

75-5-425 Distributive duties and powers of conservator.

- (1) A conservator may expend or distribute income or principal of the estate without court authorization or confirmation for the support, education, care, or benefit of the protected person and his dependents in accordance with the following principles:
 - (a) The conservator is to consider recommendations relating to the appropriate standard of support, education, and benefit for the protected person made by a parent or guardian, if any. He may not be surcharged for sums paid to persons or organizations actually furnishing support, education, or care to the protected person pursuant to the recommendations of a parent or guardian of the protected person unless he knows that the parent or guardian is deriving personal financial benefit therefrom, including relief from any personal duty of support, or unless the recommendations are clearly not in the best interests of the protected person.
 - (b) The conservator is to expend or distribute sums reasonably necessary for the support, education, care or benefit of the protected person with due regard to:
 - (i) the size of the estate, the probable duration of the conservatorship and the likelihood that the protected person, at some future time, may be fully able to manage the protected person's affairs and the estate which has been conserved for the protected person;
 - (ii) the accustomed standard of living of the protected person and members of the protected person's household; and
 - (iii) other funds or sources used for the support of the protected person.
 - (c) The conservator may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves and who are in need of support.
 - (d) Funds expended under this Subsection (1) may be paid by the conservator to any person, including the protected person to reimburse for expenditures which the conservator might have made, or in advance for services to be rendered to the protected person when it is reasonable to expect that they will be performed and where advance payments are customary or reasonably necessary under the circumstances.
- (2) If the estate is ample to provide for the purposes implicit in the distributions authorized by Subsection (1), a conservator for a protected person other than a minor has power to make gifts to charity and other objects as the protected person might have been expected to make, in amounts which do not exceed in total for any year 20% of the income from the estate.
- (3) When a person who is a minor and who has not been adjudged to have a disability under Subsection 75-5-401(2)(a) attains the age of majority, the person's conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.
- (4) When the conservator is satisfied that a protected person's disability (other than minority) has ceased, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.
- (5) If a protected person dies, the conservator:
 - (a) shall:
 - (i) deliver to the court for safