not reside in this state, in any county in which property of the
1754 respondent is located.

1755 (4) If proceedings under this chapter are brought in more than one county, the court of
1756 the county in which the first proceeding is brought has the exclusive right to proceed unless the
1757 court determines venue is properly in another court or the interest of justice otherwise requires
1758 transfer of the proceeding.

1759 Section 22. Section **75-5c-107** is enacted to read:

1760 **75-5c-107. Practice in court.**

1761 (1) Except as otherwise provided in this chapter, the rules of evidence and civil
1762 procedure, including rules concerning appellate review, govern a proceeding under this chapter.

1763 (2) If proceedings for a guardianship, conservatorship, or protective arrangement under

1764 Part 5, Other Protective Arrangements, for the same individual are commenced or pending in
1765 the same court, the proceedings may be consolidated.

1766 Section 23. Section **75-5c-108** is enacted to read:

1767 **75-5c-108. Letters of office.**

1768 (1) The court shall issue letters of office to a guardian on filing by the guardian of an
1769 acceptance of appointment.

1770 (2) The court shall issue letters of office to a conservator on filing by the conservator of
1771 an acceptance of appointment and filing of any required bond or compliance with any other
1772 asset-protection arrangement required by the court.

1773 (3) Limitations on the powers of a guardian or conservator or on the property subject to
1774 conservatorship must be stated on the letters of office.

1775 (4) The court at any time may limit the powers conferred on a guardian or conservator.
1776 The court shall issue new letters of office to reflect the limitation. The court shall give notice of
1777 the limitation to the guardian or conservator, individual subject to guardianship or
1778 conservatorship, each parent of a minor subject to guardianship or conservatorship, and any
1779 other person the court determines.

1780 Section 24. Section **75-5c-109** is enacted to read:

1781 **75-5c-109. Effect of acceptance of appointment.**

1782 On acceptance of appointment, a guardian or conservator submits to personal
1783 jurisdiction of the court in this state in any proceeding relating to the guardianship or
1784 conservatorship.

1785 Section 25. Section **75-5c-110** is enacted to read:

1786 **75-5c-110. Coguardian -- Coconservator.**

1787 (1) The court at any time may appoint a coguardian or coconservator to serve
1788 immediately or when a designated event occurs.

1789 (2) A coguardian or coconservator appointed to serve immediately may act when that
1790 coguardian or coconservator complies with Section [75-5c-108](#).

1791 (3) A coguardian or coconservator appointed to serve when a designated event occurs
1792 may act when:

1793 (a) the event occurs; and

1794 (b) that coguardian or coconservator complies with Section [75-5c-108](#).

1795 (4) Unless an order of appointment under Subsection (1) or subsequent order states
1796 otherwise, coguardians or coconservators shall make decisions jointly.

1797 Section 26. Section **75-5c-111** is enacted to read:

1798 **75-5c-111. Judicial appointment of successor guardian or successor conservator.**

1799 (1) The court at any time may appoint a successor guardian or successor conservator to
1800 serve immediately or when a designated event occurs.

1801 (2) A person entitled under Section [75-5c-202](#) or [75-5c-302](#) to petition the court to
1802 appoint a guardian may petition the court to appoint a successor guardian. A person entitled
1803 under Section [75-5c-402](#) to petition the court to appoint a conservator may petition the court to
1804 appoint a successor conservator.

1805 (3) A successor guardian or successor conservator appointed to serve when a
1806 designated event occurs may act as guardian or conservator when:

1807 (a) the event occurs; and

1808 (b) the successor complies with Section [75-5c-108](#).

1809 (4) A successor guardian or successor conservator has the predecessor's powers unless
1810 otherwise provided by the court.

1811 Section 27. Section **75-5c-112** is enacted to read:

1812 **75-5c-112. Effect of death, removal, or resignation of guardian or conservator.**

1813 (1) Appointment of a guardian or conservator terminates on the death or removal of the
1814 guardian or conservator, or when the court under Subsection (2) approves a resignation of the
1815 guardian or conservator.

1816 (2) A guardian or conservator must petition the court to resign. The petition may
1817 include a request that the court appoint a successor. Resignation of a guardian or conservator is
1818 effective on the date the resignation is approved by the court.

1819 (3) Death, removal, or resignation of a guardian or conservator does not affect liability
1820 for a previous act or the obligation to account for:

1821 (a) an action taken on behalf of the individual subject to guardianship or
1822 conservatorship; or

1823 (b) the individual's funds or other property.

1824 Section 28. Section **75-5c-113** is enacted to read:

1825 **75-5c-113. Notice of hearing generally.**

1826 (1) Except as otherwise provided in Sections 75-5c-203, 75-5c-207, 75-5c-303,
1827 75-5c-403, and 75-5c-505, if notice of a hearing under this chapter is required, the movant shall
1828 give notice of the date, time, and place of the hearing to the person to be notified unless
1829 otherwise ordered by the court for good cause. Except as otherwise provided in this chapter,
1830 notice must be given in compliance with Rule 6, Utah Rules of Civil Procedure, at least 14
1831 days before the hearing.

1832 (2) Proof of notice of a hearing under this chapter must be made before or at the
1833 hearing and filed in the proceeding.

1834 (3) Notice of a hearing under this chapter must be in at least 16-point font, in plain
1835 language, and, to the extent feasible, in a language in which the person to be notified is
1836 proficient.

1837 Section 29. Section **75-5c-114** is enacted to read:

1838 **75-5c-114. Waiver of notice.**

1839 (1) Except as otherwise provided in Subsection (2), a person may waive notice under
1840 this chapter in a record signed by the person or person's attorney and filed in the proceeding.

1841 (2) A respondent, individual subject to guardianship, individual subject to
1842 conservatorship, or individual subject to a protective arrangement under Part 5, Other
1843 Protective Arrangements, may not waive notice under this chapter.

1844 Section 30. Section **75-5c-115** is enacted to read:

1845 **75-5c-115. Guardian ad litem.**

1846 The court at any time may appoint a guardian ad litem for an individual if the court
1847 determines the individual's interest otherwise would not be adequately represented. If no
1848 conflict of interest exists, a guardian ad litem may be appointed to represent multiple
1849 individuals or interests. The guardian ad litem may not be the same individual as the attorney
1850 representing the respondent. The court shall state the duties of the guardian ad litem and the
1851 reasons for the appointment.

1852 Section 31. Section **75-5c-116** is enacted to read:

1853 **75-5c-116. Request for notice.**

1854 (1) A person may file with the court a request for notice under this chapter if the person
1855 is:

1856 (a) not otherwise entitled to notice; and

1857 (b) interested in the welfare of a respondent, individual subject to guardianship or
1858 conservatorship, or individual subject to a protective arrangement under Part 5, Other
1859 Protective Arrangements.

1860 (2) A request under Subsection (1) must include a statement showing the interest of the
1861 person making the request and the address of the person or an attorney for the person to whom
1862 notice is to be given.

1863 (3) If the court approves a request under Subsection (1), the court shall give notice of
1864 the approval to the guardian or conservator, if one has been appointed, or the respondent if no
1865 guardian or conservator has been appointed.

1866 Section 32. Section **75-5c-117** is enacted to read:

1867 **75-5c-117. Disclosure of bankruptcy or criminal history.**

1868 (1) Before accepting appointment as a guardian or conservator, a person shall disclose
1869 to the court whether the person:

1870 (a) is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding; or

1871 (b) been convicted of:

1872 (i) a felony;

1873 (ii) a crime involving dishonesty, neglect, violence, or use of physical force; or

1874 (iii) other crime relevant to the functions the individual would assume as guardian or
1875 conservator.

1876 (2) A guardian or conservator that engages or anticipates engaging an agent the
1877 guardian or conservator knows has been convicted of a felony, a crime involving dishonesty,
1878 neglect, violence, or use of physical force, or other crime relevant to the functions the agent is
1879 being engaged to perform promptly shall disclose that knowledge to the court.

1880 (3) If a conservator engages or anticipates engaging an agent to manage finances of the
1881 individual subject to conservatorship and knows the agent is or has been a debtor in a
1882 bankruptcy, insolvency, or receivership proceeding, the conservator promptly shall disclose
1883 that knowledge to the court.

1884 Section 33. Section **75-5c-118** is enacted to read:

1885 **75-5c-118. Multiple nominations.**

1886 If a respondent or other person makes more than one nomination of a guardian or
1887 conservator, the latest in time governs.

1888 Section 34. Section **75-5c-119** is enacted to read:

1889 **75-5c-119. Compensation and expenses -- In general.**

1890 (1) Unless otherwise compensated or reimbursed, an attorney for a respondent in a
1891 proceeding under this chapter is entitled to reasonable compensation for services and
1892 reimbursement of reasonable expenses from the property of the respondent.

1893 (2) Unless otherwise compensated or reimbursed, an attorney or other person whose
1894 services resulted in an order beneficial to an individual subject to guardianship or
1895 conservatorship or for whom a protective arrangement under Part 5, Other Protective
1896 Arrangements, was ordered is entitled to reasonable compensation for services and
1897 reimbursement of reasonable expenses from the property of the individual.

1898 (3) The court must approve compensation and expenses payable under this section
1899 before payment. Approval is not required before a service is provided or an expense is
1900 incurred.

1901 (4) If the court dismisses a petition under this chapter and determines the petition was
1902 filed in bad faith, the court may assess the cost of any court-ordered professional evaluation or
1903 visitor against the petitioner.

1904 Section 35. Section **75-5c-120** is enacted to read:

1905 **75-5c-120. Compensation of guardian or conservator.**

1906 (1) Subject to court approval, a guardian is entitled to reasonable compensation for
1907 services as guardian and to reimbursement for room, board, clothing, and other appropriate
1908 expenses advanced for the benefit of the individual subject to guardianship. If a conservator,
1909 other than the guardian or a person affiliated with the guardian, is appointed for the individual,
1910 reasonable compensation and reimbursement to the guardian may be approved and paid by the
1911 conservator without court approval.

1912 (2) Subject to court approval, a conservator is entitled to reasonable compensation for
1913 services and reimbursement for appropriate expenses from the property of the individual
1914 subject to conservatorship.

1915 (3) In determining reasonable compensation for a guardian or conservator, the court, or
1916 a conservator in determining reasonable compensation for a guardian as provided in Subsection
1917 (1), shall consider:

1918 (a) the necessity and quality of the services provided;

- 1919 (b) the experience, training, professional standing, and skills of the guardian or
1920 conservator;
- 1921 (c) the difficulty of the services performed, including the degree of skill and care
1922 required;
- 1923 (d) the conditions and circumstances under which a service was performed, including
1924 whether the service was provided outside regular business hours or under dangerous or
1925 extraordinary conditions;
- 1926 (e) the effect of the services on the individual subject to guardianship or
1927 conservatorship;
- 1928 (f) the extent to which the services provided were or were not consistent with the
1929 guardian's plan under Section [75-5c-316](#) or conservator's plan under Section [75-5c-419](#); and
- 1930 (g) the fees customarily paid to a person that performs a like service in the community.
- 1931 (4) A guardian or conservator need not use personal funds of the guardian or
1932 conservator for the expenses of the individual subject to guardianship or conservatorship.
- 1933 (5) If an individual subject to guardianship or conservatorship seeks to modify or
1934 terminate the guardianship or conservatorship or remove the guardian or conservator, the court
1935 may order compensation to the guardian or conservator for time spent opposing modification,
1936 termination, or removal only to the extent the court determines the opposition was reasonably
1937 necessary to protect the interest of the individual subject to guardianship or conservatorship.
- 1938 Section 36. Section **75-5c-121** is enacted to read:
- 1939 **75-5c-121. Liability of guardian or conservator for act of individual subject to**
1940 **guardianship or conservatorship.**
- 1941 A guardian or conservator is not personally liable to another person solely because of
1942 the guardianship or conservatorship for an act or omission of the individual subject to
1943 guardianship or conservatorship.
- 1944 Section 37. Section **75-5c-122** is enacted to read:
- 1945 **75-5c-122. Petition after appointment for instruction or ratification.**
- 1946 (1) A guardian or conservator may petition the court for instruction concerning
1947 fiduciary responsibility or ratification of a particular act related to the guardianship or
1948 conservatorship.
- 1949 (2) On notice and hearing on a petition under Subsection (1), the court may give an

1950 instruction and issue an appropriate order.

1951 Section 38. Section **75-5c-123** is enacted to read:

1952 **75-5c-123. Third-party acceptance of authority of guardian or conservator.**

1953 (1) A person must not recognize the authority of a guardian or conservator to act on
1954 behalf of an individual subject to guardianship or conservatorship if:

1955 (a) the person has actual knowledge or a reasonable belief that the letters of office of
1956 the guardian or conservator are invalid or the conservator or guardian is exceeding or
1957 improperly exercising authority granted by the court; or

1958 (b) the person has actual knowledge that the individual subject to guardianship or
1959 conservatorship is subject to physical or financial abuse, neglect, exploitation, or abandonment
1960 by the guardian or conservator or a person acting for or with the guardian or conservator.

1961 (2) A person may refuse to recognize the authority of a guardian or conservator to act
1962 on behalf of an individual subject to guardianship or conservatorship if:

1963 (a) the guardian's or conservator's proposed action would be inconsistent with this
1964 chapter; or

1965 (b) the person makes, or has actual knowledge that another person has made, a report
1966 to the Division of Child and Family Services or Adult Protective Services within the
1967 Department of Human Services stating a good-faith belief that the individual subject to
1968 guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation,
1969 or abandonment by the guardian or conservator or a person acting for or with the guardian or
1970 conservator.

1971 (3) A person that refuses to accept the authority of a guardian or conservator in
1972 accordance with Subsection (2) may report the refusal and the reason for refusal to the court.
1973 The court on receiving the report shall consider whether removal of the guardian or conservator
1974 or other action is appropriate.

1975 (4) A guardian or conservator may petition the court to require a third party to accept a
1976 decision made by the guardian or conservator on behalf of the individual subject to
1977 guardianship or conservatorship.

1978 Section 39. Section **75-5c-124** is enacted to read:

1979 **75-5c-124. Use of agent by guardian or conservator.**

1980 (1) Except as otherwise provided in Subsection (3), a guardian or conservator may

1981 delegate a power to an agent which a prudent guardian or conservator of comparable skills
1982 could delegate prudently under the circumstances if the delegation is consistent with the
1983 guardian's or conservator's fiduciary duties and the guardian's plan under Section 75-5c-316 or
1984 conservator's plan under Section 75-5c-419.

1985 (2) In delegating a power under Subsection (1), the guardian or conservator shall
1986 exercise reasonable care, skill, and caution in:

1987 (a) selecting the agent;

1988 (b) establishing the scope and terms of the agent's work in accordance with the
1989 guardian's plan under Section 75-5c-316 or conservator's plan under Section 75-5c-419;

1990 (c) monitoring the agent's performance and compliance with the delegation; and

1991 (d) redressing an act or omission of the agent which would constitute a breach of the
1992 guardian's or conservator's duties if done by the guardian or conservator.

1993 (3) A guardian or conservator may not delegate all powers to an agent.

1994 (4) In performing a power delegated under this section, an agent shall:

1995 (a) exercise reasonable care to comply with the terms of the delegation and use
1996 reasonable care in the performance of the power; and

1997 (b) if the guardian or conservator has delegated to the agent the power to make a
1998 decision on behalf of the individual subject to guardianship or conservatorship, use the same
1999 decision-making standard the guardian or conservator would be required to use.

2000 (5) By accepting a delegation of a power under Subsection (1) from a guardian or
2001 conservator, an agent submits to the personal jurisdiction of the courts of this state in an action
2002 involving the agent's performance as agent.

2003 (6) A guardian or conservator that delegates and monitors a power in compliance with
2004 this section is not liable for the decision, act, or omission of the agent.

2005 Section 40. Section **75-5c-125** is enacted to read:

2006 **75-5c-125. Temporary substitute guardian or conservator.**

2007 (1) The court may appoint a temporary substitute guardian for an individual subject to
2008 guardianship for a period not exceeding six months if:

2009 (a) a proceeding to remove a guardian for the individual is pending; or

2010 (b) the court finds a guardian is not effectively performing the guardian's duties and the
2011 welfare of the individual requires immediate action.

2012 (2) The court may appoint a temporary substitute conservator for an individual subject
2013 to conservatorship for a period not exceeding six months if:

2014 (a) a proceeding to remove a conservator for the individual is pending; or

2015 (b) the court finds that a conservator for the individual is not effectively performing the
2016 conservator's duties and the welfare of the individual or the conservatorship estate requires
2017 immediate action.

2018 (3) Except as otherwise ordered by the court, a temporary substitute guardian or
2019 temporary substitute conservator appointed under this section has the powers stated in the order
2020 of appointment of the guardian or conservator. The authority of the existing guardian or
2021 conservator is suspended for as long as the temporary substitute guardian or conservator has
2022 authority.

2023 (4) The court shall give notice of appointment of a temporary substitute guardian or
2024 temporary substitute conservator, as soon as reasonably possible after the appointment, to:

2025 (a) the individual subject to guardianship or conservatorship;

2026 (b) the affected guardian or conservator; and

2027 (c) in the case of a minor, each parent of the minor and any person currently having
2028 care or custody of the minor.

2029 (5) The court may remove a temporary substitute guardian or temporary substitute
2030 conservator at any time. The temporary substitute guardian or temporary substitute conservator
2031 shall make any report the court requires.

2032 Section 41. Section **75-5c-126** is enacted to read:

2033 **75-5c-126. Registration of order -- Effect.**

2034 (1) If a guardian has been appointed in another state for an individual, and a petition
2035 for guardianship for the individual is not pending in this state, the guardian appointed in the
2036 other state, after giving notice to the appointing court, may register the guardianship order in
2037 this state by filing as a foreign judgment, in a court of an appropriate county of this state,
2038 certified copies of the order and letters of office.

2039 (2) If a conservator has been appointed in another state for an individual, and a petition
2040 for conservatorship for the individual is not pending in this state, the conservator appointed for
2041 the individual in the other state, after giving notice to the appointing court, may register the
2042 conservatorship in this state by filing as a foreign judgment, in a court of a county in which

2043 property belonging to the individual subject to conservatorship is located, certified copies of
2044 the order of conservatorship, letters of office, and any bond or other asset-protection
2045 arrangement required by the court.

2046 (3) On registration under this section of a guardianship or conservatorship order from
2047 another state, the guardian or conservator may exercise in this state all powers authorized in the
2048 order except as prohibited by this chapter and law of this state other than this chapter. If the
2049 guardian or conservator is not a resident of this state, the guardian or conservator may maintain
2050 an action or proceeding in this state subject to any condition imposed by this state on an action
2051 or proceeding by a nonresident party.

2052 (4) The court may grant any relief available under this chapter and law of this state
2053 other than this chapter to enforce an order registered under this section.

2054 Section 42. Section **75-5c-127** is enacted to read:

2055 **75-5c-127. Grievance against guardian or conservator.**

2056 (1) An individual who is subject to guardianship or conservatorship, or person
2057 interested in the welfare of an individual subject to guardianship or conservatorship, that
2058 reasonably believes the guardian or conservator is breaching the guardian's or conservator's
2059 fiduciary duty or otherwise acting in a manner inconsistent with this chapter may file a
2060 grievance in a record with the court.

2061 (2) Subject to Subsection (3), after receiving a grievance under Subsection (1), the
2062 court:

2063 (a) shall review the grievance and, if necessary to determine the appropriate response,
2064 court records related to the guardianship or conservatorship;

2065 (b) shall schedule a hearing if the individual subject to guardianship or conservatorship
2066 is an adult and the grievance supports a reasonable belief that:

2067 (i) removal of the guardian and appointment of a successor may be appropriate under
2068 Section [75-5c-318](#);

2069 (ii) termination or modification of the guardianship may be appropriate under Section
2070 [75-5c-319](#);

2071 (iii) removal of the conservator and appointment of a successor may be appropriate
2072 under Section [75-5c-430](#); or

2073 (iv) termination or modification of the conservatorship may be appropriate under

2074 Section 75-5c-431; and

2075 (c) may take any action supported by the evidence, including:

2076 (i) ordering the guardian or conservator to provide the court a report, accounting,
2077 inventory, updated plan, or other information;

2078 (ii) appointing a guardian ad litem;

2079 (iii) appointing an attorney for the individual subject to guardianship or
2080 conservatorship; or

2081 (iv) holding a hearing.

2082 (3) The court may decline to act under Subsection (2) if a similar grievance was filed
2083 within the six months preceding the filing of the current grievance and the court followed the
2084 procedures of Subsection (2) in considering the earlier grievance.

2085 Section 43. Section **75-5c-128**, which is renumbered from Section 75-5-103 is
2086 renumbered and amended to read:

2087 ~~[75-5-103]~~. **75-5c-128. Delegation of powers by parent or guardian.**

2088 A parent or a guardian of a minor or ~~[incapacitated person]~~ of an individual subject to a
2089 guardianship, by a properly-executed power of attorney, may delegate to another person, for a
2090 period not exceeding six months, any of the parent's or guardian's powers regarding care,
2091 custody, or property of the minor child or ward:

2092 (1) except the power to consent to:

2093 (a) marriage; or

2094 (b) adoption of a minor ward; and

2095 (2) subject to Section **53G-6-302**, including making decisions related to schooling.

2096 Section 44. Section **75-5c-201** is enacted to read:

2097 **Part 2. Guardianship of Minor**

2098 **75-5c-201. Basis for appointment of guardian for minor.**

2099 (1) A person becomes a guardian for a minor only on appointment by the court.

2100 (2) The court may appoint a guardian for a minor who does not have a guardian if the
2101 court finds the appointment is in the minor's best interest and:

2102 (a) each parent of the minor, after being fully informed of the nature and consequences
2103 of guardianship, consents;

2104 (b) all parental rights have been terminated; or

2105 (c) there is clear and convincing evidence that no parent of the minor is willing or able
2106 to exercise the powers the court is granting the guardian.

2107 Section 45. Section **75-5c-202** is enacted to read:

2108 **75-5c-202. Petition for appointment of guardian for minor.**

2109 (1) A person interested in the welfare of a minor, including the minor, may petition for
2110 appointment of a guardian for the minor.

2111 (2) A petition under Subsection (1) must state the petitioner's name, principal
2112 residence, current street address, if different, relationship to the minor, interest in the
2113 appointment, the name and address of any attorney representing the petitioner, and, to the
2114 extent known, the following:

2115 (a) the minor's name, age, principal residence, current street address, if different, and, if
2116 different, address of the dwelling in which it is proposed the minor will reside if the
2117 appointment is made;

2118 (b) the name and current street address of the minor's parents;

2119 (c) the name and address, if known, of each person that had primary care or custody of
2120 the minor for at least 60 days during the two years immediately before the filing of the petition
2121 or for at least 730 days during the five years immediately before the filing of the petition;

2122 (d) the name and address of any attorney for the minor and any attorney for each parent
2123 of the minor;

2124 (e) the reason guardianship is sought and would be in the best interest of the minor;

2125 (f) the name and address of any proposed guardian and the reason the proposed
2126 guardian should be selected;

2127 (g) if the minor has property other than personal effects, a general statement of the
2128 minor's property with an estimate of its value;

2129 (h) whether the minor needs an interpreter, translator, or other form of support to
2130 communicate effectively with the court or understand court proceedings;

2131 (i) whether any parent of the minor needs an interpreter, translator, or other form of
2132 support to communicate effectively with the court or understand court proceedings; and

2133 (j) whether any other proceeding concerning the care or custody of the minor is
2134 pending in any court in this state or another jurisdiction.

2135 Section 46. Section **75-5c-203** is enacted to read:

2136 **75-5c-203. Notice of hearing for appointment of guardian for minor.**

2137 (1) If a petition is filed under Section 75-5c-202, the court shall schedule a hearing and
2138 the petitioner shall:

2139 (a) serve notice of the date, time, and place of the hearing, together with a copy of the
2140 petition, personally on each of the following that is not the petitioner:

2141 (i) the minor, if the minor will be 12 years of age or older at the time of the hearing;

2142 (ii) each parent of the minor or, if there is none, the adult nearest in kinship who can be
2143 found with reasonable diligence;

2144 (iii) any adult with whom the minor resides;

2145 (iv) each person that had primary care or custody of the minor for at least 60 days

2146 during the two years immediately before the filing of the petition or for at least 730 days during
2147 the five years immediately before the filing of the petition; and

2148 (v) any other person the court determines should receive personal service of notice; and

2149 (b) give notice under Section 75-5c-113 of the date, time, and place of the hearing,

2150 together with a copy of the petition, to:

2151 (i) any person nominated as guardian by the minor, if the minor is 12 years of age or
2152 older;

2153 (ii) any nominee of a parent;

2154 (iii) each grandparent and adult sibling of the minor;

2155 (iv) any guardian or conservator acting for the minor in any jurisdiction; and

2156 (v) any other person the court determines.

2157 (2) Notice required by Subsection (1) must include a statement of the right to request
2158 appointment of an attorney for the minor or object to appointment of a guardian and a
2159 description of the nature, purpose, and consequences of appointment of a guardian.

2160 (3) The court may not grant a petition for guardianship of a minor if notice
2161 substantially complying with Subsection (1)(a) is not served on:

2162 (a) the minor, if the minor is 12 years of age or older; and

2163 (b) each parent of the minor, unless the court finds by clear and convincing evidence
2164 that the parent cannot with due diligence be located and served or the parent waived, in a
2165 record, the right to notice.

2166 (4) If a petitioner is unable to serve notice under Subsection (1)(a) on a parent of a

2167 minor or alleges that the parent waived, in a record, the right to notice under this section, the
2168 court shall appoint a visitor who shall:

- 2169 (a) interview the petitioner and the minor;
- 2170 (b) if the petitioner alleges the parent cannot be located, ascertain whether the parent
2171 cannot be located with due diligence; and
- 2172 (c) investigate any other matter relating to the petition the court directs.

2173 Section 47. Section **75-5c-204** is enacted to read:

2174 **75-5c-204. Attorney for minor or parent.**

2175 (1) The court shall appoint an attorney to represent a minor who is the subject of a
2176 proceeding under Section [75-5c-202](#) if:

- 2177 (a) requested by the minor and the minor is 12 years of age or older;
 - 2178 (b) recommended by a guardian ad litem; or
 - 2179 (c) the court determines the minor needs representation.
- 2180 (2) An attorney appointed under Subsection (1) shall:
- 2181 (a) make a reasonable effort to ascertain the minor's wishes;
 - 2182 (b) advocate for the minor's wishes to the extent reasonably ascertainable; and
 - 2183 (c) if the minor's wishes are not reasonably ascertainable, advocate for the minor's best
2184 interest.

2185 (3) A minor who is the subject of a proceeding under Section [75-5c-202](#) may retain an
2186 attorney to represent the minor in the proceeding.

2187 (4) A parent of a minor who is the subject of a proceeding under Section [75-5c-202](#)
2188 may retain an attorney to represent the parent in the proceeding.

2189 (5) The court shall appoint an attorney to represent a parent of a minor who is the
2190 subject of a proceeding under Section [75-5c-202](#) if:

- 2191 (a) the parent objects to appointment of a guardian for the minor;
- 2192 (b) the court determines that counsel is needed to ensure that consent to appointment of
2193 a guardian is informed; or
- 2194 (c) the court otherwise determines the parent needs representation.

2195 Section 48. Section **75-5c-205** is enacted to read:

2196 **75-5c-205. Attendance and participation at hearing for appointment of guardian**
2197 **for minor.**

2198 (1) The court shall require a minor who is the subject of a hearing under Section
2199 75-5c-203 to attend the hearing and allow the minor to participate in the hearing unless the
2200 court determines, by clear and convincing evidence presented at the hearing or a separate
2201 hearing, that:

2202 (a) the minor consistently and repeatedly refused to attend the hearing after being fully
2203 informed of the right to attend and, if the minor is 12 years of age or older, the potential
2204 consequences of failing to do so;

2205 (b) there is no practicable way for the minor to attend the hearing;

2206 (c) the minor lacks the ability or maturity to participate meaningfully in the hearing; or

2207 (d) attendance would be harmful to the minor.

2208 (2) Unless excused by the court for good cause, the person proposed to be appointed as
2209 guardian for a minor shall attend a hearing under Section 75-5c-203.

2210 (3) Each parent of a minor who is the subject of a hearing under Section 75-5c-203 has
2211 the right to attend the hearing.

2212 (4) A person may request permission to participate in a hearing under Section
2213 75-5c-203. The court may grant the request, with or without hearing, on determining that it is
2214 in the best interest of the minor who is the subject of the hearing. The court may impose
2215 appropriate conditions on the person's participation.

2216 Section 49. Section **75-5c-206** is enacted to read:

2217 **75-5c-206. Order of appointment -- Priority of nominee -- Limited guardianship**
2218 **for minor.**

2219 (1) After a hearing under Section 75-5c-203, the court may appoint a guardian for a
2220 minor, if appointment is proper under Section 75-5c-201, dismiss the proceeding, or take other
2221 appropriate action consistent with this chapter or law of this state other than this chapter.

2222 (2) In appointing a guardian under Subsection (1), the following rules apply:

2223 (a) The court shall appoint a person nominated as guardian by a parent of the minor in
2224 a will or other record unless the court finds the appointment is contrary to the best interest of
2225 the minor.

2226 (b) If multiple parents have nominated different persons to serve as guardian, the court
2227 shall appoint the nominee whose appointment is in the best interest of the minor, unless the
2228 court finds that appointment of none of the nominees is in the best interest of the minor.

2229 (c) If a guardian is not appointed under Subsection (2)(a) or (b), the court shall appoint
2230 the person nominated by the minor if the minor is 12 years of age or older unless the court
2231 finds that appointment is contrary to the best interest of the minor. In that case, the court shall
2232 appoint as guardian a person whose appointment is in the best interest of the minor.

2233 (3) In the interest of maintaining or encouraging involvement by a minor's parent in the
2234 minor's life, developing self-reliance of the minor, or for other good cause, the court, at the
2235 time of appointment of a guardian for the minor or later, on its own or on motion of the minor
2236 or other interested person, may create a limited guardianship by limiting the powers otherwise
2237 granted by this part to the guardian. Following the same procedure, the court may grant
2238 additional powers or withdraw powers previously granted.

2239 (4) The court, as part of an order appointing a guardian for a minor, shall state rights
2240 retained by any parent of the minor, which may include contact or visitation with the minor,
2241 decision making regarding the minor's health care, education, or other matter, or access to a
2242 record regarding the minor.

2243 (5) An order granting a guardianship for a minor must state that each parent of the
2244 minor is entitled to notice that:

2245 (a) the guardian has delegated custody of the minor subject to guardianship;

2246 (b) the court has modified or limited the powers of the guardian; or

2247 (c) the court has removed the guardian.

2248 (6) An order granting a guardianship for a minor must identify any person in addition
2249 to a parent of the minor which is entitled to notice of the events listed in Subsection (5).

2250 Section 50. Section **75-5c-207** is enacted to read:

2251 **75-5c-207. Standby guardian for minor.**

2252 (1) A standby guardian appointed under this section may act as guardian, with all
2253 duties and powers of a guardian under Sections [75-5c-209](#) and [75-5c-210](#), when no parent of
2254 the minor is willing or able to exercise the duties and powers granted to the guardian.

2255 (2) A parent of a minor, in a signed record, may nominate a person to be appointed by
2256 the court as standby guardian for the minor. The parent, in a signed record, may state desired
2257 limitations on the powers to be granted to the standby guardian. The parent, in a signed record,
2258 may revoke or amend the nomination at any time before the court appoints a standby guardian.

2259 (3) The court may appoint a standby guardian for a minor on:

2260 (a) petition by a parent of the minor or a person nominated under Subsection (2); and
2261 (b) finding that no parent of the minor likely will be able or willing to care for or make
2262 decisions with respect to the minor not later than two years after the appointment.

2263 (4) A petition under Subsection (3)(a) must include the same information required
2264 under Section [75-5c-202](#) for the appointment of a guardian for a minor.

2265 (5) On filing a petition under Subsection (3)(a), the petitioner shall:
2266 (a) serve a copy of the petition personally on:
2267 (i) the minor, if the minor is 12 years of age or older, and the minor's attorney, if any;
2268 (ii) each parent of the minor;
2269 (iii) the person nominated as standby guardian; and
2270 (iv) any other person the court determines; and
2271 (b) include with the copy of the petition served under Subsection (5)(a) a statement of
2272 the right to request appointment of an attorney for the minor or to object to appointment of the
2273 standby guardian, and a description of the nature, purpose, and consequences of appointment of
2274 a standby guardian.

2275 (6) A person entitled to notice under Subsection (5), not later than 60 days after service
2276 of the petition and statement, may object to appointment of the standby guardian by filing an
2277 objection with the court and giving notice of the objection to each other person entitled to
2278 notice under Subsection (5).

2279 (7) If an objection is filed under Subsection (6), the court shall hold a hearing to
2280 determine whether a standby guardian should be appointed and, if so, the person that should be
2281 appointed. If no objection is filed, the court may make the appointment.

2282 (8) The court may not grant a petition for a standby guardian of the minor if notice
2283 substantially complying with Subsection (5) is not served on:
2284 (a) the minor, if the minor is 12 years of age or older; and
2285 (b) each parent of the minor, unless the court finds by clear and convincing evidence
2286 that the parent, in a record, waived the right to notice or cannot be located and served with due
2287 diligence.

2288 (9) If a petitioner is unable to serve notice under Subsection (5) on a parent of the
2289 minor or alleges that a parent of the minor waived the right to notice under this section, the
2290 court shall appoint a visitor who shall:

- 2291 (a) interview the petitioner and the minor;
- 2292 (b) if the petitioner alleges the parent cannot be located and served, ascertain whether
- 2293 the parent cannot be located with due diligence; and
- 2294 (c) investigate any other matter relating to the petition the court directs.
- 2295 (10) If the court finds under Subsection (3) that a standby guardian should be
- 2296 appointed, the following rules apply:
- 2297 (a) The court shall appoint the person nominated under Subsection (2) unless the court
- 2298 finds the appointment is contrary to the best interest of the minor.
- 2299 (b) If the parents have nominated different persons to serve as standby guardian, the
- 2300 court shall appoint the nominee whose appointment is in the best interest of the minor, unless
- 2301 the court finds that appointment of none of the nominees is in the best interest of the minor.
- 2302 (11) An order appointing a standby guardian under this section must state that each
- 2303 parent of the minor is entitled to notice, and identify any other person entitled to notice, if:
- 2304 (a) the standby guardian assumes the duties and powers of the guardian;
- 2305 (b) the guardian delegates custody of the minor;
- 2306 (c) the court modifies or limits the powers of the guardian; or
- 2307 (d) the court removes the guardian.
- 2308 (12) Before assuming the duties and powers of a guardian, a standby guardian must file
- 2309 with the court an acceptance of appointment as guardian and give notice of the acceptance to:
- 2310 (a) each parent of the minor, unless the parent, in a record, waived the right to notice or
- 2311 cannot be located and served with due diligence;
- 2312 (b) the minor, if the minor is 12 years of age or older; and
- 2313 (c) any person, other than the parent, having care or custody of the minor.
- 2314 (13) A person that receives notice under Subsection (12) or any other person interested
- 2315 in the welfare of the minor may file with the court an objection to the standby guardian's
- 2316 assumption of duties and powers of a guardian. The court shall hold a hearing if the objection
- 2317 supports a reasonable belief that the conditions for assumption of duties and powers have not
- 2318 been satisfied.
- 2319 Section 51. Section **75-5c-208** is enacted to read:
- 2320 **75-5c-208. Emergency guardian for minor.**
- 2321 (1) On its own, or on petition by a person interested in a minor's welfare, the court may

2322 appoint an emergency guardian for the minor if the court finds:

2323 (a) appointment of an emergency guardian is likely to prevent substantial harm to the
2324 minor's health, safety, or welfare; and

2325 (b) no other person appears to have authority and willingness to act in the
2326 circumstances.

2327 (2) The duration of authority of an emergency guardian for a minor may not exceed 60
2328 days and the emergency guardian may exercise only the powers specified in the order of
2329 appointment. The emergency guardian's authority may be extended once for not more than 60
2330 days if the court finds that the conditions for appointment of an emergency guardian in
2331 Subsection (1) continue.

2332 (3) Except as otherwise provided in Subsection (4), reasonable notice of the date, time,
2333 and place of a hearing on a petition for appointment of an emergency guardian for a minor must
2334 be given to:

2335 (a) the minor, if the minor is 12 years of age or older;

2336 (b) any attorney appointed under Section [75-5c-204](#);

2337 (c) each parent of the minor;

2338 (d) any person, other than a parent, having care or custody of the minor; and

2339 (e) any other person the court determines.

2340 (4) The court may appoint an emergency guardian for a minor without notice under
2341 Subsection (3) and a hearing only if the court finds from an affidavit or testimony that the
2342 minor's health, safety, or welfare will be substantially harmed before a hearing with notice on
2343 the appointment can be held. If the court appoints an emergency guardian without notice to an
2344 unrepresented minor or the attorney for a represented minor, notice of the appointment must be
2345 given not later than 48 hours after the appointment to the individuals listed in Subsection (3).
2346 As soon as reasonably possible after the appointment, the court shall hold a hearing on the
2347 appropriateness of the appointment.

2348 (5) Appointment of an emergency guardian under this section, with or without notice,
2349 is not a determination that a basis exists for appointment of a guardian under Section
2350 [75-5c-201](#).

2351 (6) The court may remove an emergency guardian appointed under this section at any
2352 time. The emergency guardian shall make any report the court requires.

2353 Section 52. Section **75-5c-209** is enacted to read:

2354 **75-5c-209. Duties of guardian for minor.**

2355 (1) A guardian for a minor is a fiduciary. Except as otherwise limited by the court, a
2356 guardian for a minor has the duties and responsibilities of a parent regarding the minor's
2357 support, care, education, health, safety, and welfare. A guardian shall act in the minor's best
2358 interest and exercise reasonable care, diligence, and prudence.

2359 (2) A guardian for a minor shall:

2360 (a) be personally acquainted with the minor and maintain sufficient contact with the
2361 minor to know the minor's abilities, limitations, needs, opportunities, and physical and mental
2362 health;

2363 (b) take reasonable care of the minor's personal effects and bring a proceeding for a
2364 conservatorship or protective arrangement instead of conservatorship if necessary to protect
2365 other property of the minor;

2366 (c) expend funds of the minor which have been received by the guardian for the minor's
2367 current needs for support, care, education, health, safety, and welfare;

2368 (d) conserve any funds of the minor not expended under Subsection (2)(c) for the
2369 minor's future needs, but if a conservator is appointed for the minor, pay the funds at least
2370 quarterly to the conservator to be conserved for the minor's future needs;

2371 (e) report the condition of the minor and account for funds and other property of the
2372 minor in the guardian's possession or subject to the guardian's control, as required by court rule
2373 or ordered by the court on application of a person interested in the minor's welfare;

2374 (f) inform the court of any change in the minor's dwelling or address; and

2375 (g) in determining what is in the minor's best interest, take into account the minor's
2376 preferences to the extent actually known or reasonably ascertainable by the guardian.

2377 Section 53. Section **75-5c-210** is enacted to read:

2378 **75-5c-210. Powers of guardian for minor.**

2379 (1) Except as otherwise limited by court order, a guardian of a minor has the powers a
2380 parent otherwise would have regarding the minor's support, care, education, health, safety, and
2381 welfare.

2382 (2) Except as otherwise limited by court order, a guardian for a minor may:

2383 (a) apply for and receive funds and benefits otherwise payable for the support of the

2384 minor to the minor's parent, guardian, or custodian under a statutory system of benefits or
2385 insurance or any private contract, devise, trust, conservatorship, or custodianship;

2386 (b) unless inconsistent with a court order entitled to recognition in this state, take
2387 custody of the minor and establish the minor's place of dwelling and, on authorization of the
2388 court, establish or move the minor's dwelling outside this state;

2389 (c) if the minor is not subject to conservatorship, commence a proceeding, including an
2390 administrative proceeding, or take other appropriate action to compel a person to support the
2391 minor or make a payment for the benefit of the minor;

2392 (d) consent to health or other care, treatment, or service for the minor; or

2393 (e) to the extent reasonable, delegate to the minor responsibility for a decision affecting
2394 the minor's well-being.

2395 (3) The court may authorize a guardian for a minor to consent to the adoption of the
2396 minor if the minor does not have a parent.

2397 (4) Notwithstanding Sections [30-1-2](#) and [30-1-9](#), a minor who is subject to a
2398 guardianship may not marry before the minor is 18 years of age. If the minor becomes an adult
2399 subject to a guardianship, the adult's right to marry is subject to Sections [75-5c-310](#) and
2400 [75-5c-314](#).

2401 Section 54. Section **75-5c-211** is enacted to read:

2402 **75-5c-211. Removal of guardian for minor -- Termination of guardianship --**
2403 **Appointment of successor.**

2404 (1) Guardianship under this chapter for a minor terminates:

2405 (a) on the minor's death, adoption, emancipation, or attainment of majority; or

2406 (b) when the court finds that the standard in Section [75-5c-201](#) for appointment of a
2407 guardian is not satisfied, unless the court finds that:

2408 (i) termination of the guardianship would be harmful to the minor; and

2409 (ii) the minor's interest in the continuation of the guardianship outweighs the interest of
2410 any parent of the minor in restoration of the parent's right to make decisions for the minor.

2411 (2) A minor subject to guardianship or a person interested in the welfare of the minor
2412 may petition the court to terminate the guardianship, modify the guardianship, remove the
2413 guardian and appoint a successor guardian, or remove a standby guardian and appoint a
2414 different standby guardian.

2415 (3) A petitioner under Subsection (2) shall give notice of the hearing on the petition to
2416 the minor, if the minor is 12 years of age or older and is not the petitioner, the guardian, each
2417 parent of the minor, and any other person the court determines.

2418 (4) The court shall follow the priorities in Subsection 75-5c-206(2) when selecting a
2419 successor guardian for a minor.

2420 (5) Not later than 30 days after appointment of a successor guardian for a minor, the
2421 court shall give notice of the appointment to the minor subject to guardianship, if the minor is
2422 12 years of age or older, each parent of the minor, and any other person the court determines.

2423 (6) When terminating a guardianship for a minor under this section, the court may
2424 issue an order providing for transitional arrangements that will assist the minor with a
2425 transition of custody and is in the best interest of the minor.

2426 (7) A guardian for a minor that is removed shall cooperate with a successor guardian to
2427 facilitate transition of the guardian's responsibilities and protect the best interest of the minor.

2428 Section 55. Section **75-5c-301** is enacted to read:

2429 **Part 3. Guardianship of Adult**

2430 **75-5c-301. Basis for appointment of guardian for adult.**

2431 (1) On petition and after notice and hearing, the court may:

2432 (a) appoint a guardian for an adult if the court finds by clear and convincing evidence
2433 that:

2434 (i) the respondent lacks the ability to meet essential requirements for physical health,
2435 safety, or self-care because the respondent is unable to receive and evaluate information or
2436 make or communicate decisions, even with appropriate supportive services, technological
2437 assistance, or supported decision making; and

2438 (ii) the respondent's identified needs cannot be met by a protective arrangement instead
2439 of guardianship or other less restrictive alternative; or

2440 (b) with appropriate findings, treat the petition as one for a conservatorship under Part
2441 4, Conservatorship, or protective arrangement under Part 5, Other Protective Arrangements,
2442 issue any appropriate order, or dismiss the proceeding.

2443 (2) The court shall grant a guardian appointed under Subsection (1) only those powers
2444 necessitated by the demonstrated needs and limitations of the respondent and issue orders that
2445 will encourage development of the respondent's maximum self-determination and

2446 independence. The court may not establish a full guardianship if a limited guardianship,
2447 protective arrangement instead of guardianship, or other less restrictive alternatives would meet
2448 the needs of the respondent.

2449 Section 56. Section **75-5c-302** is enacted to read:

2450 **75-5c-302. Petition for appointment of guardian for adult.**

2451 (1) A person interested in an adult's welfare, including the adult for whom the order is
2452 sought, may petition for appointment of a guardian for the adult.

2453 (2) A petition under Subsection (1) must state the petitioner's name, principal
2454 residence, current street address, if different, relationship to the respondent, interest in the
2455 appointment, the name and address of any attorney representing the petitioner, and, to the
2456 extent known, the following:

2457 (a) the respondent's name, age, principal residence, current street address, if different,
2458 and, if different, address of the dwelling in which it is proposed the respondent will reside if
2459 the petition is granted;

2460 (b) the name and address of the respondent's:

2461 (i) spouse or, if the respondent has none, an adult with whom the respondent has shared
2462 household responsibilities for more than six months in the 12-month period immediately before
2463 the filing of the petition;

2464 (ii) adult children or, if none, each parent and adult sibling of the respondent, or, if
2465 none, at least one adult nearest in kinship to the respondent who can be found with reasonable
2466 diligence; and

2467 (iii) adult stepchildren whom the respondent actively parented during the stepchildren's
2468 minor years and with whom the respondent had an ongoing relationship in the two-year period
2469 immediately before the filing of the petition;

2470 (c) the name and current address of each of the following, if applicable:

2471 (i) a person responsible for care of the respondent;

2472 (ii) any attorney currently representing the respondent;

2473 (iii) any representative payee appointed by the Social Security Administration for the
2474 respondent;

2475 (iv) a guardian or conservator acting for the respondent in this state or in another
2476 jurisdiction;

- 2477 (v) a trustee or custodian of a trust or custodianship of which the respondent is a
2478 beneficiary;
- 2479 (vi) any fiduciary for the respondent appointed by the Department of Veterans Affairs;
2480 (vii) an agent designated under a power of attorney for health care in which the
2481 respondent is identified as the principal;
- 2482 (viii) an agent designated under a power of attorney for finances in which the
2483 respondent is identified as the principal;
- 2484 (ix) a person nominated as guardian by the respondent;
2485 (x) a person nominated as guardian by the respondent's parent or spouse in a will or
2486 other signed record;
- 2487 (xi) a proposed guardian and the reason the proposed guardian should be selected; and
2488 (xii) a person known to have routinely assisted the respondent with decision making
2489 during the six months immediately before the filing of the petition;
- 2490 (d) the reason a guardianship is necessary, including a brief description of:
2491 (i) the nature and extent of the respondent's alleged need;
2492 (ii) any protective arrangement instead of guardianship or other less restrictive
2493 alternatives for meeting the respondent's alleged need which have been considered or
2494 implemented;
- 2495 (iii) if no protective arrangement instead of guardianship or other less restrictive
2496 alternatives have been considered or implemented, the reason they have not been considered or
2497 implemented; and
- 2498 (iv) the reason a protective arrangement instead of guardianship or other less restrictive
2499 alternative is insufficient to meet the respondent's alleged need;
- 2500 (e) whether the petitioner seeks a limited guardianship or full guardianship;
2501 (f) if the petitioner seeks a full guardianship, the reason a limited guardianship or
2502 protective arrangement instead of guardianship is not appropriate;
- 2503 (g) if a limited guardianship is requested, the powers to be granted to the guardian;
2504 (h) the name and current address, if known, of any person with whom the petitioner
2505 seeks to limit the respondent's contact;
- 2506 (i) if the respondent has property other than personal effects, a general statement of the
2507 respondent's property, with an estimate of its value, including any insurance or pension, and the

2508 source and amount of other anticipated income or receipts; and

2509 (j) whether the respondent needs an interpreter, translator, or other form of support to
2510 communicate effectively with the court or understand court proceedings.

2511 Section 57. Section **75-5c-303** is enacted to read:

2512 **75-5c-303. Notice of hearing for appointment of guardian for adult.**

2513 (1) On filing of a petition under Section 75-5c-302 for appointment of a guardian for
2514 an adult, the court shall set a date, time, and place for hearing the petition.

2515 (2) A copy of a petition under Section 75-5c-302 and notice of a hearing on the petition
2516 must be served personally on the respondent. The notice must inform the respondent of the
2517 respondent's rights at the hearing, including the right to an attorney and to attend the hearing.

2518 The notice must include a description of the nature, purpose, and consequences of granting the
2519 petition. The court may not grant the petition if notice substantially complying with this
2520 Subsection (2) is not served on the respondent.

2521 (3) In a proceeding on a petition under Section 75-5c-302, the notice required under
2522 Subsection (2) must be given to the persons required to be listed in the petition under
2523 Subsections 75-5c-302(2)(a) through (c) and any other person interested in the respondent's
2524 welfare the court determines. Failure to give notice under this Subsection (3) does not preclude
2525 the court from appointing a guardian.

2526 (4) After the appointment of a guardian, notice of a hearing on a petition for an order
2527 under this part, together with a copy of the petition, must be given to:

2528 (a) the adult subject to guardianship;

2529 (b) the guardian; and

2530 (c) any other person the court determines.

2531 Section 58. Section **75-5c-304** is enacted to read:

2532 **75-5c-304. Appointment and role of visitor.**

2533 (1) On receipt of a petition under Section 75-5c-302 for appointment of a guardian for
2534 an adult, the court shall appoint a visitor. The visitor must be an individual with training or
2535 experience in the type of abilities, limitations, and needs alleged in the petition.

2536 (2) A visitor appointed under Subsection (1) shall interview the respondent in person
2537 and in a manner the respondent is best able to understand:

2538 (a) explain to the respondent the substance of the petition, the nature, purpose, and

2539 effect of the proceeding, the respondent's rights at the hearing on the petition, and the general
2540 powers and duties of a guardian;

2541 (b) determine the respondent's views about the appointment sought by the petitioner,
2542 including views about a proposed guardian, the guardian's proposed powers and duties, and the
2543 scope and duration of the proposed guardianship;

2544 (c) inform the respondent of the respondent's right to employ and consult with an
2545 attorney at the respondent's expense and the right to request a court-appointed attorney; and

2546 (d) inform the respondent that all costs and expenses of the proceeding, including
2547 respondent's attorney fees, may be paid from the respondent's assets.

2548 (3) The visitor appointed under Subsection (1) shall:

2549 (a) interview the petitioner and proposed guardian, if any;

2550 (b) visit the respondent's present dwelling and any dwelling in which it is reasonably
2551 believed the respondent will live if the appointment is made;

2552 (c) obtain information from any physician or other person known to have treated,
2553 advised, or assessed the respondent's relevant physical or mental condition; and

2554 (d) investigate the allegations in the petition and any other matter relating to the
2555 petition the court directs.

2556 (4) A visitor appointed under Subsection (1) promptly shall file a report in a record
2557 with the court, which must include:

2558 (a) a summary of self-care and independent-living tasks the respondent can manage
2559 without assistance or with existing supports, could manage with the assistance of appropriate
2560 supportive services, technological assistance, or supported decision making, and cannot
2561 manage;

2562 (b) a recommendation regarding the appropriateness of guardianship, including
2563 whether a protective arrangement instead of guardianship or other less restrictive alternative for
2564 meeting the respondent's needs is available and:

2565 (i) if a guardianship is recommended, whether it should be full or limited; and

2566 (ii) if a limited guardianship is recommended, the powers to be granted to the guardian;

2567 (c) a statement of the qualifications of the proposed guardian and whether the
2568 respondent approves or disapproves of the proposed guardian;

2569 (d) a statement whether the proposed dwelling meets the respondent's needs and

2570 whether the respondent has expressed a preference as to residence;

2571 (e) a recommendation whether a professional evaluation under Section 75-5c-306 is
2572 necessary;

2573 (f) a statement whether the respondent is able to attend a hearing at the location court
2574 proceedings typically are held;

2575 (g) a statement whether the respondent is able to participate in a hearing and which
2576 identifies any technology or other form of support that would enhance the respondent's ability
2577 to participate; and

2578 (h) any other matter the court directs.

2579 Section 59. Section **75-5c-305** is enacted to read:

2580 **75-5c-305. Appointment and role of attorney for adult.**

2581 (1) The court shall appoint an attorney to represent the respondent in a proceeding for
2582 appointment of a guardian for an adult if:

2583 (a) the respondent requests an appointment;

2584 (b) the visitor recommends an appointment; or

2585 (c) the court determines the respondent needs representation.

2586 (2) An attorney representing the respondent in a proceeding for appointment of a
2587 guardian for an adult shall:

2588 (a) make reasonable efforts to ascertain the respondent's wishes;

2589 (b) advocate for the respondent's wishes to the extent reasonably ascertainable; and

2590 (c) if the respondent's wishes are not reasonably ascertainable, advocate for the result
2591 that is the least restrictive in type, duration, and scope, consistent with the respondent's
2592 interests.

2593 Section 60. Section **75-5c-306** is enacted to read:

2594 **75-5c-306. Professional evaluation.**

2595 (1) At or before a hearing on a petition for a guardianship for an adult, the court shall
2596 order a professional evaluation of the respondent:

2597 (a) if the respondent requests the evaluation; or

2598 (b) in other cases, unless the court finds that it has sufficient information to determine
2599 the respondent's needs and abilities without the evaluation.

2600 (2) If the court orders an evaluation under Subsection (1), the respondent must be

2601 examined by a licensed physician, psychologist, social worker, or other individual appointed by
2602 the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities
2603 and limitations and will not be advantaged or disadvantaged by a decision to grant the petition
2604 or otherwise have a conflict of interest. The individual conducting the evaluation promptly
2605 shall file report in a record with the court. Unless otherwise directed by the court, the report
2606 must contain:

2607 (a) a description of the nature, type, and extent of the respondent's cognitive and
2608 functional abilities and limitations;

2609 (b) an evaluation of the respondent's mental and physical condition and, if appropriate,
2610 educational potential, adaptive behavior, and social skills;

2611 (c) a prognosis for improvement and recommendation for the appropriate treatment,
2612 support, or habilitation plan; and

2613 (d) the date of the examination on which the report is based.

2614 (3) The respondent may decline to participate in an evaluation ordered under
2615 Subsection (1).

2616 Section 61. Section **75-5c-307** is enacted to read:

2617 **75-5c-307. Attendance and rights at hearing.**

2618 (1) Except as otherwise provided in Subsection (2), a hearing under Section [75-5c-303](#)
2619 may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for
2620 the respondent to attend a hearing at the location court proceedings typically are held, the court
2621 shall make reasonable efforts to hold the hearing at an alternative location convenient to the
2622 respondent or allow the respondent to attend the hearing using real-time audio-visual
2623 technology.

2624 (2) A hearing under Section [75-5c-303](#) may proceed without the respondent in
2625 attendance if the court finds by clear and convincing evidence that:

2626 (a) the respondent consistently and repeatedly has refused to attend the hearing after
2627 having been fully informed of the right to attend and the potential consequences of failing to do
2628 so; or

2629 (b) there is no practicable way for the respondent to attend and participate in the
2630 hearing even with appropriate supportive services and technological assistance.

2631 (3) The respondent may be assisted in a hearing under Section [75-5c-303](#) by a person

2632 or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or
2633 a combination of these supports. If assistance would facilitate the respondent's participation in
2634 the hearing, but is not otherwise available to the respondent, the court shall make reasonable
2635 efforts to provide it.

2636 (4) The respondent has a right to choose an attorney to represent the respondent at a
2637 hearing under Section [75-5c-303](#).

2638 (5) At a hearing held under Section [75-5c-303](#), the respondent may:

2639 (a) present evidence and subpoena witnesses and documents;

2640 (b) examine witnesses, including any court-appointed evaluator and the visitor; and

2641 (c) otherwise participate in the hearing.

2642 (6) Unless excused by the court for good cause, a proposed guardian shall attend a
2643 hearing under Section [75-5c-303](#).

2644 (7) A hearing under Section [75-5c-303](#) must be closed on request of the respondent and
2645 a showing of good cause.

2646 (8) Any person may request to participate in a hearing under Section [75-5c-303](#). The
2647 court may grant the request, with or without a hearing, on determining that the best interest of
2648 the respondent will be served. The court may impose appropriate conditions on the person's
2649 participation.

2650 Section 62. Section **75-5c-308** is enacted to read:

2651 **75-5c-308. Confidentiality of records.**

2652 (1) The existence of a proceeding for or the existence of a guardianship for an adult is a
2653 matter of public record unless the court seals the record after:

2654 (a) the respondent or individual subject to guardianship requests the record be sealed;
2655 and

2656 (b) either:

2657 (i) the petition for guardianship is dismissed; or

2658 (ii) the guardianship is terminated.

2659 (2) An adult subject to a proceeding for a guardianship, whether or not a guardian is
2660 appointed, an attorney designated by the adult, and a person entitled to notice under Subsection
2661 [75-5c-310\(5\)](#) or a subsequent order are entitled to access court records of the proceeding and
2662 resulting guardianship, including the guardian's plan under Section [75-5c-316](#) and report under

2663 Section 75-5c-317. A person not otherwise entitled to access court records under this
2664 Subsection (2) for good cause may petition the court for access to court records of the
2665 guardianship, including the guardian's report and plan. The court shall grant access if access is
2666 in the best interest of the respondent or adult subject to guardianship or furthers the public
2667 interest and does not endanger the welfare or financial interests of the adult.

2668 (3) (a) A report under Section 75-5c-304 of a visitor or a professional evaluation under
2669 Section 75-5c-306 is confidential and must be sealed on filing, but is available to:

2670 (i) the court;

2671 (ii) the individual who is the subject of the report or evaluation, for purposes of the
2672 proceeding;

2673 (iii) the petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of
2674 the proceeding;

2675 (iv) unless the court orders otherwise, an agent appointed under a power of attorney for
2676 health care or power of attorney for finances in which the respondent is the principal; and

2677 (v) any other person if it is in the public interest or for a purpose the court orders for
2678 good cause.

2679 (b) A report described in Subsection (3)(a) is not subject to Title 63G, Chapter 2,
2680 Government Records Access and Management Act.

2681 Section 63. Section **75-5c-309** is enacted to read:

2682 **75-5c-309. Who may be guardian for adult -- Order of priority.**

2683 (1) Except as otherwise provided in Subsection (3), the court in appointing a guardian
2684 for an adult shall consider persons qualified to be guardian in the following order of priority:

2685 (a) a guardian, other than a temporary or emergency guardian, currently acting for the
2686 respondent in another jurisdiction;

2687 (b) a person nominated as guardian by the respondent, including the respondent's most
2688 recent nomination made in a power of attorney;

2689 (c) an agent appointed by the respondent under a power of attorney for health care;

2690 (d) a spouse of the respondent; and

2691 (e) a family member or other individual who has shown special care and concern for
2692 the respondent.

2693 (2) If two or more persons have equal priority under Subsection (1), the court shall

2694 select as guardian the person the court considers best qualified. In determining the best
2695 qualified person, the court shall consider the person's relationship with the respondent, the
2696 person's skills, the expressed wishes of the respondent, the extent to which the person and the
2697 respondent have similar values and preferences, and the likelihood the person will be able to
2698 perform the duties of a guardian successfully.

2699 (3) The court, acting in the best interest of the respondent, may decline to appoint as
2700 guardian a person having priority under Subsection (1) and appoint a person having a lower
2701 priority or no priority.

2702 (4) A person that provides paid services to the respondent, or an individual who is
2703 employed by a person that provides paid services to the respondent or is the spouse, parent, or
2704 child of an individual who provides or is employed to provide paid services to the respondent,
2705 may not be appointed as guardian unless:

2706 (a) the individual is related to the respondent by blood, marriage, or adoption; or

2707 (b) the court finds by clear and convincing evidence that the person is the best qualified
2708 person available for appointment and the appointment is in the best interest of the respondent.

2709 (5) An owner, operator, or employee of a long-term care facility, as defined in Section
2710 62A-3-202, at which the respondent is receiving care may not be appointed as guardian unless
2711 the owner, operator, or employee is related to the respondent by blood, marriage, or adoption.

2712 Section 64. Section **75-5c-310** is enacted to read:

2713 **75-5c-310. Order of appointment for guardian.**

2714 (1) A court order appointing a guardian for an adult must:

2715 (a) include a specific finding that clear and convincing evidence established that the
2716 identified needs of the respondent cannot be met by a protective arrangement instead of
2717 guardianship or other less restrictive alternative, including use of appropriate supportive
2718 services, technological assistance, or supported decision making;

2719 (b) include a specific finding that clear and convincing evidence established the
2720 respondent was given proper notice of the hearing on the petition;

2721 (c) state whether the adult subject to guardianship retains the right to vote and, if the
2722 adult does not retain the right to vote, include findings that support removing that right which
2723 must include a finding that the adult cannot communicate, with or without support, a specific
2724 desire to participate in the voting process; and

2725 (d) state whether the adult subject to guardianship retains the right to marry and, if the
2726 adult does not retain the right to marry, include findings that support removing that right.

2727 (2) An adult subject to guardianship retains the right to vote unless the order under
2728 Subsection (1) includes the statement required by Subsection (1)(c). An adult subject to
2729 guardianship retains the right to marry unless the order under Subsection (1) includes the
2730 findings required by Subsection (1)(d).

2731 (3) A court order establishing a full guardianship for an adult must state the basis for
2732 granting a full guardianship and include specific findings that support the conclusion that a
2733 limited guardianship would not meet the functional needs of the adult subject to guardianship.

2734 (4) A court order establishing a limited guardianship for an adult must state the specific
2735 powers granted to the guardian.

2736 (5) The court, as part of an order establishing a guardianship for an adult, shall identify
2737 any person that subsequently is entitled to:

2738 (a) notice of the rights of the adult under Subsection [75-5c-311\(2\)](#);

2739 (b) notice of a change in the primary dwelling of the adult;

2740 (c) notice that the guardian has delegated:

2741 (i) the power to manage the care of the adult;

2742 (ii) the power to make decisions about where the adult lives;

2743 (iii) the power to make major medical decisions on behalf of the adult;

2744 (iv) a power that requires court approval under Section [75-5c-315](#); or

2745 (v) substantially all powers of the guardian;

2746 (d) notice that the guardian will be unavailable to visit the adult for more than two
2747 months or unavailable to perform the guardian's duties for more than one month;

2748 (e) a copy of the guardian's plan under Section [75-5c-316](#) and the guardian's report
2749 under Section [75-5c-317](#);

2750 (f) access to court records relating to the guardianship;

2751 (g) notice of the death or significant change in the condition of the adult;

2752 (h) notice that the court has limited or modified the powers of the guardian; and

2753 (i) notice of the removal of the guardian.

2754 (6) A spouse and adult children of an adult subject to guardianship are entitled to
2755 notice under Subsection (5) unless the court determines notice would be contrary to the

2756 preferences or prior directions of the adult subject to guardianship or not in the best interest of
2757 the adult.

2758 Section 65. Section **75-5c-311** is enacted to read:

2759 **75-5c-311. Notice of order of appointment -- Rights.**

2760 (1) A guardian appointed under Section 75-5c-309 shall give the adult subject to
2761 guardianship and all other persons given notice under Section 75-5c-303 a copy of the order of
2762 appointment, together with notice of the right to request termination or modification. The order
2763 and notice must be given not later than 14 days after the appointment.

2764 (2) Not later than 30 days after appointment of a guardian under Section 75-5c-309, the
2765 court shall give to the adult subject to guardianship, the guardian, and any other person entitled
2766 to notice under Subsection 75-5c-310(5) or a subsequent order a statement of the rights of the
2767 adult subject to guardianship and procedures to seek relief if the adult is denied those rights.
2768 The statement must be in at least 16-point font, in plain language, and, to the extent feasible, in
2769 a language in which the adult subject to guardianship is proficient. The statement must notify
2770 the adult subject to guardianship of the right to:

2771 (a) seek termination or modification of the guardianship, or removal of the guardian,
2772 and choose an attorney to represent the adult in these matters;

2773 (b) be involved in decisions affecting the adult, including decisions about the adult's
2774 care, dwelling, activities, or social interactions, to the extent reasonably feasible;

2775 (c) be involved in health care decision making to the extent reasonably feasible and
2776 supported in understanding the risks and benefits of health care options to the extent reasonably
2777 feasible;

2778 (d) be notified at least 14 days before a change in the adult's primary dwelling or
2779 permanent move to a nursing home, mental-health facility, or other facility that places
2780 restrictions on the individual's ability to leave or have visitors unless the change or move is
2781 proposed in the guardian's plan under Section 75-5c-316 or authorized by the court by specific
2782 order;

2783 (e) object to a change or move described in Subsection (2)(d) and the process for
2784 objecting;

2785 (f) communicate, visit, or interact with others, including receiving visitors, and making
2786 or receiving telephone calls, personal mail, or electronic communications, including through

2787 social media, unless:

2788 (i) the guardian has been authorized by the court by specific order to restrict

2789 communications, visits, or interactions;

2790 (ii) a protective order or protective arrangement instead of guardianship is in effect that

2791 limits contact between the adult and a person; or

2792 (iii) the guardian has good cause to believe restriction is necessary because interaction

2793 with a specified person poses a risk of significant physical, psychological, or financial harm to

2794 the adult, and the restriction is:

2795 (A) for a period of not more than seven business days if the person has a family or

2796 pre-existing social relationship with the adult; or

2797 (B) for a period of not more than 60 days if the person does not have a family or

2798 pre-existing social relationship with the adult;

2799 (g) receive a copy of the guardian's plan under Section [75-5c-316](#) and the guardian's

2800 report under Section [75-5c-317](#); and

2801 (h) object to the guardian's plan or report.

2802 Section 66. Section **75-5c-312** is enacted to read:

2803 **75-5c-312. Emergency guardian for adult.**

2804 (1) On its own after a petition has been filed under Section [75-5c-302](#), or on petition by

2805 a person interested in an adult's welfare, the court may appoint an emergency guardian for the

2806 adult if the court finds:

2807 (a) appointment of an emergency guardian is likely to prevent substantial harm to the

2808 adult's physical health, safety, or welfare;

2809 (b) no other person appears to have authority and willingness to act in the

2810 circumstances; and

2811 (c) there is reason to believe that a basis for appointment of a guardian under Section

2812 [75-5c-301](#) exists.

2813 (2) The duration of authority of an emergency guardian for an adult may not exceed 60

2814 days, and the emergency guardian may exercise only the powers specified in the order of

2815 appointment. The emergency guardian's authority may be extended once for not more than 60

2816 days if the court finds that the conditions for appointment of an emergency guardian in

2817 Subsection (1) continue.

2818 (3) Immediately on filing of a petition for appointment of an emergency guardian for
2819 an adult, the court shall appoint an attorney to represent the respondent in the proceeding.
2820 Except as otherwise provided in Subsection (4), reasonable notice of the date, time, and place
2821 of a hearing on the petition must be given to the respondent, the respondent's attorney, and any
2822 other person the court determines.

2823 (4) The court may appoint an emergency guardian for an adult without notice to the
2824 adult and any attorney for the adult only if the court finds from an affidavit or testimony that
2825 the respondent's physical health, safety, or welfare will be substantially harmed before a
2826 hearing with notice on the appointment can be held. If the court appoints an emergency
2827 guardian without giving notice under Subsection (3), the court must:

2828 (a) give notice of the appointment not later than 48 hours after the appointment to:

2829 (i) the respondent;

2830 (ii) the respondent's attorney; and

2831 (iii) any other person the court determines; and

2832 (b) hold a hearing on the appropriateness of the appointment not later than reasonably
2833 possible after the appointment.

2834 (5) Appointment of an emergency guardian under this section is not a determination
2835 that a basis exists for appointment of a guardian under Section [75-5c-301](#).

2836 (6) The court may remove an emergency guardian appointed under this section at any
2837 time. The emergency guardian shall make any report the court requires.

2838 Section 67. Section **75-5c-313** is enacted to read:

2839 **75-5c-313. Duties of guardian for adult.**

2840 (1) A guardian for an adult is a fiduciary. Except as otherwise limited by the court, a
2841 guardian for an adult shall make decisions regarding the support, care, education, health, and
2842 welfare of the adult subject to guardianship to the extent necessitated by the adult's limitations.

2843 (2) A guardian for an adult shall promote the self-determination of the adult and, to the
2844 extent reasonably feasible, encourage the adult to participate in decisions, act on the adult's
2845 own behalf, and develop or regain the capacity to manage the adult's personal affairs. In
2846 furtherance of this duty, the guardian shall:

2847 (a) become or remain personally acquainted with the adult and maintain sufficient
2848 contact with the adult, including through regular visitation, to know the adult's abilities,

2849 limitations, needs, opportunities, and physical and mental health;

2850 (b) to the extent reasonably feasible, identify the values and preferences of the adult
2851 and involve the adult in decisions affecting the adult, including decisions about the adult's care,
2852 dwelling, activities, or social interactions; and

2853 (c) make reasonable efforts to identify and facilitate supportive relationships and
2854 services for the adult.

2855 (3) A guardian for an adult at all times shall exercise reasonable care, diligence, and
2856 prudence when acting on behalf of or making decisions for the adult. In furtherance of this
2857 duty, the guardian shall:

2858 (a) take reasonable care of the personal effects, pets, and service or support animals of
2859 the adult and bring a proceeding for a conservatorship or protective arrangement instead of
2860 conservatorship if necessary to protect the adult's property;

2861 (b) expend funds and other property of the adult received by the guardian for the adult's
2862 current needs for support, care, education, health, and welfare;

2863 (c) conserve any funds and other property of the adult not expended under Subsection
2864 (3)(b) for the adult's future needs, but if a conservator has been appointed for the adult, pay the
2865 funds and other property at least quarterly to the conservator to be conserved for the adult's
2866 future needs; and

2867 (d) monitor the quality of services, including long-term care services, provided to the
2868 adult.

2869 (4) In making a decision for an adult subject to guardianship, the guardian shall make
2870 the decision the guardian reasonably believes the adult would make if the adult were able
2871 unless doing so would unreasonably harm or endanger the welfare or personal or financial
2872 interests of the adult. To determine the decision the adult subject to guardianship would make
2873 if able, the guardian shall consider the adult's previous or current directions, preferences,
2874 opinions, values, and actions, to the extent actually known or reasonably ascertainable by the
2875 guardian.

2876 (5) If a guardian for an adult cannot make a decision under Subsection (4) because the
2877 guardian does not know and cannot reasonably determine the decision the adult probably
2878 would make if able, or the guardian reasonably believes the decision the adult would make
2879 would unreasonably harm or endanger the welfare or personal or financial interests of the adult,

2880 the guardian shall act in accordance with the best interest of the adult. In determining the best
2881 interest of the adult, the guardian shall consider:

2882 (a) information received from professionals and persons that demonstrate sufficient
2883 interest in the welfare of the adult;

2884 (b) other information the guardian believes the adult would have considered if the adult
2885 were able to act; and

2886 (c) other factors a reasonable person in the circumstances of the adult would consider,
2887 including consequences for others.

2888 (6) A guardian for an adult immediately shall notify the court if the condition of the
2889 adult has changed so that the adult is capable of exercising rights previously removed.

2890 Section 68. Section **75-5c-314** is enacted to read:

2891 **75-5c-314. Powers of guardian for adult.**

2892 (1) Except as limited by court order, a guardian for an adult may:

2893 (a) apply for and receive funds and benefits for the support of the adult, unless a
2894 conservator is appointed for the adult and the application or receipt is within the powers of the
2895 conservator;

2896 (b) unless inconsistent with a court order, establish the adult's place of dwelling;

2897 (c) consent to health or other care, treatment, or service for the adult;

2898 (d) if a conservator for the adult has not been appointed, commence a proceeding,
2899 including an administrative proceeding, or take other appropriate action to compel another
2900 person to support the adult or pay funds for the adult's benefit;

2901 (e) to the extent reasonable, delegate to the adult responsibility for a decision affecting
2902 the adult's well-being; and

2903 (f) receive personally identifiable health care information regarding the adult.

2904 (2) The court by specific order may authorize a guardian for an adult to consent to the
2905 adoption of the adult.

2906 (3) The court by specific order may authorize a guardian for an adult to:

2907 (a) consent or withhold consent to the marriage of the adult if the adult's right to marry
2908 has been removed under Section [75-5c-310](#);

2909 (b) petition for divorce, dissolution, or annulment of marriage of the adult or a
2910 declaration of invalidity of the adult's marriage; or

2911 (c) support or oppose a petition for divorce, dissolution, or annulment of marriage of
2912 the adult or a declaration of invalidity of the adult's marriage.

2913 (4) In determining whether to authorize a power under Subsection (2) or (3), the court
2914 shall consider whether the underlying act would be in accordance with the adult's preferences,
2915 values, and prior directions and whether the underlying act would be in the adult's best interest.

2916 (5) In exercising a guardian's power under Subsection (1)(b) to establish the adult's
2917 place of dwelling, the guardian shall:

2918 (a) select a residential setting the guardian believes the adult would select if the adult
2919 were able, in accordance with the decision-making standard in Subsections [75-5c-313](#)(4) and
2920 (5). If the guardian does not know and cannot reasonably determine what setting the adult
2921 subject to guardianship probably would choose if able, or the guardian reasonably believes the
2922 decision the adult would make would unreasonably harm or endanger the welfare or personal
2923 or financial interests of the adult, the guardian shall choose in accordance with Subsection
2924 [75-5c-313](#)(5) a residential setting that is consistent with the adult's best interest;

2925 (b) in selecting among residential settings, give priority to a residential setting in a
2926 location that will allow the adult to interact with persons important to the adult and meet the
2927 adult's needs in the least restrictive manner reasonably feasible unless to do so would be
2928 inconsistent with the decision-making standard in Subsections [75-5c-313](#)(4) and (5);

2929 (c) not later than 30 days after a change in the dwelling of the adult:

2930 (i) give notice of the change to the court, the adult, and any person identified as entitled
2931 to the notice in the court order appointing the guardian or a subsequent order; and

2932 (ii) include in the notice the address and nature of the new dwelling and state whether
2933 the adult received advance notice of the change and whether the adult objected to the change;

2934 (d) establish or move the permanent place of dwelling of the adult to a nursing home,
2935 mental-health facility, or other facility that places restrictions on the adult's ability to leave or
2936 have visitors only if:

2937 (i) the establishment or move is in the guardian's plan under Section [75-5c-316](#);

2938 (ii) the court authorizes the establishment or move; or

2939 (iii) the guardian gives notice of the establishment or move at least 14 days before the
2940 establishment or move to the adult and all persons entitled to notice under Subsection
2941 [75-5c-310](#)(5)(b) or a subsequent order, and no objection is filed;

2942 (e) establish or move the place of dwelling of the adult outside this state only if
2943 consistent with the guardian's plan and authorized by the court by specific order; and

2944 (f) take action that would result in the sale of or surrender of the lease to the primary
2945 dwelling of the adult only if:

2946 (i) the action is specifically included in the guardian's plan under Section [75-5c-316](#);

2947 (ii) the court authorizes the action by specific order; or

2948 (iii) notice of the action was given at least 14 days before the action to the adult and all
2949 persons entitled to the notice under Subsection [75-5c-310\(5\)\(b\)](#) or a subsequent order and no
2950 objection has been filed.

2951 (6) In exercising a guardian's power under Subsection (1)(c) to make health care
2952 decisions, the guardian shall:

2953 (a) involve the adult in decision making to the extent reasonably feasible, including,
2954 when practicable, by encouraging and supporting the adult in understanding the risks and
2955 benefits of health care options;

2956 (b) defer to a decision by an agent under a power of attorney for health care executed
2957 by the adult and cooperate to the extent feasible with the agent making the decision; and

2958 (c) take into account:

2959 (i) the risks and benefits of treatment options; and

2960 (ii) the current and previous wishes and values of the adult, if known or reasonably
2961 ascertainable by the guardian.

2962 Section 69. Section **75-5c-315** is enacted to read:

2963 **75-5c-315. Special limitations on guardian's power.**

2964 (1) Unless authorized by the court by specific order, a guardian for an adult does not
2965 have the power to revoke or amend a power of attorney for health care or power of attorney for
2966 finances executed by the adult. If a power of attorney for health care is in effect, unless there is
2967 a court order to the contrary, a health care decision of an agent takes precedence over that of
2968 the guardian and the guardian shall cooperate with the agent to the extent feasible. If a power of
2969 attorney for finances is in effect, unless there is a court order to the contrary, a decision by the
2970 agent which the agent is authorized to make under the power of attorney for finances takes
2971 precedence over that of the guardian and the guardian shall cooperate with the agent to the
2972 extent feasible.

2973 (2) A guardian for an adult may not initiate the commitment of the adult to a mental
2974 health facility except in accordance with the state's procedure for involuntary civil
2975 commitment.

2976 (3) A guardian for an adult may not restrict the ability of the adult to communicate,
2977 visit, or interact with others, including receiving visitors and making or receiving telephone
2978 calls, personal mail, or electronic communications, including through social media, or
2979 participating in social activities, unless:

2980 (a) authorized by the court by specific order;

2981 (b) a protective order or a protective arrangement instead of guardianship is in effect
2982 that limits contact between the adult and a person; or

2983 (c) the guardian has good cause to believe restriction is necessary because interaction
2984 with a specified person poses a risk of significant physical, psychological, or financial harm to
2985 the adult and the restriction is:

2986 (i) for a period of not more than seven business days if the person has a family or
2987 pre-existing social relationship with the adult; or

2988 (ii) for a period of not more than 60 days if the person does not have a family or
2989 pre-existing social relationship with the adult.

2990 Section 70. Section **75-5c-316** is enacted to read:

2991 **75-5c-316. Guardian's plan.**

2992 (1) A guardian for an adult, not later than 60 days after appointment and when there is
2993 a significant change in circumstances, or the guardian seeks to deviate significantly from the
2994 guardian's plan, shall file with the court a plan for the care of the adult. The plan must be based
2995 on the needs of the adult and take into account the best interest of the adult as well as the
2996 adult's preferences, values, and prior directions, to the extent known to or reasonably
2997 ascertainable by the guardian. The guardian shall include in the plan:

2998 (a) the living arrangement, services, and supports the guardian expects to arrange,
2999 facilitate, or continue for the adult;

3000 (b) social and educational activities the guardian expects to facilitate on behalf of the
3001 adult;

3002 (c) any person with whom the adult has a close personal relationship or relationship
3003 involving regular visitation and any plan the guardian has for facilitating visits with the person;

3004 (d) the anticipated nature and frequency of the guardian's visits and communication
3005 with the adult;

3006 (e) goals for the adult, including any goal related to the restoration of the adult's rights,
3007 and how the guardian anticipates achieving the goals;

3008 (f) whether the adult has an existing plan and, if so, whether the guardian's plan is
3009 consistent with the adult's plan; and

3010 (g) a statement or list of the amount the guardian proposes to charge for each service
3011 the guardian anticipates providing to the adult.

3012 (2) A guardian shall give notice of the filing of the guardian's plan under Subsection
3013 (1), together with a copy of the plan, to the adult subject to guardianship, a person entitled to
3014 notice under Subsection 75-5c-310(5) or a subsequent order, and any other person the court
3015 determines. The notice must include a statement of the right to object to the plan and be given
3016 not later than 14 days after the filing.

3017 (3) An adult subject to guardianship and any person entitled under Subsection (2) to
3018 receive notice and a copy of the guardian's plan may object to the plan.

3019 (4) The court shall review the guardian's plan filed under Subsection (1) and determine
3020 whether to approve the plan or require a new plan. In deciding whether to approve the plan, the
3021 court shall consider an objection under Subsection (3) and whether the plan is consistent with
3022 the guardian's duties and powers under Sections 75-5c-313 and 75-5c-314. The court may not
3023 approve the plan until 30 days after its filing.

3024 (5) After the guardian's plan filed under this section is approved by the court, the
3025 guardian shall provide a copy of the plan to the adult subject to guardianship, a person entitled
3026 to notice under Subsection 75-5c-310(5) or a subsequent order, and any other person the court
3027 determines.

3028 Section 71. Section 75-5c-317 is enacted to read:

3029 **75-5c-317. Guardian's report-- Monitoring of guardianship.**

3030 (1) A guardian for an adult, not later than 60 days after appointment and at least
3031 annually thereafter, shall file with the court a report in a record regarding the condition of the
3032 adult and accounting for funds and other property in the guardian's possession or subject to the
3033 guardian's control.

3034 (2) A report under Subsection (1) must state or contain:

- 3035 (a) the mental, physical, and social condition of the adult;
3036 (b) the living arrangements of the adult during the reporting period;
3037 (c) a summary of the supported decision making, technological assistance, medical
3038 services, educational and vocational services, and other supports and services provided to the
3039 adult and the guardian's opinion as to the adequacy of the adult's care;
3040 (d) a summary of the guardian's visits with the adult, including the dates of the visits;
3041 (e) action taken on behalf of the adult;
3042 (f) the extent to which the adult has participated in decision making;
3043 (g) if the adult is living in a mental health facility or living in a facility that provides
3044 the adult with health care or other personal services, whether the guardian considers the
3045 facility's current plan for support, care, treatment, or habilitation consistent with the adult's
3046 preferences, values, prior directions, and best interest;
3047 (h) anything of more than de minimis value which the guardian, any individual who
3048 resides with the guardian, or the spouse, parent, child, or sibling of the guardian has received
3049 from an individual providing goods or services to the adult;
3050 (i) if the guardian delegated a power to an agent, the power delegated and the reason
3051 for the delegation;
3052 (j) any business relation the guardian has with a person the guardian has paid or that
3053 has benefitted from the property of the adult;
3054 (k) a copy of the guardian's most recently approved plan under Section [75-5c-316](#) and a
3055 statement whether the guardian has deviated from the plan and, if so, how the guardian has
3056 deviated and why;
3057 (l) plans for future care and support of the adult;
3058 (m) a recommendation as to the need for continued guardianship and any
3059 recommended change in the scope of the guardianship; and
3060 (n) whether any coguardian or successor guardian appointed to serve when a
3061 designated event occurs is alive and able to serve.
3062 (3) The court may appoint a visitor to review a report submitted under this section or a
3063 guardian's plan submitted under Section [75-5c-316](#), interview the guardian or adult subject to
3064 guardianship, or investigate any other matter involving the guardianship.
3065 (4) Notice of the filing under this section of a guardian's report, together with a copy of

3066 the report, must be given to the adult subject to guardianship, a person entitled to notice under
3067 Subsection 75-5c-310(5) or a subsequent order, and any other person the court determines. The
3068 notice and report must be given not later than 14 days after the filing.

3069 (5) The court shall establish procedures for monitoring a report submitted under this
3070 section and review each report at least annually to determine whether:

3071 (a) the report provides sufficient information to establish the guardian has complied
3072 with the guardian's duties;

3073 (b) the guardianship should continue; and

3074 (c) the guardian's requested fees, if any, should be approved.

3075 (6) If the court determines there is reason to believe a guardian for an adult has not
3076 complied with the guardian's duties or the guardianship should be modified or terminated, the
3077 court:

3078 (a) shall notify the adult, the guardian, and any other person entitled to notice under
3079 Subsection 75-5c-310(5) or a subsequent order;

3080 (b) may require additional information from the guardian;

3081 (c) may appoint a visitor to interview the adult or guardian or investigate any matter
3082 involving the guardianship; and

3083 (d) consistent with Sections 75-5c-318 and 75-5c-319, may hold a hearing to consider
3084 removal of the guardian, termination of the guardianship, or a change in the powers granted to
3085 the guardian or terms of the guardianship.

3086 (7) If the court has reason to believe fees requested by a guardian for an adult are not
3087 reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

3088 (8) A guardian for an adult may petition the court for approval of a report filed under
3089 this section. The court after review may approve the report. If the court approves the report,
3090 there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in
3091 the report.

3092 Section 72. Section **75-5c-318** is enacted to read:

3093 **75-5c-318. Removal of guardian for adult-- Appointment of successor.**

3094 (1) The court may remove a guardian for an adult for failure to perform the guardian's
3095 duties or for other good cause and appoint a successor guardian to assume the duties of
3096 guardian.

3097 (2) The court shall hold a hearing to determine whether to remove a guardian for an
3098 adult and appoint a successor guardian on:

3099 (a) petition of the adult, guardian, or person interested in the welfare of the adult,
3100 which contains allegations that, if true, would support a reasonable belief that removal of the
3101 guardian and appointment of a successor guardian may be appropriate, but the court may
3102 decline to hold a hearing if a petition based on the same or substantially similar facts was filed
3103 during the preceding six months;

3104 (b) communication from the adult, guardian, or person interested in the welfare of the
3105 adult which supports a reasonable belief that removal of the guardian and appointment of a
3106 successor guardian may be appropriate; or

3107 (c) determination by the court that a hearing would be in the best interest of the adult.

3108 (3) Notice of a petition under Subsection (2)(a) must be given to the adult subject to
3109 guardianship, the guardian, and any other person the court determines.

3110 (4) An adult subject to guardianship who seeks to remove the guardian and have a
3111 successor guardian appointed has the right to choose an attorney to represent the adult in this
3112 matter. If the adult is not represented by an attorney, the court shall appoint an attorney under
3113 the same conditions as in Section [75-5c-305](#). The court shall award reasonable attorney fees to
3114 the attorney for the adult as provided in Section [75-5c-119](#).

3115 (5) In selecting a successor guardian for an adult, the court shall follow the priorities
3116 under Section [75-5c-309](#).

3117 (6) Not later than 30 days after appointing a successor guardian, the court shall give
3118 notice of the appointment to the adult subject to guardianship and any person entitled to notice
3119 under Subsection [75-5c-310](#)(5) or a subsequent order.

3120 Section 73. Section **75-5c-319** is enacted to read:

3121 **75-5c-319. Termination or modification of guardianship for adult.**

3122 (1) An adult subject to guardianship, the guardian for the adult, or a person interested
3123 in the welfare of the adult may petition for:

3124 (a) termination of the guardianship on the ground that a basis for appointment under
3125 Section [75-5c-301](#) does not exist or termination would be in the best interest of the adult or for
3126 other good cause; or

3127 (b) modification of the guardianship on the ground that the extent of protection or

3128 assistance granted is not appropriate or for other good cause.

3129 (2) The court shall hold a hearing to determine whether termination or modification of
3130 a guardianship for an adult is appropriate on:

3131 (a) petition under Subsection (1) which contains allegations that, if true, would support
3132 a reasonable belief that termination or modification of the guardianship may be appropriate, but
3133 the court may decline to hold a hearing if a petition based on the same or substantially similar
3134 facts was filed during the preceding six months;

3135 (b) communication from the adult, guardian, or person interested in the welfare of the
3136 adult which supports a reasonable belief that termination or modification of the guardianship
3137 may be appropriate, including because the functional needs of the adult or supports or services
3138 available to the adult have changed;

3139 (c) a report from a guardian or conservator which indicates that termination or
3140 modification may be appropriate because the functional needs of the adult or supports or
3141 services available to the adult have changed or a protective arrangement instead of
3142 guardianship or other less restrictive alternative for meeting the adult's needs is available; or

3143 (d) a determination by the court that a hearing would be in the best interest of the adult.

3144 (3) Notice of a petition under Subsection (2)(a) must be given to the adult subject to
3145 guardianship, the guardian, and any other person the court determines.

3146 (4) On presentation of prima facie evidence for termination of a guardianship for an
3147 adult, the court shall order termination unless it is proven that a basis for appointment of a
3148 guardian under Section [75-5c-301](#) exists.

3149 (5) The court shall modify the powers granted to a guardian for an adult if the powers
3150 are excessive or inadequate due to a change in the abilities or limitations of the adult, the
3151 adult's supports, or other circumstances.

3152 (6) Unless the court otherwise orders for good cause, before terminating or modifying a
3153 guardianship for an adult, the court shall follow the same procedures to safeguard the rights of
3154 the adult which apply to a petition for guardianship.

3155 (7) An adult subject to guardianship who seeks to terminate or modify the terms of the
3156 guardianship has the right to choose an attorney to represent the adult in the matter. If the adult
3157 is not represented by an attorney, the court shall appoint an attorney under the same conditions
3158 as in Section [75-5c-305](#). The court shall award reasonable attorney fees to the attorney for the

3159 adult as provided in Section [75-5c-119](#).

3160 Section 74. Section **75-5c-320** is enacted to read:

3161 **75-5c-320. Guardianship proceedings for minor becoming an adult subject to**
3162 **guardianship.**

3163 (1) As used in this section:

3164 (a) "Joint legal decision-making" means parents or two persons, regardless of whether
3165 they are married, sharing legal decision-making and no person's rights or responsibilities being
3166 superior except with respect to specified decisions set forth by the court or the persons in a
3167 final judgment or order.

3168 (b) "Legal decision-making" means the legal right and responsibility to make all
3169 nonemergency legal decisions for a minor including those regarding education, health care,
3170 religious training, and personal care decisions.

3171 (c) "Minor" means the same as that term is defined in Section [75-1-201](#).

3172 (d) "Physician" means an individual:

3173 (i) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

3174 (ii) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical
3175 Practice Act.

3176 (e) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist
3177 Licensing Act, to engage in the practice of psychology as defined in Section [58-61-102](#).

3178 (f) "Sole legal decision-making" means one parent or one individual having the legal
3179 right and responsibility to make major decisions for the minor child.

3180 (2) (a) Notwithstanding the other provisions of this part, a person who may be a
3181 guardian for an adult under Section [75-5c-309](#) may initiate guardianship proceedings pursuant
3182 to this Subsection (2) for a minor who is at least 17 years, six months of age and who will be an
3183 adult subject to guardianship and request that a guardianship order take effect immediately on
3184 the day the minor turns 18 years of age.

3185 (b) The petitioner shall provide with the petition a written report of an evaluation of the
3186 minor by a physician or psychologist that meets the requirements of Subsection (2)(c). If the
3187 evaluation is conducted within six months after the date the petition is filed with the court, the
3188 petitioner may ask in the petition that the court accept this report in lieu of ordering any
3189 additional evaluation and the court may grant the request.

3190 (c) A written report filed pursuant to this section by a physician or psychologist acting
3191 within that person's scope of practice shall include the following information:

3192 (i) a specific description of the physical, psychiatric, or psychological diagnosis of the
3193 individual;

3194 (ii) a comprehensive assessment listing any functional impairments of the individual
3195 and an explanation of how and to what extent these functional impairments may prevent that
3196 individual from receiving or evaluating information in making decisions or in communicating
3197 informed decisions, with or without assistance, regarding that individual;

3198 (iii) an analysis of the tasks of daily living the individual is capable of performing
3199 independently or with assistance;

3200 (iv) a list of the medications the individual is receiving, the dosage of the medications,
3201 and a description of the effects each medication has on the individual's behavior to the best of
3202 the declarant's knowledge;

3203 (v) a prognosis for improvement in the individual's condition and a recommendation
3204 for the most appropriate rehabilitation plan or care plan; and

3205 (vi) other information the physician or psychologist considers appropriate.

3206 (3) (a) Notwithstanding the priorities in Section 75-5c-309, if the petition for
3207 appointment of a guardian is filed pursuant to Subsection (2) or within two years after the day
3208 the individual subject to guardianship turns 18 years of age, unless the court finds the
3209 appointment to be contrary to the individual's best interest:

3210 (i) the court shall appoint as the individual's guardian any person who, by court order,
3211 had sole legal decision-making of the individual when the individual subject to guardianship
3212 attained 17 years, six months of age; or

3213 (ii) if two persons had joint legal decision-making of the individual subject to
3214 guardianship when the individual subject to guardianship attained 17 years, six months of age,
3215 the court shall appoint both persons as coguardians.

3216 (b) If under Subsection (3)(a) the court finds the appointment of a person described in
3217 Subsection (3)(a) is contrary to the individual subject to guardianship's best interest or if the
3218 potential guardian is unwilling to be appointed or serve as a guardian, the court may apply the
3219 priorities in Section 75-5c-309 in appointing a guardian.

3220 (4) The court may appoint more than one person as the coguardians if the appointment

3221 is required by Subsection (3) or the court finds that the appointment is in the individual subject
3222 to guardianship's best interest. If the court appoints coguardians, the coguardians shall share
3223 legal decision-making for the individual subject to guardianship and neither coguardian's rights
3224 or responsibilities are superior except as otherwise ordered by the court.

3225 Section 75. Section **75-5c-401** is enacted to read:

3226 **Part 4. Conservatorship**

3227 **75-5c-401. Basis for appointment of conservator.**

3228 (1) On petition and after notice and hearing, the court may appoint a conservator for
3229 the property or financial affairs of a minor if the court finds by a preponderance of evidence
3230 that appointment of a conservator is in the minor's best interest, and:

3231 (a) if the minor has a parent, the court gives weight to any recommendation of the
3232 parent whether an appointment is in the minor's best interest; and

3233 (b) either:

3234 (i) the minor owns funds or other property requiring management or protection that
3235 otherwise cannot be provided;

3236 (ii) the minor has or may have financial affairs that may be put at unreasonable risk or
3237 hindered because of the minor's age; or

3238 (iii) appointment is necessary or desirable to obtain or provide funds or other property
3239 needed for the support, care, education, health, or welfare of the minor.

3240 (2) On petition and after notice and hearing, the court may appoint a conservator for
3241 the property or financial affairs of an adult if the court finds by clear and convincing evidence
3242 that:

3243 (a) the adult is unable to manage property or financial affairs because:

3244 (i) of a limitation in the adult's ability to receive and evaluate information or make or
3245 communicate decisions, even with the use of appropriate supportive services, technological
3246 assistance, or supported decision making; or

3247 (ii) the adult is missing, detained, or unable to return to the United States;

3248 (b) appointment is necessary to:

3249 (i) avoid harm to the adult or significant dissipation of the property of the adult; or

3250 (ii) obtain or provide funds or other property needed for the support, care, education,
3251 health, or welfare of the adult or of an individual entitled to the adult's support; and

3252 (c) the respondent's identified needs cannot be met by a protective arrangement instead
3253 of conservatorship or other less restrictive alternative.

3254 (3) The court shall grant a conservator only those powers necessitated by demonstrated
3255 limitations and needs of the respondent and issue orders that will encourage development of the
3256 respondent's maximum self-determination and independence. The court may not establish a full
3257 conservatorship if a limited conservatorship, protective arrangement instead of conservatorship,
3258 or other less restrictive alternative would meet the needs of the respondent.

3259 Section 76. Section **75-5c-402** is enacted to read:

3260 **75-5c-402. Petition for appointment of conservator.**

3261 (1) The following may petition for the appointment of a conservator:

3262 (a) the individual for whom the order is sought;

3263 (b) a person interested in the estate, financial affairs, or welfare of the individual,
3264 including a person that would be adversely affected by lack of effective management of
3265 property or financial affairs of the individual; or

3266 (c) the guardian for the individual.

3267 (2) A petition under Subsection (1) must state the petitioner's name, principal
3268 residence, current street address, if different, relationship to the respondent, interest in the
3269 appointment, the name and address of any attorney representing the petitioner, and, to the
3270 extent known, the following:

3271 (a) the respondent's name, age, principal residence, current street address, if different,
3272 and, if different, address of the dwelling in which it is proposed the respondent will reside if
3273 the petition is granted;

3274 (b) the name and address of the respondent's:

3275 (i) spouse or, if the respondent has none, an adult with whom the respondent has shared
3276 household responsibilities for more than six months in the 12-month period before the filing of
3277 the petition;

3278 (ii) adult children or, if none, each parent and adult sibling of the respondent, or, if
3279 none, at least one adult nearest in kinship to the respondent who can be found with reasonable
3280 diligence; and

3281 (iii) adult stepchildren whom the respondent actively parented during the stepchildren's
3282 minor years and with whom the respondent had an ongoing relationship during the two years

3283 immediately before the filing of the petition;
3284 (c) the name and current address of each of the following, if applicable:
3285 (i) a person responsible for the care or custody of the respondent;
3286 (ii) any attorney currently representing the respondent;
3287 (iii) the representative payee appointed by the Social Security Administration for the
3288 respondent;
3289 (iv) a guardian or conservator acting for the respondent in this state or another
3290 jurisdiction;
3291 (v) a trustee or custodian of a trust or custodianship of which the respondent is a
3292 beneficiary;
3293 (vi) the fiduciary appointed for the respondent by the Department of Veterans Affairs;
3294 (vii) an agent designated under a power of attorney for health care in which the
3295 respondent is identified as the principal;
3296 (viii) an agent designated under a power of attorney for finances in which the
3297 respondent is identified as the principal;
3298 (ix) a person known to have routinely assisted the respondent with decision making in
3299 the six-month period immediately before the filing of the petition;
3300 (x) any proposed conservator, including a person nominated by the respondent, if the
3301 respondent is 12 years of age or older; and
3302 (xi) if the individual for whom a conservator is sought is a minor:
3303 (A) an adult not otherwise listed with whom the minor resides; and
3304 (B) each person not otherwise listed that had primary care or custody of the minor for
3305 at least 60 days during the two years immediately before the filing of the petition or for at least
3306 730 days during the five years immediately before the filing of the petition;
3307 (d) a general statement of the respondent's property with an estimate of its value,
3308 including any insurance or pension, and the source and amount of other anticipated income or
3309 receipts;
3310 (e) the reason conservatorship is necessary, including a brief description of:
3311 (i) the nature and extent of the respondent's alleged need;
3312 (ii) if the petition alleges the respondent is missing, detained, or unable to return to the
3313 United States, the relevant circumstances, including the time and nature of the disappearance or

3314 detention and any search or inquiry concerning the respondent's whereabouts;
3315 (iii) any protective arrangement instead of conservatorship or other less restrictive
3316 alternative for meeting the respondent's alleged need which has been considered or
3317 implemented;
3318 (iv) if no protective arrangement or other less restrictive alternatives have been
3319 considered or implemented, the reason it has not been considered or implemented; and
3320 (v) the reason a protective arrangement or other less restrictive alternative is
3321 insufficient to meet the respondent's need;
3322 (f) whether the petitioner seeks a limited conservatorship or a full conservatorship;
3323 (g) if the petitioner seeks a full conservatorship, the reason a limited conservatorship or
3324 protective arrangement instead of conservatorship is not appropriate;
3325 (h) if the petition includes the name of a proposed conservator, the reason the proposed
3326 conservator should be appointed;
3327 (i) if the petition is for a limited conservatorship, a description of the property to be
3328 placed under the conservator's control and any requested limitation on the authority of the
3329 conservator;
3330 (j) whether the respondent needs an interpreter, translator, or other form of support to
3331 communicate effectively with the court or understand court proceedings; and
3332 (k) the name and address of an attorney representing the petitioner, if any.
3333 Section 77. Section **75-5c-403** is enacted to read:
3334 **75-5c-403. Notice and hearing for appointment of conservator.**
3335 (1) On filing of a petition under Section [75-5c-402](#) for appointment of a conservator,
3336 the court shall set a date, time, and place for a hearing on the petition.
3337 (2) A copy of a petition under Section [75-5c-402](#) and notice of a hearing on the petition
3338 must be served personally on the respondent. If the respondent's whereabouts are unknown or
3339 personal service cannot be made, service on the respondent must be made by substituted
3340 service or publication. The notice must inform the respondent of the respondent's rights at the
3341 hearing, including the right to an attorney and to attend the hearing. The notice must include a
3342 description of the nature, purpose, and consequences of granting the petition. The court may
3343 not grant a petition for appointment of a conservator if notice substantially complying with this
3344 Subsection (2) is not served on the respondent.

3345 (3) In a proceeding on a petition under Section 75-5c-402, the notice required under
3346 Subsection (2) must be given to the persons required to be listed in the petition under
3347 Subsections 75-5c-402(2)(a) through (c) and any other person interested in the respondent's
3348 welfare the court determines. Failure to give notice under this Subsection (3) does not preclude
3349 the court from appointing a conservator.

3350 (4) After the appointment of a conservator, notice of a hearing on a petition for an
3351 order under this part, together with a copy of the petition, must be given to:

3352 (a) the individual subject to conservatorship, if the individual is 12 years of age or
3353 older and not missing, detained, or unable to return to the United States;

3354 (b) the conservator; and

3355 (c) any other person the court determines.

3356 Section 78. Section **75-5c-404** is enacted to read:

3357 **75-5c-404. Order to preserve or apply property while proceeding pending.**

3358 While a petition under Section 75-5c-402 is pending, after preliminary hearing and
3359 without notice to others, the court may issue an order to preserve and apply property of the
3360 respondent as required for the support of the respondent or an individual who is in fact
3361 dependent on the respondent. The court may appoint a master to assist in implementing the
3362 order.

3363 Section 79. Section **75-5c-405** is enacted to read:

3364 **75-5c-405. Appointment and role of visitor.**

3365 (1) If the respondent in a proceeding to appoint a conservator is a minor, the court may
3366 appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of
3367 the minor about the petition or a related matter.

3368 (2) If the respondent in a proceeding to appoint a conservator is an adult, the court shall
3369 appoint a visitor unless the adult is represented by an attorney appointed by the court. The
3370 duties and reporting requirements of the visitor are limited to the relief requested in the
3371 petition. The visitor must be an individual with training or experience in the type of abilities,
3372 limitations, and needs alleged in the petition.

3373 (3) A visitor appointed under Subsection (2) for an adult shall interview the respondent
3374 in person and in a manner the respondent is best able to understand:

3375 (a) explain to the respondent the substance of the petition, the nature, purpose, and

3376 effect of the proceeding, the respondent's rights at the hearing on the petition, and the general
3377 powers and duties of a conservator;

3378 (b) determine the respondent's views about the appointment sought by the petitioner,
3379 including views about a proposed conservator, the conservator's proposed powers and duties,
3380 and the scope and duration of the proposed conservatorship;

3381 (c) inform the respondent of the respondent's right to employ and consult with an
3382 attorney at the respondent's expense and the right to request a court-appointed attorney; and

3383 (d) inform the respondent that all costs and expenses of the proceeding, including the
3384 respondent's attorney fees, may be paid from the respondent's assets.

3385 (4) A visitor appointed under Subsection (2) for an adult shall:

3386 (a) interview the petitioner and proposed conservator, if any;

3387 (b) review financial records of the respondent, if relevant to the visitor's

3388 recommendation under Subsection (5)(b);

3389 (c) investigate whether the respondent's needs could be met by a protective
3390 arrangement instead of conservatorship or other less restrictive alternative and, if so, identify
3391 the arrangement or other less restrictive alternative; and

3392 (d) investigate the allegations in the petition and any other matter relating to the
3393 petition the court directs.

3394 (5) A visitor appointed under Subsection (2) for an adult promptly shall file a report in
3395 a record with the court, which must include:

3396 (a) a recommendation:

3397 (i) regarding the appropriateness of conservatorship, or whether a protective
3398 arrangement instead of conservatorship or other less restrictive alternative for meeting the
3399 respondent's needs is available;

3400 (ii) if a conservatorship is recommended, whether it should be full or limited; and

3401 (iii) if a limited conservatorship is recommended, the powers to be granted to the
3402 conservator, and the property that should be placed under the conservator's control;

3403 (b) a statement of the qualifications of the proposed conservator and whether the
3404 respondent approves or disapproves of the proposed conservator;

3405 (c) a recommendation whether a professional evaluation under Section [75-5c-407](#) is
3406 necessary;

3407 (d) a statement whether the respondent is able to attend a hearing at the location court
3408 proceedings typically are held;

3409 (e) a statement whether the respondent is able to participate in a hearing and which
3410 identifies any technology or other form of support that would enhance the respondent's ability
3411 to participate; and

3412 (f) any other matter the court directs.

3413 Section 80. Section **75-5c-406** is enacted to read:

3414 **75-5c-406. Appointment and role of attorney.**

3415 (1) The court shall appoint an attorney to represent the respondent in a proceeding to
3416 appoint a conservator if:

3417 (a) the respondent requests an appointment;

3418 (b) the visitor recommends an appointment; or

3419 (c) the court determines the respondent needs representation.

3420 (2) An attorney representing the respondent in a proceeding for appointment of a
3421 conservator shall:

3422 (a) make reasonable efforts to ascertain the respondent's wishes;

3423 (b) advocate for the respondent's wishes to the extent reasonably ascertainable; and

3424 (c) if the respondent's wishes are not reasonably ascertainable, advocate for the result
3425 that is the least-restrictive in type, duration, and scope, consistent with the respondent's
3426 interests.

3427 Section 81. Section **75-5c-407** is enacted to read:

3428 **75-5c-407. Professional evaluation.**

3429 (1) At or before a hearing on a petition for conservatorship for an adult, the court shall
3430 order a professional evaluation of the respondent:

3431 (a) if the respondent requests the evaluation; or

3432 (b) in other cases, unless the court finds it has sufficient information to determine the
3433 respondent's needs and abilities without the evaluation.

3434 (2) If the court orders an evaluation under Subsection (1), the respondent must be
3435 examined by a licensed physician, psychologist, social worker, or other individual appointed by
3436 the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities
3437 and limitations and will not be advantaged or disadvantaged by a decision to grant the petition

3438 or otherwise have a conflict of interest. The individual conducting the evaluation promptly
3439 shall file a report in a record with the court. Unless otherwise directed by the court, the report
3440 must contain:

3441 (a) a description of the nature, type, and extent of the respondent's cognitive and
3442 functional abilities and limitations with regard to the management of the respondent's property
3443 and financial affairs;

3444 (b) an evaluation of the respondent's mental and physical condition and, if appropriate,
3445 educational potential, adaptive behavior, and social skills;

3446 (c) a prognosis for improvement with regard to the ability to manage the respondent's
3447 property and financial affairs; and

3448 (d) the date of the examination on which the report is based.

3449 (3) A respondent may decline to participate in an evaluation ordered under Subsection
3450 (1).

3451 Section 82. Section **75-5c-408** is enacted to read:

3452 **75-5c-408. Attendance and rights at hearing.**

3453 (1) Except as otherwise provided in Subsection (2), a hearing under Section [75-5c-403](#)
3454 may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for
3455 the respondent to attend a hearing at the location court proceedings typically are held, the court
3456 shall make reasonable efforts to hold the hearing at an alternative location convenient to the
3457 respondent or allow the respondent to attend the hearing using real-time audio-visual
3458 technology.

3459 (2) A hearing under Section [75-5c-403](#) may proceed without the respondent in
3460 attendance if the court finds by clear and convincing evidence that:

3461 (a) the respondent consistently and repeatedly has refused to attend the hearing after
3462 having been fully informed of the right to attend and the potential consequences of failing to do
3463 so;

3464 (b) there is no practicable way for the respondent to attend and participate in the
3465 hearing even with appropriate supportive services or technological assistance; or

3466 (c) the respondent is a minor who has received proper notice and attendance would be
3467 harmful to the minor.

3468 (3) The respondent may be assisted in a hearing under Section [75-5c-403](#) by a person

3469 or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or
3470 a combination of these supports. If assistance would facilitate the respondent's participation in
3471 the hearing, but is not otherwise available to the respondent, the court shall make reasonable
3472 efforts to provide it.

3473 (4) The respondent has a right to choose an attorney to represent the respondent at a
3474 hearing under Section 75-5c-403.

3475 (5) At a hearing under Section 75-5c-403, the respondent may:

3476 (a) present evidence and subpoena witnesses and documents;

3477 (b) examine witnesses, including any court-appointed evaluator and the visitor; and

3478 (c) otherwise participate in the hearing.

3479 (6) Unless excused by the court for good cause, a proposed conservator shall attend a
3480 hearing under Section 75-5c-403.

3481 (7) A hearing under Section 75-5c-403 must be closed on request of the respondent and
3482 a showing of good cause.

3483 (8) Any person may request to participate in a hearing under Section 75-5c-403. The
3484 court may grant the request, with or without a hearing, on determining that the best interest of
3485 the respondent will be served. The court may impose appropriate conditions on the person's
3486 participation.

3487 Section 83. Section **75-5c-409** is enacted to read:

3488 **75-5c-409. Confidentiality of records.**

3489 (1) The existence of a proceeding for or the existence of conservatorship is a matter of
3490 public record unless the court seals the record after:

3491 (a) the respondent, the individual subject to conservatorship, or the parent of a minor
3492 subject to conservatorship requests the record be sealed; and

3493 (b) either:

3494 (i) the petition for conservatorship is dismissed; or

3495 (ii) the conservatorship is terminated.

3496 (2) An individual subject to a proceeding for a conservatorship, whether or not a
3497 conservator is appointed, an attorney designated by the individual, and a person entitled to
3498 notice under Subsection 75-5c-411(5) or a subsequent order may access court records of the
3499 proceeding and resulting conservatorship, including the conservator's plan under Section

3500 75-5c-419 and the conservator's report under Section 75-5c-423. A person not otherwise
3501 entitled to access to court records under this section for good cause may petition the court for
3502 access to court records of the conservatorship, including the conservator's plan and report. The
3503 court shall grant access if access is in the best interest of the respondent or individual subject to
3504 conservatorship or furthers the public interest and does not endanger the welfare or financial
3505 interests of the respondent or individual.

3506 (3) (a) A report under Section 75-5c-405 of a visitor or professional evaluation under
3507 Section 75-5c-407 is confidential and must be sealed on filing, but is available to:

3508 (i) the court;

3509 (ii) the individual who is the subject of the report or evaluation, for purposes of the
3510 proceeding;

3511 (iii) the petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of
3512 the proceeding;

3513 (iv) unless the court directs otherwise, an agent appointed under a power of attorney for
3514 finances in which the respondent is identified as the principal; and

3515 (v) any other person if it is in the public interest or for a purpose the court orders for
3516 good cause.

3517 (b) A report described in Subsection (3)(a) is not subject to Title 63G, Chapter 2,
3518 Government Records Access and Management Act.

3519 Section 84. Section **75-5c-410** is enacted to read:

3520 **75-5c-410. Who may be conservator -- Order of priority.**

3521 (1) Except as otherwise provided in Subsection (3), the court in appointing a
3522 conservator shall consider persons qualified to be a conservator in the following order of
3523 priority:

3524 (a) a conservator, other than a temporary or emergency conservator, currently acting for
3525 the respondent in another jurisdiction;

3526 (b) a person nominated as conservator by the respondent, including the respondent's
3527 most recent nomination made in a power of attorney for finances;

3528 (c) an agent appointed by the respondent to manage the respondent's property under a
3529 power of attorney for finances;

3530 (d) a spouse of the respondent; and

3531 (e) a family member or other individual who has shown special care and concern for
3532 the respondent.

3533 (2) If two or more persons have equal priority under Subsection (1), the court shall
3534 select as conservator the person the court considers best qualified. In determining the best
3535 qualified person, the court shall consider the person's relationship with the respondent, the
3536 person's skills, the expressed wishes of the respondent, the extent to which the person and the
3537 respondent have similar values and preferences, and the likelihood the person will be able to
3538 perform the duties of a conservator successfully.

3539 (3) The court, acting in the best interest of the respondent, may decline to appoint as
3540 conservator a person having priority under Subsection (1) and appoint a person having a lower
3541 priority or no priority.

3542 (4) A person that provides paid services to the respondent, or an individual who is
3543 employed by a person that provides paid services to the respondent or is the spouse, parent, or
3544 child of an individual who provides or is employed to provide paid services to the respondent,
3545 may not be appointed as conservator unless:

3546 (a) the individual is related to the respondent by blood, marriage, or adoption; or

3547 (b) the court finds by clear and convincing evidence that the person is the best qualified
3548 person available for appointment and the appointment is in the best interest of the respondent.

3549 (5) An owner, operator, or employee of a long term care facility, as defined in Section
3550 [62A-3-202](#), at which the respondent is receiving care may not be appointed as conservator
3551 unless the owner, operator, or employee is related to the respondent by blood, marriage, or
3552 adoption.

3553 Section 85. Section **75-5c-411** is enacted to read:

3554 **75-5c-411. Order of appointment of conservator.**

3555 (1) A court order appointing a conservator for a minor must include findings to support
3556 appointment of a conservator and, if a full conservatorship is granted, the reason a limited
3557 conservatorship would not meet the identified needs of the minor.

3558 (2) A court order appointing a conservator for an adult must:

3559 (a) include a specific finding that clear and convincing evidence has established that
3560 the identified needs of the respondent cannot be met by a protective arrangement instead of
3561 conservatorship or other less restrictive alternative, including use of appropriate supportive

3562 services, technological assistance, or supported decision making; and

3563 (b) include a specific finding that clear and convincing evidence established the
3564 respondent was given proper notice of the hearing on the petition.

3565 (3) A court order establishing a full conservatorship for an adult must state the basis for
3566 granting a full conservatorship and include specific findings to support the conclusion that a
3567 limited conservatorship would not meet the functional needs of the adult.

3568 (4) A court order establishing a limited conservatorship must state the specific property
3569 placed under the control of the conservator and the powers granted to the conservator.

3570 (5) The court, as part of an order establishing a conservatorship, shall identify any
3571 person that subsequently is entitled to:

3572 (a) notice of the rights of the individual subject to conservatorship under Subsection
3573 75-5c-412(2);

3574 (b) notice of a sale of or surrender of a lease to the primary dwelling of the individual;

3575 (c) notice that the conservator has delegated a power that requires court approval under
3576 Section 75-5c-414 or substantially all powers of the conservator;

3577 (d) notice that the conservator will be unavailable to perform the conservator's duties
3578 for more than one month;

3579 (e) a copy of the conservator's plan under Section 75-5c-419 and the conservator's
3580 report under Section 75-5c-423;

3581 (f) access to court records relating to the conservatorship;

3582 (g) notice of a transaction involving a substantial conflict between the conservator's
3583 fiduciary duties and personal interests;

3584 (h) notice of the death or significant change in the condition of the individual;

3585 (i) notice that the court has limited or modified the powers of the conservator; and

3586 (j) notice of the removal of the conservator.

3587 (6) If an individual subject to conservatorship is an adult, the spouse and adult children
3588 of the adult subject to conservatorship are entitled under Subsection (5) to notice unless the
3589 court determines notice would be contrary to the preferences or prior directions of the adult
3590 subject to conservatorship or not in the best interest of the adult.

3591 (7) If an individual subject to conservatorship is a minor, each parent and adult sibling
3592 of the minor is entitled under Subsection (5) to notice unless the court determines notice would

3593 not be in the best interest of the minor.

3594 Section 86. Section **75-5c-412** is enacted to read:

3595 **75-5c-412. Notice of order of appointment-- Rights.**

3596 (1) A conservator appointed under Section 75-5c-411 shall give to the individual
3597 subject to conservatorship and to all other persons given notice under Section 75-5c-403 a copy
3598 of the order of appointment, together with notice of the right to request termination or
3599 modification. The order and notice must be given not later than 14 days after the appointment.

3600 (2) Not later than 30 days after appointment of a conservator under Section 75-5c-411,
3601 the court shall give to the individual subject to conservatorship, the conservator, and any other
3602 person entitled to notice under Subsection 75-5c-411(5) a statement of the rights of the
3603 individual subject to conservatorship and procedures to seek relief if the individual is denied
3604 those rights. The statement must be in plain language, in at least 16-point font, and to the
3605 extent feasible, in a language in which the individual subject to conservatorship is proficient.
3606 The statement must notify the individual subject to conservatorship of the right to:

3607 (a) seek termination or modification of the conservatorship, or removal of the
3608 conservator, and choose an attorney to represent the individual in these matters;

3609 (b) participate in decision making to the extent reasonably feasible;

3610 (c) receive a copy of the conservator's plan under Section 75-5c-419, the conservator's
3611 inventory under Section 75-5c-420, and the conservator's report under Section 75-5c-423; and

3612 (d) object to the conservator's inventory, plan, or report.

3613 (3) If a conservator is appointed for the reasons stated in Subsection 75-5c-401(2)(a)(ii)
3614 and the individual subject to conservatorship is missing, notice under this section to the
3615 individual is not required.

3616 Section 87. Section **75-5c-413** is enacted to read:

3617 **75-5c-413. Emergency conservator.**

3618 (1) On its own or on petition by a person interested in an individual's welfare after a
3619 petition has been filed under Section 75-5c-402, the court may appoint an emergency
3620 conservator for the individual if the court finds:

3621 (a) appointment of an emergency conservator is likely to prevent substantial and
3622 irreparable harm to the individual's property or financial interests;

3623 (b) no other person appears to have authority and willingness to act in the

3624 circumstances; and

3625 (c) there is reason to believe that a basis for appointment of a conservator under
3626 Section 75-5c-401 exists.

3627 (2) The duration of authority of an emergency conservator may not exceed 60 days and
3628 the emergency conservator may exercise only the powers specified in the order of appointment.
3629 The emergency conservator's authority may be extended once for not more than 60 days if the
3630 court finds that the conditions for appointment of an emergency conservator under Subsection
3631 (1) continue.

3632 (3) Immediately on filing of a petition for an emergency conservator, the court shall
3633 appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided
3634 in Subsection (4), reasonable notice of the date, time, and place of a hearing on the petition
3635 must be given to the respondent, the respondent's attorney, and any other person the court
3636 determines.

3637 (4) The court may appoint an emergency conservator without notice to the respondent
3638 and any attorney for the respondent only if the court finds from an affidavit or testimony that
3639 the respondent's property or financial interests will be substantially and irreparably harmed
3640 before a hearing with notice on the appointment can be held. If the court appoints an
3641 emergency conservator without giving notice under Subsection (3), the court must give notice
3642 of the appointment not later than 48 hours after the appointment to:

3643 (a) the respondent;

3644 (b) the respondent's attorney; and

3645 (c) any other person the court determines.

3646 (5) Not later than reasonably possible after the appointment, the court shall hold a
3647 hearing on the appropriateness of the appointment.

3648 (6) Appointment of an emergency conservator under this section is not a determination
3649 that a basis exists for appointment of a conservator under Section 75-5c-401.

3650 (7) The court may remove an emergency conservator appointed under this section at
3651 any time. The emergency conservator shall make any report the court requires.

3652 Section 88. Section **75-5c-414** is enacted to read:

3653 **75-5c-414. Powers of conservator requiring court approval.**

3654 (1) Except as otherwise ordered by the court, a conservator must give notice to persons

3655 entitled to notice under Subsection 75-5c-403(4) and receive specific authorization by the court
3656 before the conservator may exercise with respect to the conservatorship the power to:

3657 (a) make a gift, except a gift of de minimis value;

3658 (b) sell, encumber an interest in, or surrender a lease to the primary dwelling of the
3659 individual subject to conservatorship;

3660 (c) convey, release, or disclaim a contingent or expectant interest in property, including
3661 marital property and any right of survivorship incident to joint tenancy or tenancy by the
3662 entireties;

3663 (d) exercise or release a power of appointment;

3664 (e) create a revocable or irrevocable trust of property of the conservatorship estate,
3665 whether or not the trust extends beyond the duration of the conservatorship, or revoke or
3666 amend a trust revocable by the individual subject to conservatorship;

3667 (f) exercise a right to elect an option or change a beneficiary under an insurance policy
3668 or annuity or surrender the policy or annuity for its cash value;

3669 (g) exercise a right to an elective share in the estate of a deceased spouse of the
3670 individual subject to conservatorship or renounce or disclaim a property interest;

3671 (h) grant a creditor priority for payment over creditors of the same or higher class if the
3672 creditor is providing property or services used to meet the basic living and care needs of the
3673 individual subject to conservatorship and preferential treatment otherwise would be
3674 impermissible under Subsection 75-5c-428(5); and

3675 (i) make, modify, amend, or revoke the will of the individual subject to
3676 conservatorship in compliance with the state's statute for executing a will under Chapter 2,
3677 Intestate Succession and Wills.

3678 (2) In approving a conservator's exercise of a power listed in Subsection (1), the court
3679 shall consider primarily the decision the individual subject to conservatorship would make if
3680 able, to the extent the decision can be ascertained.

3681 (3) To determine under Subsection (2) the decision the individual subject to
3682 conservatorship would make if able, the court shall consider the individual's prior or current
3683 directions, preferences, opinions, values, and actions, to the extent actually known or
3684 reasonably ascertainable by the conservator. The court also shall consider:

3685 (a) the financial needs of the individual subject to conservatorship and individuals who

3686 are in fact dependent on the individual subject to conservatorship for support, and the interests
3687 of creditors of the individual;

3688 (b) possible reduction of income, estate, inheritance, or other tax liabilities;

3689 (c) eligibility for governmental assistance;

3690 (d) the previous pattern of giving or level of support provided by the individual;

3691 (e) any existing estate plan or lack of estate plan of the individual;

3692 (f) the life expectancy of the individual and the probability the conservatorship will
3693 terminate before the individual's death; and

3694 (g) any other relevant factor.

3695 (4) A conservator may not revoke or amend a power of attorney for finances executed
3696 by the individual subject to conservatorship. If a power of attorney for finances is in effect, a
3697 decision of the agent takes precedence over that of the conservator, unless the court orders
3698 otherwise.

3699 Section 89. Section **75-5c-415** is enacted to read:

3700 **75-5c-415. Petition for order after appointment.**

3701 An individual subject to conservatorship or a person interested in the welfare of the
3702 individual may petition for an order:

3703 (1) requiring the conservator to furnish a bond or collateral or additional bond or
3704 collateral or allowing a reduction in a bond or collateral previously furnished;

3705 (2) requiring an accounting for the administration of the conservatorship estate;

3706 (3) directing distribution;

3707 (4) removing the conservator and appointing a temporary or successor conservator;

3708 (5) modifying the type of appointment or powers granted to the conservator, if the
3709 extent of protection or management previously granted is excessive or insufficient to meet the
3710 individual's needs, including because the individual's abilities or supports have changed;

3711 (6) rejecting or modifying the conservator's plan under Section [75-5c-419](#), the
3712 conservator's inventory under Section [75-5c-420](#), or the conservator's report under Section
3713 [75-5c-423](#); or

3714 (7) granting other appropriate relief.

3715 Section 90. Section **75-5c-416** is enacted to read:

3716 **75-5c-416. Bond -- Alternative asset-protection arrangement.**

3717 (1) Except as otherwise provided in Subsection (3), the court shall require a
3718 conservator to furnish a bond with a surety the court specifies, or require an alternative
3719 asset-protection arrangement, conditioned on faithful discharge of all duties of the conservator.
3720 The court may waive the requirement only if the court finds that a bond or other
3721 asset-protection arrangement is not necessary to protect the interests of the individual subject to
3722 conservatorship. Except as otherwise provided in Subsection (3), the court may not waive the
3723 requirement if the conservator is in the business of serving as a conservator and is being paid
3724 for the conservator's service.

3725 (2) Unless the court directs otherwise, the bond required under this section must be in
3726 the amount of the aggregate capital value of the conservatorship estate, plus one year's
3727 estimated income, less the value of property deposited under an arrangement requiring a court
3728 order for its removal and real property the conservator lacks power to sell or convey without
3729 specific court authorization. The court, in place of surety on a bond, may accept collateral for
3730 the performance of the bond, including a pledge of securities or a mortgage of real property.

3731 (3) A regulated financial-service institution qualified to do trust business in this state is
3732 not required to give a bond under this section.

3733 Section 91. Section **75-5c-417** is enacted to read:

3734 **75-5c-417. Terms and requirements of bond.**

3735 (1) The following rules apply to the bond required under Section [75-5c-416](#):

3736 (a) Except as otherwise provided by the bond, the surety and the conservator are jointly
3737 and severally liable.

3738 (b) By executing a bond provided by a conservator, the surety submits to the personal
3739 jurisdiction of the court that issued letters of office to the conservator in a proceeding relating
3740 to the duties of the conservator in which the surety is named as a party. Notice of the
3741 proceeding must be given to the surety at the address shown in the records of the court in which
3742 the bond is filed and any other address of the surety then known to the person required to
3743 provide the notice.

3744 (c) On petition of a successor conservator or person affected by a breach of the
3745 obligation of the bond, a proceeding may be brought against the surety for breach of the
3746 obligation of the bond.

3747 (d) A proceeding against the bond may be brought until liability under the bond is

3748 exhausted.

3749 (2) A proceeding may not be brought under this section against a surety of a bond on a
3750 matter as to which a proceeding against the conservator is barred.

3751 (3) If a bond under Section 75-5c-416 is not renewed by the conservator, the surety or
3752 sureties immediately shall give notice to the court and the individual subject to
3753 conservatorship.

3754 Section 92. Section **75-5c-418** is enacted to read:

3755 **75-5c-418. Duties of conservator.**

3756 (1) A conservator is a fiduciary and has duties of prudence and loyalty to the individual
3757 subject to conservatorship.

3758 (2) A conservator shall promote the self-determination of the individual subject to
3759 conservatorship and, to the extent feasible, encourage the individual to participate in decisions,
3760 act on the individual's own behalf, and develop or regain the capacity to manage the
3761 individual's personal affairs.

3762 (3) In making a decision for an individual subject to conservatorship, the conservator
3763 shall make the decision the conservator reasonably believes the individual would make if able,
3764 unless doing so would fail to preserve the resources needed to maintain the individual's
3765 well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or
3766 financial interests of the individual. To determine the decision the individual would make if
3767 able, the conservator shall consider the individual's prior or current directions, preferences,
3768 opinions, values, and actions, to the extent actually known or reasonably ascertainable by the
3769 conservator.

3770 (4) If a conservator cannot make a decision under Subsection (3) because the
3771 conservator does not know and cannot reasonably determine the decision the individual subject
3772 to conservatorship probably would make if able, or the conservator reasonably believes the
3773 decision the individual would make would fail to preserve resources needed to maintain the
3774 individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or
3775 personal or financial interests of the individual, the conservator shall act in accordance with the
3776 best interest of the individual. In determining the best interest of the individual, the conservator
3777 shall consider:

3778 (a) information received from professionals and persons that demonstrate sufficient

3779 interest in the welfare of the individual;

3780 (b) other information the conservator believes the individual would have considered if
3781 the individual were able to act; and

3782 (c) other factors a reasonable person in the circumstances of the individual would
3783 consider, including consequences for others.

3784 (5) Except when inconsistent with the conservator's duties under Subsections (1)
3785 through (4), a conservator shall invest and manage the conservatorship estate as a prudent
3786 investor would, by considering:

3787 (a) the circumstances of the individual subject to conservatorship and the
3788 conservatorship estate;

3789 (b) general economic conditions;

3790 (c) the possible effect of inflation or deflation;

3791 (d) the expected tax consequences of an investment decision or strategy;

3792 (e) the role of each investment or course of action in relation to the conservatorship
3793 estate as a whole;

3794 (f) the expected total return from income and appreciation of capital;

3795 (g) the need for liquidity, regularity of income, and preservation or appreciation of
3796 capital; and

3797 (h) the special relationship or value, if any, of specific property to the individual
3798 subject to conservatorship.

3799 (6) The propriety of a conservator's investment and management of the conservatorship
3800 estate is determined in light of the facts and circumstances existing when the conservator
3801 decides or acts and not by hindsight.

3802 (7) A conservator shall make a reasonable effort to verify facts relevant to the
3803 investment and management of the conservatorship estate.

3804 (8) A conservator that has special skills or expertise, or is named conservator in
3805 reliance on the conservator's representation of special skills or expertise, has a duty to use the
3806 special skills or expertise in carrying out the conservator's duties.

3807 (9) In investing, selecting specific property for distribution, and invoking a power of
3808 revocation or withdrawal for the use or benefit of the individual subject to conservatorship, a
3809 conservator shall consider any estate plan of the individual known or reasonably ascertainable

3810 to the conservator and may examine the will or other donative, nominative, or appointive
3811 instrument of the individual.

3812 (10) A conservator shall maintain insurance on the insurable real and personal property
3813 of the individual subject to conservatorship, unless the conservatorship estate lacks sufficient
3814 funds to pay for insurance or the court finds:

3815 (a) the property lacks sufficient equity; or

3816 (b) insuring the property would unreasonably dissipate the conservatorship estate or
3817 otherwise not be in the best interest of the individual.

3818 (11) If a power of attorney for finances is in effect, a conservator shall cooperate with
3819 the agent to the extent feasible.

3820 (12) A conservator has access to and authority over a digital asset of the individual
3821 subject to conservatorship to the extent provided by Chapter 11, Uniform Fiduciary Access to
3822 Digital Assets Act, or court order.

3823 (13) A conservator for an adult shall notify the court if the condition of the adult has
3824 changed so that the adult is capable of exercising rights previously removed. The notice must
3825 be given immediately on learning of the change.

3826 Section 93. Section **75-5c-419** is enacted to read:

3827 **75-5c-419. Conservator's plan.**

3828 (1) A conservator, not later than 60 days after appointment and when there is a
3829 significant change in circumstances or the conservator seeks to deviate significantly from the
3830 conservator's plan, shall file with the court a plan for protecting, managing, expending, and
3831 distributing the assets of the conservatorship estate. The plan must be based on the needs of the
3832 individual subject to conservatorship and take into account the best interest of the individual as
3833 well as the individual's preferences, values, and prior directions, to the extent known to or
3834 reasonably ascertainable by the conservator. The conservator shall include in the plan:

3835 (a) a budget containing projected expenses and resources, including an estimate of the
3836 total amount of fees the conservator anticipates charging per year and a statement or list of the
3837 amount the conservator proposes to charge for each service the conservator anticipates
3838 providing to the individual;

3839 (b) how the conservator will involve the individual in decisions about management of
3840 the conservatorship estate;

3841 (c) any step the conservator plans to take to develop or restore the ability of the
3842 individual to manage the conservatorship estate; and

3843 (d) an estimate of the duration of the conservatorship.

3844 (2) A conservator shall give notice of the filing of the conservator's plan under
3845 Subsection (1), together with a copy of the plan, to the individual subject to conservatorship, a
3846 person entitled to notice under Subsection 75-5c-411(5) or a subsequent order, and any other
3847 person the court determines. The notice must include a statement of the right to object to the
3848 plan and be given not later than 14 days after the filing.

3849 (3) An individual subject to conservatorship and any person entitled under Subsection
3850 (2) to receive notice and a copy of the conservator's plan may object to the plan.

3851 (4) The court shall review the conservator's plan filed under Subsection (1) and
3852 determine whether to approve the plan or require a new plan. In deciding whether to approve
3853 the plan, the court shall consider an objection under Subsection (3) and whether the plan is
3854 consistent with the conservator's duties and powers. The court may not approve the plan until
3855 30 days after its filing.

3856 (5) After a conservator's plan under this section is approved by the court, the
3857 conservator shall provide a copy of the plan to the individual subject to conservatorship, a
3858 person entitled to notice under Subsection 75-5c-411(5) or a subsequent order, and any other
3859 person the court determines.

3860 Section 94. Section 75-5c-420 is enacted to read:

3861 **75-5c-420. Inventory -- Records.**

3862 (1) Not later than 60 days after appointment, a conservator shall prepare and file with
3863 the appointing court a detailed inventory of the conservatorship estate, together with an oath or
3864 affirmation that the inventory is believed to be complete and accurate as far as information
3865 permits.

3866 (2) A conservator shall give notice of the filing of an inventory to the individual
3867 subject to conservatorship, a person entitled to notice under Subsection 75-5c-411(5) or a
3868 subsequent order, and any other person the court determines. The notice must be given not later
3869 than 14 days after the filing.

3870 (3) A conservator shall keep records of the administration of the conservatorship estate
3871 and make them available for examination on reasonable request of the individual subject to

3872 conservatorship, a guardian for the individual, or any other person the conservator or the court
3873 determines.

3874 Section 95. Section **75-5c-421** is enacted to read:

3875 **75-5c-421. Administrative powers of conservator not requiring court approval.**

3876 (1) Except as otherwise provided in Section 75-5c-414 or qualified or limited in the
3877 court's order of appointment and stated in the letters of office, a conservator has all powers
3878 granted in this section and any additional power granted to a trustee by law of this state other
3879 than this chapter.

3880 (2) A conservator, acting reasonably and consistent with the fiduciary duties of the
3881 conservator to accomplish the purpose of the conservatorship, without specific court
3882 authorization or confirmation, may with respect to the conservatorship estate:

3883 (a) collect, hold, and retain property, including property in which the conservator has a
3884 personal interest and real property in another state, until the conservator determines disposition
3885 of the property should be made;

3886 (b) receive additions to the conservatorship estate;

3887 (c) continue or participate in the operation of a business or other enterprise;

3888 (d) acquire an undivided interest in property in which the conservator, in a fiduciary
3889 capacity, holds an undivided interest;

3890 (e) invest assets;

3891 (f) deposit funds or other property in a financial institution, including one operated by
3892 the conservator;

3893 (g) acquire or dispose of property, including real property in another state, for cash or
3894 on credit, at public or private sale, and manage, develop, improve, exchange, partition, change
3895 the character of, or abandon property;

3896 (h) make ordinary or extraordinary repairs or alterations in a building or other structure,
3897 demolish any improvement, or raze an existing or erect a new party wall or building;

3898 (i) subdivide or develop land, dedicate land to public use, make or obtain the vacation
3899 of a plat and adjust a boundary, adjust a difference in valuation of land, exchange or partition
3900 land by giving or receiving consideration, and dedicate an easement to public use without
3901 consideration;

3902 (j) enter for any purpose into a lease of property as lessor or lessee, with or without an

3903 option to purchase or renew, for a term within or extending beyond the term of the
3904 conservatorship;

3905 (k) enter into a lease or arrangement for exploration and removal of minerals or other
3906 natural resources or a pooling or unitization agreement;

3907 (l) grant an option involving disposition of property or accept or exercise an option for
3908 the acquisition of property;

3909 (m) vote a security, in person or by general or limited proxy;

3910 (n) pay a call, assessment, or other sum chargeable or accruing against or on account of
3911 a security;

3912 (o) sell or exercise a stock subscription or conversion right;

3913 (p) consent, directly or through a committee or agent, to the reorganization,
3914 consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

3915 (q) hold a security in the name of a nominee or in other form without disclosure of the
3916 conservatorship so that title to the security may pass by delivery;

3917 (r) insure:

3918 (i) the conservatorship estate, in whole or in part, against damage or loss in accordance
3919 with Subsection [75-5c-418](#)(10); and

3920 (ii) the conservator against liability with respect to a third person;

3921 (s) borrow funds, with or without security, to be repaid from the conservatorship estate
3922 or otherwise;

3923 (t) advance funds for the protection of the conservatorship estate or the individual
3924 subject to conservatorship and all expenses, losses, and liability sustained in the administration
3925 of the conservatorship estate or because of holding any property for which the conservator has
3926 a lien on the conservatorship estate;

3927 (u) pay or contest a claim, settle a claim by or against the conservatorship estate or the
3928 individual subject to conservatorship by compromise, arbitration, or otherwise, or release, in
3929 whole or in part, a claim belonging to the conservatorship estate to the extent the claim is
3930 uncollectible;

3931 (v) pay a tax, assessment, compensation of the conservator or any guardian, and other
3932 expense incurred in the collection, care, administration, and protection of the conservatorship
3933 estate;

3934 (w) pay a sum distributable to the individual subject to conservatorship or an individual
3935 who is in fact dependent on the individual subject to conservatorship by paying the sum to the
3936 distributee or for the use of the distributee:

3937 (i) to the guardian for the distributee;

3938 (ii) to the custodian of the distributee under Chapter 5a, Uniform Transfers to Minors
3939 Act, or custodial trustee; or

3940 (iii) if there is no guardian, custodian, or custodial trustee, to a relative or other person
3941 having physical custody of the distributee;

3942 (x) bring or defend an action, claim, or proceeding in any jurisdiction for the protection
3943 of the conservatorship estate or the conservator in the performance of the conservator's duties;

3944 (y) structure the finances of the individual subject to conservatorship to establish
3945 eligibility for a public benefit, including by making gifts consistent with the individual's
3946 preferences, values, and prior directions, if the conservator's action does not jeopardize the
3947 individual's welfare and otherwise is consistent with the conservator's duties; and

3948 (z) execute and deliver any instrument that will accomplish or facilitate the exercise of
3949 a power of the conservator.

3950 Section 96. Section **75-5c-422** is enacted to read:

3951 **75-5c-422. Distribution from conservatorship estate.**

3952 Except as otherwise provided in Section [75-5c-414](#) or qualified or limited in the court's
3953 order of appointment and stated in the letters of office, and unless contrary to a conservator's
3954 plan under Section [75-5c-419](#), the conservator may expend or distribute income or principal of
3955 the conservatorship estate without specific court authorization or confirmation for the support,
3956 care, education, health, or welfare of the individual subject to conservatorship or an individual
3957 who is in fact dependent on the individual subject to conservatorship, including the payment of
3958 child or spousal support, in accordance with the following rules:

3959 (1) The conservator shall consider a recommendation relating to the appropriate
3960 standard of support, care, education, health, or welfare for the individual subject to
3961 conservatorship or individual who is dependent on the individual subject to conservatorship,
3962 made by a guardian for the individual subject to conservatorship, if any, and, if the individual
3963 subject to conservatorship is a minor, a recommendation made by a parent of the minor.

3964 (2) The conservator acting in compliance with the conservator's duties under Section

3965 75-5c-418 is not liable for an expenditure or distribution made based on a recommendation
3966 under Subsection (1) unless the conservator knows the expenditure or distribution is not in the
3967 best interest of the individual subject to conservatorship.

3968 (3) In making an expenditure or distribution under this section, the conservator shall
3969 consider:

3970 (a) the size of the conservatorship estate, the estimated duration of the conservatorship,
3971 and the likelihood the individual subject to conservatorship, at some future time, may be fully
3972 self-sufficient and able to manage the individual's financial affairs and the conservatorship
3973 estate;

3974 (b) the accustomed standard of living of the individual subject to conservatorship and
3975 individual who is dependent on the individual subject to conservatorship;

3976 (c) other funds or sources used for the support of the individual subject to
3977 conservatorship; and

3978 (d) the preferences, values, and prior directions of the individual subject to
3979 conservatorship.

3980 (4) Funds expended or distributed under this section may be paid by the conservator to
3981 any person, including the individual subject to conservatorship, as reimbursement for
3982 expenditures the conservator might have made, or in advance for services to be provided to the
3983 individual subject to conservatorship or individual who is dependent on the individual subject
3984 to conservatorship if it is reasonable to expect the services will be performed and advance
3985 payment is customary or reasonably necessary under the circumstances.

3986 Section 97. Section **75-5c-423** is enacted to read:

3987 **75-5c-423. Conservator's report and accounting -- Monitoring.**

3988 (1) A conservator shall file with the court a report in a record regarding the
3989 administration of the conservatorship estate annually unless the court otherwise directs, on
3990 resignation or removal, on termination of the conservatorship, and at any other time the court
3991 directs.

3992 (2) A report under Subsection (1) must state or contain:

3993 (a) an accounting that lists property included in the conservatorship estate and the
3994 receipts, disbursements, liabilities, and distributions during the period for which the report is
3995 made;

- 3996 (b) a list of the services provided to the individual subject to conservatorship;
3997 (c) a copy of the conservator's most recently approved plan and a statement whether the
3998 conservator has deviated from the plan and, if so, how the conservator has deviated and why;
3999 (d) a recommendation as to the need for continued conservatorship and any
4000 recommended change in the scope of the conservatorship;
4001 (e) to the extent feasible, a copy of the most recent reasonably available financial
4002 statements evidencing the status of bank accounts, investment accounts, and mortgages or other
4003 debts of the individual subject to conservatorship with all but the last four digits of the account
4004 numbers and social security number redacted;
4005 (f) anything of more than de minimis value which the conservator, any individual who
4006 resides with the conservator, or the spouse, parent, child, or sibling of the conservator has
4007 received from a person providing goods or services to the individual subject to
4008 conservatorship;
4009 (g) any business relation the conservator has with a person the conservator has paid or
4010 that has benefitted from the property of the individual subject to conservatorship; and
4011 (h) whether any coconservator or successor conservator appointed to serve when a
4012 designated event occurs is alive and able to serve.
4013 (3) The court may appoint a visitor to review a report under this section or
4014 conservator's plan under Section [75-5c-419](#), interview the individual subject to conservatorship
4015 or conservator, or investigate any other matter involving the conservatorship. In connection
4016 with the report, the court may order the conservator to submit the conservatorship estate to
4017 appropriate examination in a manner the court directs.
4018 (4) Notice of the filing under this section of a conservator's report, together with a copy
4019 of the report, must be provided to the individual subject to conservatorship, a person entitled to
4020 notice under Subsection [75-5c-411\(5\)](#) or a subsequent order, and other persons the court
4021 determines. The notice and report must be given not later than 14 days after filing.
4022 (5) The court shall establish procedures for monitoring a report submitted under this
4023 section and review each report at least annually to determine whether:
4024 (a) the reports provide sufficient information to establish the conservator has complied
4025 with the conservator's duties;
4026 (b) the conservatorship should continue; and

4027 (c) the conservator's requested fees, if any, should be approved.

4028 (6) If the court determines there is reason to believe a conservator has not complied
4029 with the conservator's duties or the conservatorship should not continue, the court:

4030 (a) shall notify the individual subject to conservatorship, the conservator, and any other
4031 person entitled to notice under Subsection 75-5c-411(5) or a subsequent order;

4032 (b) may require additional information from the conservator;

4033 (c) may appoint a visitor to interview the individual subject to conservatorship or
4034 conservator or investigate any matter involving the conservatorship; and

4035 (d) consistent with Sections 75-5c-430 and 75-5c-431, may hold a hearing to consider
4036 removal of the conservator, termination of the conservatorship, or a change in the powers
4037 granted to the conservator or terms of the conservatorship.

4038 (7) If the court has reason to believe fees requested by a conservator are not reasonable,
4039 the court shall hold a hearing to determine whether to adjust the requested fees.

4040 (8) A conservator may petition the court for approval of a report filed under this
4041 section. The court after review may approve the report. If the court approves the report, there is
4042 a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

4043 (9) An order, after notice and hearing, approving an interim report of a conservator
4044 filed under this section adjudicates liabilities concerning a matter adequately disclosed in the
4045 report, as to a person given notice of the report or accounting.

4046 (10) An order, after notice and hearing, approving a final report filed under this section
4047 discharges the conservator from all liabilities, claims, and causes of action by a person given
4048 notice of the report and the hearing as to a matter adequately disclosed in the report.

4049 Section 98. Section **75-5c-424** is enacted to read:

4050 **75-5c-424. Attempted transfer of property by individual subject to**
4051 **conservatorship.**

4052 (1) The interest of an individual subject to conservatorship in property included in the
4053 conservatorship estate is not transferrable or assignable by the individual and is not subject to
4054 levy, garnishment, or similar process for claims against the individual unless allowed under
4055 Section 75-5c-428.

4056 (2) If an individual subject to conservatorship enters into a contract after having the
4057 right to enter the contract removed by the court, the contract is void against the individual and

4058 the individual's property but is enforceable against the person that contracted with the
4059 individual.

4060 (3) A person other than the conservator that deals with an individual subject to
4061 conservatorship with respect to property included in the conservatorship estate is entitled to
4062 protection provided by law of this state other than this chapter.

4063 Section 99. Section **75-5c-425** is enacted to read:

4064 **75-5c-425. Transaction involving conflict of interest.**

4065 A transaction involving a conservatorship estate which is affected by a substantial
4066 conflict between the conservator's fiduciary duties and personal interests is voidable unless the
4067 transaction is authorized by court order after notice to persons entitled to notice under
4068 Subsection [75-5c-411](#)(5) or a subsequent order. A transaction affected by a substantial conflict
4069 includes a sale, encumbrance, or other transaction involving the conservatorship estate entered
4070 into by the conservator, an individual with whom the conservator resides, the spouse,
4071 descendant, sibling, agent, or attorney of the conservator, or a corporation or other enterprise in
4072 which the conservator has a substantial beneficial interest.

4073 Section 100. Section **75-5c-426** is enacted to read:

4074 **75-5c-426. Protection of person dealing with conservator.**

4075 (1) A person that assists or deals with a conservator in good faith and for value in any
4076 transaction, other than a transaction requiring a court order under Section [75-5c-414](#), is
4077 protected as though the conservator properly exercised any power in question. Knowledge by a
4078 person that the person is dealing with a conservator alone does not require the person to inquire
4079 into the existence of authority of the conservator or the propriety of the conservator's exercise
4080 of authority, but restrictions on authority stated in letters of office, or otherwise provided by
4081 law, are effective as to the person. A person that pays or delivers property to a conservator is
4082 not responsible for proper application of the property.

4083 (2) Protection under Subsection (1) extends to a procedural irregularity or jurisdictional
4084 defect in the proceeding leading to the issuance of letters of office and does not substitute for
4085 protection for a person that assists or deals with a conservator provided by comparable
4086 provisions in law of this state other than this chapter relating to a commercial transaction or
4087 simplifying a transfer of securities by a fiduciary.

4088 Section 101. Section **75-5c-427** is enacted to read:

4089 **75-5c-427. Death of individual subject to conservatorship.**

4090 (1) If an individual subject to conservatorship dies, the conservator shall deliver to the
4091 court for safekeeping any will of the individual in the conservator's possession and inform the
4092 personal representative named in the will if feasible, or if not feasible, a beneficiary named in
4093 the will, of the delivery.

4094 (2) If 40 days after the death of an individual subject to conservatorship no personal
4095 representative has been appointed and no application or petition for appointment is before the
4096 court, the conservator may apply to exercise the powers and duties of a personal representative
4097 to administer and distribute the decedent's estate. The conservator shall give notice to a person
4098 nominated as personal representative by a will of the decedent of which the conservator is
4099 aware and to beneficiaries. The court may grant the application if there is no objection and
4100 endorse the letters of office to note that the individual formerly subject to conservatorship is
4101 deceased and the conservator has acquired the powers and duties of a personal representative.

4102 (3) Issuance of an order under this section has the effect of an order of appointment of
4103 a personal representative under Section [75-3-308](#) and Chapter 3, Parts 6 through 10.

4104 (4) On the death of an individual subject to conservatorship, the conservator shall
4105 conclude the administration of the conservatorship estate as provided in Section [75-5c-431](#).

4106 Section 102. Section **75-5c-428** is enacted to read:

4107 **75-5c-428. Presentation and allowance of claim.**

4108 (1) A conservator may pay, or secure by encumbering property included in the
4109 conservatorship estate, a claim against the conservatorship estate or the individual subject to
4110 conservatorship arising before or during the conservatorship, on presentation and allowance in
4111 accordance with the priorities under Subsection (4). A claimant may present a claim by:

4112 (a) sending or delivering to the conservator a statement in a record of the claim,
4113 indicating its basis, the name and address of the claimant, and the amount claimed; or

4114 (b) filing the claim with the court, in a form acceptable to the court, and sending or
4115 delivering a copy of the claim to the conservator.

4116 (2) A claim under Subsection (1) is presented on receipt by the conservator of the
4117 statement of the claim or the filing with the court of the claim, whichever first occurs. A
4118 presented claim is allowed if it is not disallowed in whole or in part by the conservator in a
4119 record sent or delivered to the claimant not later than 60 days after its presentation. Before

4120 payment, the conservator may change an allowance of the claim to a disallowance in whole or
4121 in part, but not after allowance under a court order or order directing payment of the claim.
4122 Presentation of a claim tolls until 30 days after disallowance of the claim the running of a
4123 statute of limitations that has not expired relating to the claim.

4124 (3) A claimant whose claim under Subsection (1) has not been paid may petition the
4125 court to determine the claim at any time before it is barred by a statute of limitations, and the
4126 court may order its allowance, payment, or security by encumbering property included in the
4127 conservatorship estate. If a proceeding is pending against the individual subject to
4128 conservatorship at the time of appointment of the conservator or is initiated thereafter, the
4129 moving party shall give the conservator notice of the proceeding if it could result in creating a
4130 claim against the conservatorship estate.

4131 (4) If a conservatorship estate is likely to be exhausted before all existing claims are
4132 paid, the conservator shall distribute the estate in money or in kind in payment of claims in the
4133 following order:

4134 (a) costs and expenses of administration;

4135 (b) a claim of the federal or state government having priority under law other than this
4136 chapter;

4137 (c) a claim incurred by the conservator for support, care, education, health, or welfare
4138 previously provided to the individual subject to conservatorship or an individual who is in fact
4139 dependent on the individual subject to conservatorship;

4140 (d) a claim arising before the conservatorship; and

4141 (e) all other claims.

4142 (5) Preference may not be given in the payment of a claim under Subsection (4) over
4143 another claim of the same class. A claim due and payable may not be preferred over a claim not
4144 due unless:

4145 (a) doing so would leave the conservatorship estate without sufficient funds to pay the
4146 basic living and health care expenses of the individual subject to conservatorship; and

4147 (b) the court authorizes the preference under Subsection [75-5c-414\(1\)\(h\)](#).

4148 (6) If assets of a conservatorship estate are adequate to meet all existing claims, the
4149 court, acting in the best interest of the individual subject to conservatorship, may order the
4150 conservator to grant a security interest in the conservatorship estate for payment of a claim at a

4151 future date.

4152 Section 103. Section **75-5c-429** is enacted to read:

4153 **75-5c-429. Personal liability of conservator.**

4154 (1) Except as otherwise agreed by a conservator, the conservator is not personally
4155 liable on a contract properly entered into in a fiduciary capacity in the course of administration
4156 of the conservatorship estate unless the conservator fails to reveal the conservator's
4157 representative capacity in the contract or before entering into the contract.

4158 (2) A conservator is personally liable for an obligation arising from control of property
4159 of the conservatorship estate or an act or omission occurring in the course of administration of
4160 the conservatorship estate only if the conservator is personally at fault.

4161 (3) A claim based on a contract entered into by a conservator in a fiduciary capacity, an
4162 obligation arising from control of property included in the conservatorship estate, or a tort
4163 committed in the course of administration of the conservatorship estate may be asserted against
4164 the conservatorship estate in a proceeding against the conservator in a fiduciary capacity,
4165 whether or not the conservator is personally liable for the claim.

4166 (4) A question of liability between a conservatorship estate and the conservator
4167 personally may be determined in a proceeding for accounting, surcharge, or indemnification or
4168 another appropriate proceeding or action.

4169 Section 104. Section **75-5c-430** is enacted to read:

4170 **75-5c-430. Removal of conservator -- Appointment of successor.**

4171 (1) The court may remove a conservator for failure to perform the conservator's duties
4172 or other good cause and appoint a successor conservator to assume the duties of the
4173 conservator.

4174 (2) The court shall hold a hearing to determine whether to remove a conservator and
4175 appoint a successor on:

4176 (a) petition of the individual subject to conservatorship, conservator, or person
4177 interested in the welfare of the individual which contains allegations that, if true, would support
4178 a reasonable belief that removal of the conservator and appointment of a successor may be
4179 appropriate, but the court may decline to hold a hearing if a petition based on the same or
4180 substantially similar facts was filed during the preceding six months;

4181 (b) communication from the individual subject to conservatorship, conservator, or

4182 person interested in the welfare of the individual which supports a reasonable belief that
4183 removal of the conservator and appointment of a successor may be appropriate; or

4184 (c) determination by the court that a hearing would be in the best interest of the
4185 individual subject to conservatorship.

4186 (3) Notice of a petition under Subsection (2)(a) must be given to the individual subject
4187 to conservatorship, the conservator, and any other person the court determines.

4188 (4) An individual subject to conservatorship who seeks to remove the conservator and
4189 have a successor appointed has the right to choose an attorney to represent the individual in this
4190 matter. The court shall award reasonable attorney fees to the attorney as provided in Section
4191 [75-5c-119](#).

4192 (5) In selecting a successor conservator, the court shall follow the priorities under
4193 Section [75-5c-410](#).

4194 (6) Not later than 30 days after appointing a successor conservator, the court shall give
4195 notice of the appointment to the individual subject to conservatorship and any person entitled
4196 to notice under Subsection [75-5c-411](#)(5) or a subsequent order.

4197 Section 105. Section **75-5c-431** is enacted to read:

4198 **75-5c-431. Termination or modification of conservatorship.**

4199 (1) A conservatorship for a minor terminates on the earliest of:

4200 (a) a court order terminating the conservatorship;

4201 (b) the minor becoming an adult or, if the minor consents or the court finds by clear
4202 and convincing evidence that substantial harm to the minor's interests is otherwise likely,
4203 attaining 21 years of age;

4204 (c) emancipation of the minor; or

4205 (d) death of the minor.

4206 (2) A conservatorship for an adult terminates on order of the court or when the adult
4207 dies.

4208 (3) An individual subject to conservatorship, the conservator, or a person interested in
4209 the welfare of the individual may petition for:

4210 (a) termination of the conservatorship on the ground that a basis for appointment under
4211 Section [75-5c-401](#) does not exist or termination would be in the best interest of the individual
4212 or for other good cause; or

4213 (b) modification of the conservatorship on the ground that the extent of protection or
4214 assistance granted is not appropriate or for other good cause.

4215 (4) The court shall hold a hearing to determine whether termination or modification of
4216 a conservatorship is appropriate on:

4217 (a) petition under Subsection (3) which contains allegations that, if true, would support
4218 a reasonable belief that termination or modification of the conservatorship may be appropriate,
4219 but the court may decline to hold a hearing if a petition based on the same or substantially
4220 similar facts was filed within the preceding six months;

4221 (b) a communication from the individual subject to conservatorship, conservator, or
4222 person interested in the welfare of the individual which supports a reasonable belief that
4223 termination or modification of the conservatorship may be appropriate, including because the
4224 functional needs of the individual or supports or services available to the individual have
4225 changed;

4226 (c) a report from a guardian or conservator which indicates that termination or
4227 modification may be appropriate because the functional needs or supports or services available
4228 to the individual have changed or a protective arrangement instead of conservatorship or other
4229 less restrictive alternative is available; or

4230 (d) a determination by the court that a hearing would be in the best interest of the
4231 individual.

4232 (5) Notice of a petition under Subsection (3) must be given to the individual subject to
4233 conservatorship, the conservator, and any such other person the court determines.

4234 (6) On presentation of prima facie evidence for termination of a conservatorship, the
4235 court shall order termination unless it is proven that a basis for appointment of a conservator
4236 under [Section 75-5c-401](#) exists.

4237 (7) The court shall modify the powers granted to a conservator if the powers are
4238 excessive or inadequate due to a change in the abilities or limitations of the individual subject
4239 to conservatorship, the individual's supports, or other circumstances.

4240 (8) Unless the court otherwise orders for good cause, before terminating a
4241 conservatorship, the court shall follow the same procedures to safeguard the rights of the
4242 individual subject to conservatorship which apply to a petition for conservatorship.

4243 (9) An individual subject to conservatorship who seeks to terminate or modify the

4244 terms of the conservatorship has the right to choose an attorney to represent the individual in
4245 this matter. If the individual is not represented by an attorney, the court shall appoint an
4246 attorney under the same conditions as in Section 75-5c-406. The court shall award reasonable
4247 attorney fees to the attorney as provided in Section 75-5c-119.

4248 (10) On termination of a conservatorship other than by reason of the death of the
4249 individual subject to conservatorship, property of the conservatorship estate passes to the
4250 individual. The order of termination must direct the conservator to file a final report and
4251 petition for discharge on approval by the court of the final report.

4252 (11) On termination of a conservatorship by reason of the death of the individual
4253 subject to conservatorship, the conservator promptly shall file a final report and petition for
4254 discharge on approval by the court of the final report. On approval of the final report, the
4255 conservator shall proceed expeditiously to distribute the conservatorship estate to the
4256 individual's estate or as otherwise ordered by the court. The conservator may take reasonable
4257 measures necessary to preserve the conservatorship estate until distribution can be made.

4258 (12) The court shall issue a final order of discharge on the approval by the court of the
4259 final report and satisfaction by the conservator of any other condition the court imposed on the
4260 conservator's discharge.

4261 Section 106. Section **75-5c-432** is enacted to read:

4262 **75-5c-432. Transfer for benefit of minor without appointment of conservator.**

4263 (1) Unless a person required to transfer funds or other property to a minor knows that a
4264 conservator for the minor has been appointed or a proceeding is pending for conservatorship,
4265 the person may transfer an amount or value not exceeding \$15,000 in a 12-month period to:

4266 (a) a person that has care or custody of the minor and with whom the minor resides;

4267 (b) a guardian for the minor;

4268 (c) a custodian under Chapter 5a, Uniform Transfers to Minors Act; or

4269 (d) a financial institution as a deposit in an interest-bearing account or certificate solely
4270 in the name of the minor and shall give notice to the minor of the deposit.

4271 (2) A person that transfers funds or other property under this section is not responsible
4272 for its proper application.

4273 (3) A person that receives funds or other property for a minor under Subsection (1)(a)
4274 or (b) may apply it only to the support, care, education, health, or welfare of the minor, and

4275 may not derive a personal financial benefit from it, except for reimbursement for necessary
4276 expenses. Funds not applied for these purposes must be preserved for the future support, care,
4277 education, health, or welfare of the minor, and the balance, if any, transferred to the minor
4278 when the minor becomes an adult or otherwise is emancipated.

4279 Section 107. Section **75-5c-501** is enacted to read:

4280 **Part 5. Other Protective Arrangements**

4281 **75-5c-501. Authority for protective arrangement.**

4282 (1) Under this part, a court:

4283 (a) on receiving a petition for a guardianship for an adult may order a protective
4284 arrangement instead of guardianship as a less restrictive alternative to guardianship; and

4285 (b) on receiving a petition for a conservatorship for an individual may order a
4286 protective arrangement instead of conservatorship as a less restrictive alternative to
4287 conservatorship.

4288 (2) A person interested in an adult's welfare, including the adult or a conservator for the
4289 adult, may petition under this part for a protective arrangement instead of guardianship.

4290 (3) The following persons may petition under this part for a protective arrangement
4291 instead of conservatorship:

4292 (a) the individual for whom the protective arrangement is sought;

4293 (b) a person interested in the property, financial affairs, or welfare of the individual,
4294 including a person that would be affected adversely by lack of effective management of
4295 property or financial affairs of the individual; and

4296 (c) the guardian for the individual.

4297 Section 108. Section **75-5c-502** is enacted to read:

4298 **75-5c-502. Basis for protective arrangement instead of guardianship for adult.**

4299 (1) After the hearing on a petition under Section [75-5c-302](#) for a guardianship or under
4300 Subsection [75-5c-501](#)(2) for a protective arrangement instead of guardianship, the court may
4301 issue an order under Subsection (2) for a protective arrangement instead of guardianship if the
4302 court finds by clear and convincing evidence that:

4303 (a) the respondent lacks the ability to meet essential requirements for physical health,
4304 safety, or self-care because the respondent is unable to receive and evaluate information or
4305 make or communicate decisions, even with appropriate supportive services, technological

4306 assistance, or supported decision making; and

4307 (b) the respondent's identified needs cannot be met by a less restrictive alternative.

4308 (2) If the court makes the findings under Subsection (1), the court, instead of

4309 appointing a guardian, may:

4310 (a) authorize or direct a transaction necessary to meet the respondent's need for health,
4311 safety, or care, including:

4312 (i) a particular medical treatment or refusal of a particular medical treatment;

4313 (ii) a move to a specified place of dwelling; or

4314 (iii) visitation or supervised visitation between the respondent and another person;

4315 (b) restrict access to the respondent by a specified person whose access places the

4316 respondent at serious risk of physical, psychological, or financial harm; and

4317 (c) order other arrangements on a limited basis that are appropriate.

4318 (3) In deciding whether to issue an order under this section, the court shall consider the

4319 factors under Sections [75-5c-313](#) and [75-5c-314](#) which a guardian must consider when making

4320 a decision on behalf of an adult subject to guardianship.

4321 Section 109. Section **75-5c-503** is enacted to read:

4322 **75-5c-503. Basis for protective arrangement instead of conservatorship for adult**
4323 **or minor.**

4324 (1) After the hearing on a petition under Section [75-5c-402](#) for conservatorship for an

4325 adult or under Subsection [75-5c-501](#)(3) for a protective arrangement instead of conservatorship

4326 for an adult, the court may issue an order under Subsection (3) for a protective arrangement

4327 instead of conservatorship for the adult if the court finds by clear and convincing evidence that:

4328 (a) the adult is unable to manage property or financial affairs because:

4329 (i) of a limitation in the ability to receive and evaluate information or make or

4330 communicate decisions, even with appropriate supportive services, technological assistance, or

4331 supported decision making; or

4332 (ii) the adult is missing, detained, or unable to return to the United States;

4333 (b) an order under Subsection (3) is necessary to:

4334 (i) avoid harm to the adult or significant dissipation of the property of the adult; or

4335 (ii) obtain or provide funds or other property needed for the support, care, education,

4336 health, or welfare of the adult or an individual entitled to the adult's support; and

- 4337 (c) the respondent's identified needs cannot be met by a less restrictive alternative.
- 4338 (2) After the hearing on a petition under Section 75-5c-402 for conservatorship for a
- 4339 minor or under Subsection 75-5c-501(3) for a protective arrangement instead of
- 4340 conservatorship for a minor, the court may issue an order under Subsection (3) for a protective
- 4341 arrangement instead of conservatorship for the respondent if the court finds by a preponderance
- 4342 of the evidence that the arrangement is in the minor's best interest, and:
- 4343 (a) if the minor has a parent, the court gives weight to any recommendation of the
- 4344 parent whether an arrangement is in the minor's best interest;
- 4345 (b) either:
- 4346 (i) the minor owns money or property requiring management or protection that
- 4347 otherwise cannot be provided;
- 4348 (ii) the minor has or may have financial affairs that may be put at unreasonable risk or
- 4349 hindered because of the minor's age; or
- 4350 (iii) the arrangement is necessary or desirable to obtain or provide funds or other
- 4351 property needed for the support, care, education, health, or welfare of the minor; and
- 4352 (c) the order under Subsection (3) is necessary or desirable to obtain or provide money
- 4353 needed for the support, care, education, health, or welfare of the minor.
- 4354 (3) If the court makes the findings under Subsection (1) or (2), the court, instead of
- 4355 appointing a conservator, may:
- 4356 (a) authorize or direct a transaction necessary to protect the financial interest or
- 4357 property of the respondent, including:
- 4358 (i) an action to establish eligibility for benefits;
- 4359 (ii) payment, delivery, deposit, or retention of funds or property;
- 4360 (iii) sale, mortgage, lease, or other transfer of property;
- 4361 (iv) purchase of an annuity;
- 4362 (v) entry into a contractual relationship, including a contract to provide for personal
- 4363 care, supportive services, education, training, or employment;
- 4364 (vi) addition to or establishment of a trust;
- 4365 (vii) ratification or invalidation of a contract, trust, will, or other transaction, including
- 4366 a transaction related to the property or business affairs of the respondent; or
- 4367 (viii) settlement of a claim; or

4368 (b) restrict access to the respondent's property by a specified person whose access to
4369 the property places the respondent at serious risk of financial harm.

4370 (4) After the hearing on a petition under Subsection 75-5c-501(1)(b) or (3), whether or
4371 not the court makes the findings under Subsection (1) or (2), the court may issue an order to
4372 restrict access to the respondent or the respondent's property by a specified person that the court
4373 finds by clear and convincing evidence:

4374 (a) through fraud, coercion, duress, or the use of deception and control caused or
4375 attempted to cause an action that would have resulted in financial harm to the respondent or the
4376 respondent's property; and

4377 (b) poses a serious risk of substantial financial harm to the respondent or the
4378 respondent's property.

4379 (5) Before issuing an order under Subsection (3) or (4), the court shall consider the
4380 factors under Section 75-5c-418 a conservator must consider when making a decision on behalf
4381 of an individual subject to conservatorship.

4382 (6) Before issuing an order under Subsection (3) or (4) for a respondent who is a
4383 minor, the court also shall consider the best interest of the minor, the preference of the parents
4384 of the minor, and the preference of the minor, if the minor is 12 years of age or older.

4385 Section 110. Section **75-5c-504** is enacted to read:

4386 **75-5c-504. Petition for protective arrangement.**

4387 A petition for a protective arrangement instead of guardianship or conservatorship must
4388 state the petitioner's name, principal residence, current street address, if different, relationship
4389 to the respondent, interest in the protective arrangement, the name and address of any attorney
4390 representing the petitioner, and, to the extent known, the following:

4391 (1) the respondent's name, age, principal residence, current street address, if different,
4392 and, if different, address of the dwelling in which it is proposed the respondent will reside if
4393 the petition is granted;

4394 (2) the name and address of the respondent's:

4395 (a) spouse or, if the respondent has none, an adult with whom the respondent has
4396 shared household responsibilities for more than six months in the 12-month period before the
4397 filing of the petition;

4398 (b) adult children or, if none, each parent and adult sibling of the respondent, or, if

4399 none, at least one adult nearest in kinship to the respondent who can be found with reasonable
4400 diligence; and

4401 (c) adult stepchildren whom the respondent actively parented during the stepchildren's
4402 minor years and with whom the respondent had an ongoing relationship in the two-year period
4403 immediately before the filing of the petition;

4404 (3) the name and current address of each of the following, if applicable:

4405 (a) a person responsible for the care or custody of the respondent;

4406 (b) any attorney currently representing the respondent;

4407 (c) the representative payee appointed by the Social Security Administration for the
4408 respondent;

4409 (d) a guardian or conservator acting for the respondent in this state or another
4410 jurisdiction;

4411 (e) a trustee or custodian of a trust or custodianship of which the respondent is a
4412 beneficiary;

4413 (f) the fiduciary appointed for the respondent by the United States Department of
4414 Veterans Affairs;

4415 (g) an agent designated under a power of attorney for health care in which the
4416 respondent is identified as the principal;

4417 (h) an agent designated under a power of attorney for finances in which the respondent
4418 is identified as the principal;

4419 (i) a person nominated as guardian or conservator by the respondent if the respondent
4420 is 12 years of age or older;

4421 (j) a person nominated as guardian by the respondent's parent or spouse in a will or
4422 other signed record;

4423 (k) a person known to have routinely assisted the respondent with decision making in
4424 the six-month period immediately before the filing of the petition; and

4425 (l) if the respondent is a minor:

4426 (i) an adult not otherwise listed with whom the respondent resides; and

4427 (ii) each person not otherwise listed that had primary care or custody of the respondent
4428 for at least 60 days during the two years immediately before the filing of the petition or for at
4429 least 730 days during the five years immediately before the filing of the petition;

- 4430 (4) the nature of the protective arrangement sought;
4431 (5) the reason the protective arrangement sought is necessary, including a brief
4432 description of:
4433 (a) the nature and extent of the respondent's alleged need;
4434 (b) any less restrictive alternative for meeting the respondent's alleged need which has
4435 been considered or implemented;
4436 (c) if no less restrictive alternative has been considered or implemented, the reason less
4437 restrictive alternatives have not been considered or implemented; and
4438 (d) the reason other less restrictive alternatives are insufficient to meet the respondent's
4439 alleged need;
4440 (6) the name and current address, if known, of any person with whom the petitioner
4441 seeks to limit the respondent's contact;
4442 (7) whether the respondent needs an interpreter, translator, or other form of support to
4443 communicate effectively with the court or understand court proceedings;
4444 (8) if a protective arrangement instead of guardianship is sought and the respondent has
4445 property other than personal effects, a general statement of the respondent's property with an
4446 estimate of its value, including any insurance or pension, and the source and amount of any
4447 other anticipated income or receipts; and
4448 (9) if a protective arrangement instead of conservatorship is sought, a general statement
4449 of the respondent's property with an estimate of its value, including any insurance or pension,
4450 and the source and amount of other anticipated income or receipts.
4451 Section 111. Section **75-5c-505** is enacted to read:
4452 **75-5c-505. Notice and hearing.**
4453 (1) On filing of a petition under Section 75-5c-501, the court shall set a date, time, and
4454 place for a hearing on the petition.
4455 (2) A copy of a petition under Section 75-5c-501 and notice of a hearing on the petition
4456 must be served personally on the respondent. The notice must inform the respondent of the
4457 respondent's rights at the hearing, including the right to an attorney and to attend the hearing.
4458 The notice must include a description of the nature, purpose, and consequences of granting the
4459 petition. The court may not grant the petition if notice substantially complying with this
4460 Subsection (2) is not served on the respondent.

4461 (3) In a proceeding on a petition under Section 75-5c-501, the notice required under
4462 Subsection (2) must be given to the persons required to be listed in the petition under
4463 Subsections 75-5c-504(1) through (3) and any other person interested in the respondent's
4464 welfare the court determines. Failure to give notice under this Subsection (3) does not preclude
4465 the court from granting the petition.

4466 (4) After the court has ordered a protective arrangement under this part, notice of a
4467 hearing on a petition filed under this chapter, together with a copy of the petition, must be
4468 given to the respondent and any other person the court determines.

4469 Section 112. Section **75-5c-506** is enacted to read:

4470 **75-5c-506. Appointment and role of visitor.**

4471 (1) On filing of a petition under Section 75-5c-501 for a protective arrangement instead
4472 of guardianship, the court shall appoint a visitor. The visitor must be an individual with
4473 training or experience in the type of abilities, limitations, and needs alleged in the petition.

4474 (2) On filing of a petition under Section 75-5c-501 for a protective arrangement instead
4475 of conservatorship for a minor, the court may appoint a visitor to investigate a matter related to
4476 the petition or inform the minor or a parent of the minor about the petition or a related matter.

4477 (3) On filing of a petition under Section 75-5c-501 for a protective arrangement instead
4478 of conservatorship for an adult, the court shall appoint a visitor unless the respondent is
4479 represented by an attorney appointed by the court. The visitor must be an individual with
4480 training or experience in the types of abilities, limitations, and needs alleged in the petition.

4481 (4) A visitor appointed under Subsection (1) or (3) shall interview the respondent in
4482 person and in a manner the respondent is best able to understand:

4483 (a) explain to the respondent the substance of the petition, the nature, purpose, and
4484 effect of the proceeding, and the respondent's rights at the hearing on the petition;

4485 (b) determine the respondent's views with respect to the order sought;

4486 (c) inform the respondent of the respondent's right to employ and consult with an
4487 attorney at the respondent's expense and the right to request a court-appointed attorney;

4488 (d) inform the respondent that all costs and expenses of the proceeding, including
4489 respondent's attorney fees, may be paid from the respondent's assets;

4490 (e) if the petitioner seeks an order related to the dwelling of the respondent, visit the
4491 respondent's present dwelling and any dwelling in which it is reasonably believed the

4492 respondent will live if the order is granted;

4493 (f) if a protective arrangement instead of guardianship is sought, obtain information
4494 from any physician or other person known to have treated, advised, or assessed the respondent's
4495 relevant physical or mental condition;

4496 (g) if a protective arrangement instead of conservatorship is sought, review financial
4497 records of the respondent, if relevant to the visitor's recommendation under Subsection (5)(c);
4498 and

4499 (h) investigate the allegations in the petition and any other matter relating to the
4500 petition the court directs.

4501 (5) A visitor under this section promptly shall file a report in a record with the court,
4502 which must include:

4503 (a) a recommendation whether an attorney should be appointed to represent the
4504 respondent;

4505 (b) to the extent relevant to the order sought, a summary of self-care,
4506 independent-living tasks, and financial-management tasks the respondent:

4507 (i) can manage without assistance or with existing supports;

4508 (ii) could manage with the assistance of appropriate supportive services, technological
4509 assistance, or supported decision making; and

4510 (iii) cannot manage;

4511 (c) a recommendation regarding the appropriateness of the protective arrangement
4512 sought and whether a less restrictive alternative for meeting the respondent's needs is available;

4513 (d) if the petition seeks to change the physical location of the dwelling of the
4514 respondent, a statement whether the proposed dwelling meets the respondent's needs and
4515 whether the respondent has expressed a preference as to the respondent's dwelling;

4516 (e) a recommendation whether a professional evaluation under Section [75-5c-508](#) is
4517 necessary;

4518 (f) a statement whether the respondent is able to attend a hearing at the location court
4519 proceedings typically are held;

4520 (g) a statement whether the respondent is able to participate in a hearing and which
4521 identifies any technology or other form of support that would enhance the respondent's ability
4522 to participate; and

4523 (h) any other matter the court directs.

4524 Section 113. Section **75-5c-507** is enacted to read:

4525 **75-5c-507. Appointment and role of attorney.**

4526 (1) Unless the respondent in a proceeding under this part is represented by an attorney,
4527 the court shall appoint an attorney to represent the respondent, regardless of the respondent's
4528 ability to pay.

4529 (2) An attorney representing the respondent in a proceeding under this part shall:

4530 (a) make reasonable efforts to ascertain the respondent's wishes;

4531 (b) advocate for the respondent's wishes to the extent reasonably ascertainable; and

4532 (c) if the respondent's wishes are not reasonably ascertainable, advocate for the result

4533 that is the least restrictive alternative in type, duration, and scope, consistent with the
4534 respondent's interests.

4535 (3) The court shall appoint an attorney to represent a parent of a minor who is the
4536 subject of a proceeding under this part if:

4537 (a) the parent objects to the entry of an order for a protective arrangement instead of
4538 guardianship or conservatorship;

4539 (b) the court determines that counsel is needed to ensure that consent to the entry of an
4540 order for a protective arrangement is informed; or

4541 (c) the court otherwise determines the parent needs representation.

4542 Section 114. Section **75-5c-508** is enacted to read:

4543 **75-5c-508. Professional evaluation.**

4544 (1) At or before a hearing on a petition under this part for a protective arrangement, the
4545 court shall order a professional evaluation of the respondent:

4546 (a) if the respondent requests the evaluation; or

4547 (b) or in other cases, unless the court finds that it has sufficient information to
4548 determine the respondent's needs and abilities without the evaluation.

4549 (2) If the court orders an evaluation under Subsection (1), the respondent must be
4550 examined by a licensed physician, psychologist, social worker, or other individual appointed by
4551 the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities
4552 and limitations and will not be advantaged or disadvantaged by a decision to grant the petition
4553 or otherwise have a conflict of interest. The individual conducting the evaluation promptly

4554 shall file a report in a record with the court. Unless otherwise directed by the court, the report
4555 must contain:

4556 (a) a description of the nature, type, and extent of the respondent's cognitive and
4557 functional abilities and limitations;

4558 (b) an evaluation of the respondent's mental and physical condition and, if appropriate,
4559 educational potential, adaptive behavior, and social skills;

4560 (c) a prognosis for improvement, including with regard to the ability to manage the
4561 respondent's property and financial affairs if a limitation in that ability is alleged, and
4562 recommendation for the appropriate treatment, support, or habilitation plan; and

4563 (d) the date of the examination on which the report is based.

4564 (3) The respondent may decline to participate in an evaluation ordered under
4565 Subsection (1).

4566 Section 115. Section **75-5c-509** is enacted to read:

4567 **75-5c-509. Attendance and rights at hearing.**

4568 (1) Except as otherwise provided in Subsection (2), a hearing under this part may not
4569 proceed unless the respondent attends the hearing. If it is not reasonably feasible for the
4570 respondent to attend a hearing at the location court proceedings typically are held, the court
4571 shall make reasonable efforts to hold the hearing at an alternative location convenient to the
4572 respondent or allow the respondent to attend the hearing using real-time audio-visual
4573 technology.

4574 (2) A hearing under this part may proceed without the respondent in attendance if the
4575 court finds by clear and convincing evidence that:

4576 (a) the respondent consistently and repeatedly has refused to attend the hearing after
4577 having been fully informed of the right to attend and the potential consequences of failing to do
4578 so;

4579 (b) there is no practicable way for the respondent to attend and participate in the
4580 hearing even with appropriate supportive services and technological assistance; or

4581 (c) the respondent is a minor who has received proper notice and attendance would be
4582 harmful to the minor.

4583 (3) The respondent may be assisted in a hearing under this part by a person or persons
4584 of the respondent's choosing, assistive technology, or an interpreter or translator, or a

4585 combination of these supports. If assistance would facilitate the respondent's participation in
4586 the hearing, but is not otherwise available to the respondent, the court shall make reasonable
4587 efforts to provide it.

4588 (4) The respondent has a right to choose an attorney to represent the respondent at a
4589 hearing under this part.

4590 (5) At a hearing under this part, the respondent may:

4591 (a) present evidence and subpoena witnesses and documents;

4592 (b) examine witnesses, including any court-appointed evaluator and the visitor; and

4593 (c) otherwise participate in the hearing.

4594 (6) A hearing under this part must be closed on request of the respondent and a
4595 showing of good cause.

4596 (7) Any person may request to participate in a hearing under this part. The court may
4597 grant the request, with or without a hearing, on determining that the best interest of the
4598 respondent will be served. The court may impose appropriate conditions on the person's
4599 participation.

4600 Section 116. Section **75-5c-510** is enacted to read:

4601 **75-5c-510. Notice of order.**

4602 The court shall give notice of an order under this part to the individual who is subject to
4603 the protective arrangement instead of guardianship or conservatorship, a person whose access
4604 to the individual is restricted by the order, and any other person the court determines.

4605 Section 117. Section **75-5c-511** is enacted to read:

4606 **75-5c-511. Confidentiality of records.**

4607 (1) The existence of a proceeding for or the existence of a protective arrangement
4608 instead of guardianship or conservatorship is a matter of public record unless the court seals the
4609 record after:

4610 (a) the respondent, the individual subject to the protective arrangement, or the parent of
4611 a minor subject to the protective arrangement requests the record be sealed; and

4612 (b) either:

4613 (i) the proceeding is dismissed;

4614 (ii) the protective arrangement is no longer in effect; or

4615 (iii) an act authorized by the order granting the protective arrangement has been

4616 completed.

4617 (2) A respondent, an individual subject to a protective arrangement instead of
4618 guardianship or conservatorship, an attorney designated by the respondent or individual, a
4619 parent of a minor subject to a protective arrangement, and any other person the court
4620 determines are entitled to access court records of the proceeding and resulting protective
4621 arrangement. A person not otherwise entitled to access to court records under this Subsection
4622 (2) for good cause may petition the court for access. The court shall grant access if access is in
4623 the best interest of the respondent or individual subject to the protective arrangement or
4624 further the public interest and does not endanger the welfare or financial interests of the
4625 respondent or individual.

4626 (3) (a) A report of a visitor or professional evaluation generated in the course of a
4627 proceeding under this part must be sealed on filing but is available to:

4628 (i) the court;

4629 (ii) the individual who is the subject of the report or evaluation, for purposes of the
4630 proceeding;

4631 (iii) the petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of
4632 the proceeding;

4633 (iv) unless the court orders otherwise, an agent appointed under a power of attorney for
4634 finances in which the respondent is the principal;

4635 (v) if the order is for a protective arrangement instead of guardianship and unless the
4636 court orders otherwise, an agent appointed under a power of attorney for health care in which
4637 the respondent is identified as the principal; and

4638 (vi) any other person if it is in the public interest or for a purpose the court orders for
4639 good cause.

4640 (b) A report described in Subsection (3)(a) is not subject to Title 63G, Chapter 2,
4641 Government Records Access and Management Act.

4642 Section 118. Section **75-5c-512** is enacted to read:

4643 **75-5c-512. Appointment of master.**

4644 The court may appoint a master to assist in implementing a protective arrangement
4645 under this part. The master has the authority conferred by the order of appointment and serves
4646 until discharged by court order.

4647 Section 119. Section **75-5c-601** is enacted to read:

4648 **Part 6. Forms**

4649 **75-5c-601. Use of forms.**

4650 Use of the forms contained in this part is optional. Failure to use these forms does not
4651 prejudice any party.

4652 Section 120. Section **75-5c-602** is enacted to read:

4653 **75-5c-602. Petition for guardianship for minor.**

4654 This form may be used to petition for guardianship for a minor.

4655 Petition for Guardianship for Minor

4656 State of:

4657 [County] of:

4658 Name and address of attorney representing Petitioner, if applicable:

4659 Note to Petitioner: This form can be used to petition for a guardian for a minor. A court
4660 may appoint a guardian for a minor who does not have a guardian if the court finds the
4661 appointment is in the minor's best interest, and: (1) the parents, after being fully informed of
4662 the nature and consequences of guardianship, consent; (2) all parental rights have been
4663 terminated; or (3) the court finds by clear and convincing evidence that the parents are
4664 unwilling or unable to exercise their parental rights.

4665 1. Information about the person filing this petition (the "Petitioner").

4666 a. Name:

4667 b. Principal residence:

4668 c. Current street address (if different):

4669 d. Relationship to minor:

4670 e. Interest in this petition:

4671 f. Telephone number (optional):

4672 g. Email address (optional):

4673 2. Information about the minor alleged to need a guardian.

4674 Provide the following information to the extent known.

4675 a. Name:

4676 b. Age:

4677 c. Principal residence:

4678 d. Current street address (if different):
4679 e. If Petitioner anticipates the minor moving, or seeks to move the minor, proposed new
4680 address:

4681 f. Does the minor need an interpreter, translator, or other form of support to
4682 communicate with the court or understand court proceedings? If so, please explain.

4683 g. Telephone number (optional):

4684 h. Email address (optional):

4685 3. Information about the minor's parent(s).

4686 a. Name(s) of living parent(s):

4687 b. Current street address(es) of living parent(s):

4688 c. Does any parent need an interpreter, translator, or other form of support to
4689 communicate with the court or understand court proceedings? If so, please explain.

4690 4. People who are required to be notified of this petition. State the name and current address of
4691 the people listed in Appendix A.

4692 5. Appointment requested. State the name and address of any proposed guardian and the reason
4693 the proposed guardian should be selected.

4694 6. State why Petitioner seeks the appointment. Include a description of the nature and extent of
4695 the minor's alleged need.

4696 7. Property. If the minor has property other than personal effects, state the minor's property
4697 with an estimate of its value.

4698 8. Other proceedings. If there are any other proceedings concerning the care or custody of the
4699 minor currently pending in any court in this state or another jurisdiction, please describe them.

4700 9. Attorney(s). If the minor or the minor's parent is represented by an attorney in this matter,
4701 state the name, telephone number, email address, and address of the attorney(s).

4702 SIGNATURE
4703 _____

4704 Signature of Petitioner _____ Date
4705 _____

4706 Signature of Petitioner's Attorney if _____ Date
4707 Petitioner is Represented by Counsel

4708 APPENDIX A:

- 4709 People whose name and address must be listed in Section 4 of this petition if they are not the
- 4710 Petitioner.
- 4711 • The minor, if the minor is 12 years of age or older;
- 4712 • Each parent of the minor or, if there are none, the adult nearest in kinship that can be found;
- 4713 • An adult with whom the minor resides;
- 4714 • Each person that had primary care or custody of the minor for at least 60 days during the two
- 4715 years immediately before the filing of the petition or for at least 730 days during the five years
- 4716 immediately before the filing of the petition;
- 4717 • If the minor is 12 years of age or older, any person nominated as guardian by the minor;
- 4718 • Any person nominated as guardian by a parent of the minor;
- 4719 • The grandparents of the minor;
- 4720 • Adult siblings of the minor; and
- 4721 • Any current guardian or conservator for the minor appointed in this state or another
- 4722 jurisdiction.

4723 Section 121. Section **75-5c-603** is enacted to read:

4724 **75-5c-603. Petition for guardianship, conservatorship, or protective arrangement.**

4725 This form may be used to petition for:

- 4726 (1) guardianship for an adult;
- 4727 (2) conservatorship for an adult or minor;
- 4728 (3) a protective arrangement instead of guardianship for an adult; or
- 4729 (4) a protective arrangement instead of conservatorship for an adult or minor.

4730 Petition for Guardianship, Conservatorship, or Protective Arrangement

4731 State of:

4732 [County] of:

4733 Name and address of attorney representing Petitioner, if applicable:

4734 Note to Petitioner: This form can be used to petition for a guardian, conservator, or
4735 both, or for a protective arrangement instead of either a guardianship or conservatorship. This
4736 form should not be used to petition for guardianship for a minor.

4737 The court may appoint a guardian or order a protective arrangement instead of
4738 guardianship for an adult if the adult lacks the ability to meet essential requirements for
4739 physical health, safety, or self-care because (1) the adult is unable to receive and evaluate

4740 information or make or communicate decisions even with the use of supportive services,
4741 technological assistance, and supported decision making, and (2) the adult's identified needs
4742 cannot be met by a less restrictive alternative.

4743 The court may appoint a conservator or order a protective arrangement instead of
4744 conservatorship for an adult if (1) the adult is unable to manage property and financial affairs
4745 because of a limitation in the ability to receive and evaluate information or make or
4746 communicate decisions even with the use of supportive services, technological assistance, and
4747 supported decision making or the adult is missing, detained, or unable to return to the United
4748 States, and (2) appointment is necessary to avoid harm to the adult or significant dissipation of
4749 the property of the adult, or to obtain or provide funds or other property needed for the support,
4750 care, education, health, or welfare of the adult, or of an individual who is entitled to the adult's
4751 support, and protection is necessary or desirable to provide funds or other property for that
4752 purpose.

4753 The court may appoint a conservator or order a protective arrangement instead of
4754 conservatorship for a minor if (1) the minor owns funds or other property requiring
4755 management or protection that cannot otherwise be provided; or (2) it would be in the minor's
4756 best interest, and the minor has or may have financial affairs that may be put at unreasonable
4757 risk or hindered because of the minor's age, or appointment is necessary or desirable to provide
4758 funds or other property needed for the support, care, education, health, or welfare of the minor.

4759 The court may also order a protective arrangement instead of conservatorship that
4760 restricts access to an individual or an individual's property by a person that the court finds: (1)
4761 through fraud, coercion, duress, or the use of deception and control, caused, or attempted to
4762 cause, an action that would have resulted in financial harm to the individual or the individual's
4763 property; and (2) poses a serious risk of substantial financial harm to the individual or the
4764 individual's property.

4765 1. Information about the person filing this petition (the "Petitioner").

4766 a. Name:

4767 b. Principal residence:

4768 c. Current street address (if different):

4769 d. Relationship to Respondent:

4770 e. Interest in this petition:

- 4771 f. Telephone number (optional):
- 4772 g. Email address (optional):
- 4773 2. Information about the individual alleged to need protection (the "Respondent"). Provide the
- 4774 following information to the extent known.
- 4775 a. Name:
- 4776 b. Age:
- 4777 c. Principal residence:
- 4778 d. Current street address (if different):
- 4779 e. If Petitioner anticipates Respondent moving, or seeks to move Respondent, proposed
- 4780 new address:
- 4781 f. Does Respondent need an interpreter, translator, or other form of support to
- 4782 communicate with the court or understand court proceedings? If so, please explain.
- 4783 g. Telephone number (optional):
- 4784 h. Email address (optional):
- 4785 3. People who are required to be notified of this petition. State the name and address of the
- 4786 people listed in Appendix A.
- 4787 4. Existing agents. State the name and address of any person appointed as an agent under a
- 4788 power of attorney for finances or power of attorney for health care, or who has been appointed
- 4789 as the individual's representative for payment of benefits.
- 4790 5. Action requested. State whether Petitioner is seeking appointment of a guardian, a
- 4791 conservator, or a protective arrangement instead of an appointment.
- 4792 6. Order requested or appointment requested. If seeking a protective arrangement instead of a
- 4793 guardianship or conservatorship, state the transaction or other action you want the court to
- 4794 order. If seeking appointment of a guardian or conservator, state the powers Petitioner requests
- 4795 the court grant to a guardian or conservator.
- 4796 7. State why the appointment or protective arrangement sought is necessary. Include a
- 4797 description of the nature and extent of Respondent's alleged need.
- 4798 8. State all less restrictive alternatives to meeting Respondent's alleged needs that have been
- 4799 considered or implemented. Less restrictive alternatives could include supported decision
- 4800 making, technological assistance, or the appointment of an agent by Respondent including
- 4801 appointment under a power of attorney for health care or power of attorney for finances. If no

4802 alternative has been considered or implemented, state the reason why not.

4803 9. Explain why less restrictive alternatives will not meet Respondent's alleged need.

4804 10. Provide a general statement of Respondent's property and an estimate of its value. Include
4805 any real property such as a house or land, insurance or pension, and the source and amount of
4806 any other anticipated income or receipts. As part of this statement, indicate, if known, how the
4807 property is titled (for example, is it jointly owned?).

4808 11. For a petition seeking appointment of a conservator. (skip this section if not asking for
4809 appointment of a conservator)

4810 a. If seeking appointment of a conservator with all powers permissible under this state's
4811 law, explain why appointment of a conservator with fewer powers (i.e., a "limited
4812 conservatorship") or other protective arrangement instead of conservatorship will not meet the
4813 individual's alleged needs.

4814 b. If seeking a limited conservatorship, state the property Petitioner requests be placed
4815 under the conservator's control and any proposed limitation on the conservator's powers and
4816 duties.

4817 c. State the name and address of any proposed conservator and the reason the proposed
4818 conservator should be selected.

4819 d. If Respondent is 12 years of age or older, state the name and address of any person
4820 Respondent nominates as conservator.

4821 e. If alleging a limitation in Respondent's ability to receive and evaluate information,
4822 provide a brief description of the nature and extent of Respondent's alleged limitation.

4823 f. If alleging that Respondent is missing, detained, or unable to return to the United
4824 States, state the relevant circumstances, including the time and nature of the disappearance or
4825 detention and a description of any search or inquiry concerning Respondent's whereabouts.

4826 12. For a petition seeking appointment of a guardian. (skip this section if not asking for
4827 appointment of a guardian)

4828 a. If seeking appointment of a guardian with all powers permissible under this state's
4829 law, explain why appointment of a guardian with fewer powers (i.e., a "limited guardianship")
4830 or other protective arrangement instead of guardianship will not meet the individual's alleged
4831 needs.

4832 b. If seeking a limited guardianship, state the powers Petitioner requests be granted to

4833 the guardian.

4834 c. State the name and address of any proposed guardian and the reason the proposed
4835 guardian should be selected.

4836 d. State the name and address of any person nominated as guardian by Respondent, or,
4837 in a will or other signed writing or other record, by Respondent's parent or spouse.

4838 13. Attorney. If Petitioner, Respondent, or, if Respondent is a minor, Respondent's parent is
4839 represented by an attorney in this matter, state the name, telephone number, email address, and
4840 address of the attorney(s).

4841 SIGNATURE

4842 _____

4843 Signature of Petitioner Date

4844 _____

4845 Signature of Petitioner's Attorney if Date

4846 Petitioner is Represented by Counsel

4847 APPENDIX A:

4848 People whose name and address must be listed in Section 3 of this petition, if they are not the
4849 Petitioner.

4850 • Respondent's spouse, or if Respondent has none, any adult with whom Respondent has shared
4851 household responsibilities in the past six months;

4852 • Respondent's adult children, or, if Respondent has none, Respondent's parents and adult
4853 siblings, or if Respondent has none, one or more adults nearest in kinship to Respondent who
4854 can be found with reasonable diligence;

4855 • Respondent's adult stepchildren whom Respondent actively parented during the stepchildren's
4856 minor years and with whom Respondent had an ongoing relationship within two years of this
4857 petition;

4858 • Any person responsible for the care or custody of Respondent;

4859 • Any attorney currently representing Respondent;

4860 • Any representative payee for Respondent appointed by the Social Security Administration;

4861 • Any current guardian or conservator for Respondent appointed in this state or another
4862 jurisdiction;

4863 • Any trustee or custodian of a trust or custodianship of which Respondent is a beneficiary;

- 4864 • Any Veterans Administration fiduciary for Respondent;
4865 • Any person Respondent has designated as agent under a power of attorney for finances;
4866 • Any person Respondent has designated as agent under a power of attorney for health care;
4867 • Any person known to have routinely assisted the individual with decision making in the
4868 previous six months;
4869 • Any person Respondent nominates as guardian or conservator; and
4870 • Any person nominated as guardian by Respondent's parent or spouse in a will or other signed
4871 writing or other record.

4872 Section 122. Section **75-5c-604** is enacted to read:

4873 **75-5c-604. Notification of rights for adult subject to guardianship or**
4874 **conservatorship.**

4875 This form may be used to notify an adult subject to guardianship or conservatorship of
4876 the adult's rights under Sections [75-5c-311](#) and [75-5c-412](#).

4877 Notification of Rights

4878 You are getting this notice because a guardian, conservator, or both have been appointed for
4879 you. It tells you about some important rights you have. It does not tell you about all your rights.
4880 If you have questions about your rights, you can ask an attorney or another person, including
4881 your guardian or conservator, to help you understand your rights.

4882 General rights:

4883 You have the right to exercise any right the court has not given to your guardian or conservator.

4884 You also have the right to ask the court to:

- 4885 • end your guardianship, conservatorship, or both;
4886 • increase or decrease the powers granted to your guardian, conservator, or both;
4887 • make other changes that affect what your guardian or conservator can do or how they do it;
4888 and
4889 • replace the person that was appointed with someone else.

4890 You also have a right to hire an attorney to help you do any of these things.

4891 Additional rights for persons for whom a guardian has been appointed:

4892 As an adult subject to guardianship, you have a right to:

- 4893 (1) be involved in decisions affecting you, including decisions about your care, where you live,
4894 your activities, and your social interactions, to the extent reasonably feasible;

- 4895 (2) be involved in decisions about your health care to the extent reasonably feasible, and to
- 4896 have other people help you understand the risks and benefits of health care options;
- 4897 (3) be notified at least 14 days in advance of a change in where you live or a permanent move
- 4898 to a nursing home, mental health facility, or other facility that places restrictions on your ability
- 4899 to leave or have visitors, unless the guardian has proposed this change in the guardian's plan or
- 4900 the court has expressly authorized it;
- 4901 (4) ask the court to prevent your guardian from changing where you live or selling or
- 4902 surrendering your primary dwelling by filing a petition with the court;
- 4903 (5) vote and get married unless the court order appointing your guardian states that you cannot
- 4904 do so;
- 4905 (6) receive a copy of your guardian's report and your guardian's plan; and
- 4906 (7) communicate, visit, or interact with other people (this includes the right to have visitors, to
- 4907 make and receive telephone calls, personal mail, or electronic communications) unless:
- 4908 • your guardian has been authorized by the court by specific order to restrict these
- 4909 communications, visits, or interactions;
- 4910 • a protective order is in effect that limits contact between you and other people; or
- 4911 • your guardian has good cause to believe the restriction is needed to protect you from
- 4912 significant physical, psychological, or financial harm and the restriction is for not more than
- 4913 seven business days if the person has a family or pre-existing social relationship with you or
- 4914 not more than 60 days if the person does not have that kind of relationship with you.

4915 Additional rights for persons for whom a conservator has been appointed:

4916 As an adult subject to conservatorship, you have a right to:

- 4917 (1) participate in decisions about how your property is managed to the extent feasible; and
- 4918 (2) receive a copy of your conservator's inventory, report, and plan.

4919 Section 123. Section **75-5c-701** is enacted to read:

4920 **Part 7. Miscellaneous Provisions**

4921 **75-5c-701. Uniformity of application and construction.**

4922 In applying and construing this uniform act, consideration must be given to the need to

4923 promote uniformity of the law with respect to its subject matter among states that enact it.

4924 Section 124. Section **75-5c-702** is enacted to read:

4925 **75-5c-702. Relation to Electronic Signatures in Global and National Commerce**

4926 Act.

4927 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and
4928 National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede
4929 Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the
4930 notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

4931 Section 125. Section **75-5c-703** is enacted to read:

4932 **75-5c-703. Applicability.**

4933 This chapter applies to:

4934 (1) a proceeding for appointment of a guardian or conservator or for a protective
4935 arrangement instead of guardianship or conservatorship commenced after July 1, 2019; and

4936 (2) a guardianship, conservatorship, or protective arrangement instead of guardianship
4937 or conservatorship in existence on July 1, 2019, unless the court finds application of a
4938 particular provision of this chapter would substantially interfere with the effective conduct of
4939 the proceeding or prejudice the rights of a party, in which case the particular provision of this
4940 chapter does not apply and the superseded law applies.

4941 Section 126. Section **75-5c-704** is enacted to read:

4942 **75-5c-704. Severability.**

4943 If any provision of this chapter or its application to any person or circumstance is held
4944 invalid, the invalidity does not affect other provisions or applications of this chapter which can
4945 be given effect without the invalid provision or application, and to this end the provisions of
4946 this chapter are severable.

4947 Section 127. Section **75-11-114** is amended to read:

4948 **75-11-114. Disclosure of digital assets to conservator or guardian of protected**
4949 **person.**

4950 (1) After an opportunity for a hearing under Chapter [~~5, Protection of Persons Under~~
4951 ~~Disability and Their Property~~] 5c, Uniform Guardianship, Conservatorship, and Other
4952 Protective Arrangements Act, the court may grant a conservator or guardian access to the
4953 digital assets of a protected person.

4954 (2) Unless otherwise ordered by the court or directed by the user, a custodian shall
4955 disclose to a conservator or guardian the catalogue of electronic communications sent or
4956 received by a protected person and any digital assets, other than the content of electronic

4957 communications, in which the protected person has a right or interest if the conservator or
4958 guardian gives the custodian:

4959 (a) a written request for disclosure in physical or electronic form;

4960 (b) a certified copy of the court order that gives the conservator or guardian authority
4961 over the digital assets of the protected person; and

4962 (c) if requested by the custodian:

4963 (i) a number, username, address, or other unique subscriber or account identifier
4964 assigned by the custodian to identify the account of the protected person; or

4965 (ii) evidence linking the account to the protected person.

4966 (3) A conservator or guardian with general authority to manage the assets of a
4967 protected person may request a custodian of the digital assets of the protected person to
4968 suspend or terminate an account of the protected person for good cause. A request made under
4969 this section must be accompanied by a certified copy of the court order giving the conservator
4970 or guardian authority over the protected person's property.

4971 Section 128. **Repealer.**

4972 This bill repeals:

4973 Section **75-5-101, Jurisdiction of subject matter -- Consolidation of proceedings.**

4974 Section **75-5-102, Facility of payment or delivery.**

4975 Section **75-5-104, Power of court to appoint guardian ad litem not affected.**

4976 Section **75-5-105, Bond of guardian.**

4977 Section **75-5-201, Status of guardian of minor -- General.**

4978 Section **75-5-202, Appointment of guardian of minor.**

4979 Section **75-5-202.5, Appointment of guardian by written instrument.**

4980 Section **75-5-203, Objection to appointment.**

4981 Section **75-5-204, Court appointment of guardian of minor -- Conditions for**
4982 **appointment.**

4983 Section **75-5-205, Court appointment of guardian of minor -- Venue.**

4984 Section **75-5-206, Court appointment of guardian of minor -- Qualifications --**
4985 **Priority of minor's nominee.**

4986 Section **75-5-207, Court appointment of guardian of minor -- Procedure.**

4987 Section **75-5-208, Consent to service by acceptance of appointment -- Notice.**

- 4988 Section **75-5-209**, Powers and duties of guardian of minor -- Residual parental
4989 **rights and duties -- Adoption of a ward.**
- 4990 Section **75-5-210**, Termination of appointment of guardian -- General.
- 4991 Section **75-5-211**, Proceedings subsequent to appointment -- Venue.
- 4992 Section **75-5-212**, Resignation or removal proceedings.
- 4993 Section **75-5-301**, Appointment of guardian for incapacitated person.
- 4994 Section **75-5-302**, Venue.
- 4995 Section **75-5-303**, Procedure for court appointment of a guardian of an
4996 **incapacitated person.**
- 4997 Section **75-5-304**, Findings -- Limited guardianship preferred -- Order of
4998 **appointment.**
- 4999 Section **75-5-305**, Acceptance of appointment -- Consent to jurisdiction.
- 5000 Section **75-5-306**, Termination of guardianship for incapacitated person.
- 5001 Section **75-5-307**, Removal or resignation of guardian -- Termination of incapacity.
- 5002 Section **75-5-308**, Visitor in guardianship proceeding.
- 5003 Section **75-5-309**, Notices in guardianship proceedings.
- 5004 Section **75-5-310**, Emergency guardians.
- 5005 Section **75-5-310.5**, Temporary guardians.
- 5006 Section **75-5-311**, Who may be guardian -- Priorities.
- 5007 Section **75-5-312**, General powers and duties of guardian -- Penalties.
- 5008 Section **75-5-312.5**, Association between an adult ward and a relative of the adult
5009 **ward.**
- 5010 Section **75-5-313**, Proceedings subsequent to appointment -- Venue.
- 5011 Section **75-5-314**, Mentally incompetent veteran -- Evidence of necessity for
5012 **appointment of guardian.**
- 5013 Section **75-5-315**, Copies of public records furnished to veterans administration.
- 5014 Section **75-5-316**, Expedited guardianship proceedings.
- 5015 Section **75-5-317**, Guardianship proceedings for minor becoming an incapacitated
5016 **adult.**
- 5017 Section **75-5-401**, Protective proceedings.
- 5018 Section **75-5-402**, Protective proceedings -- Jurisdiction of affairs of protected

- 5019 **persons.**
- 5020 Section **75-5-403, Venue.**
- 5021 Section **75-5-404, Original petition for appointment or protective order.**
- 5022 Section **75-5-405, Notice.**
- 5023 Section **75-5-406, Protective proceedings -- Request for notice -- Interested person.**
- 5024 Section **75-5-407, Procedure concerning hearing and order on original petition.**
- 5025 Section **75-5-408, Permissible court orders.**
- 5026 Section **75-5-409, Protective arrangements and single transactions authorized.**
- 5027 Section **75-5-410, Who may be appointed conservator -- Priorities.**
- 5028 Section **75-5-411, Bond.**
- 5029 Section **75-5-412, Terms and requirements of bonds.**
- 5030 Section **75-5-413, Acceptance of appointment -- Consent to jurisdiction.**
- 5031 Section **75-5-414, Compensation and expenses.**
- 5032 Section **75-5-415, Death, resignation, or removal of conservator.**
- 5033 Section **75-5-416, Petitions for orders subsequent to appointment.**
- 5034 Section **75-5-417, General duty of conservator.**
- 5035 Section **75-5-418, Inventory and records.**
- 5036 Section **75-5-419, Accounts.**
- 5037 Section **75-5-420, Conservators -- Title by appointment.**
- 5038 Section **75-5-421, Recording of conservator's letters.**
- 5039 Section **75-5-422, Sale, encumbrance or transaction involving conflict of interest --**
- 5040 **Voidable -- Exceptions.**
- 5041 Section **75-5-423, Persons dealing with conservators -- Protection.**
- 5042 Section **75-5-424, Powers of conservator in administration.**
- 5043 Section **75-5-425, Distributive duties and powers of conservator.**
- 5044 Section **75-5-426, Enlargement or limitation of powers of conservator.**
- 5045 Section **75-5-427, Preservation of estate plan.**
- 5046 Section **75-5-428, Claims against protected person -- Enforcement.**
- 5047 Section **75-5-429, Individual liability of conservator.**
- 5048 Section **75-5-430, Termination of proceeding.**
- 5049 Section **75-5-431, Payment of debt and delivery of property to foreign conservator**

5050 **without local proceedings.**

5051 Section **75-5-432**, Foreign conservator -- Proof of authority -- Bond -- Powers.

5052 Section **75-5-433**, Embezzlement of protected person's estate -- Citation to person

5053 **suspected.**

5054 Section 129. **Effective date.**

5055 This bill takes effect on July 1, 2020.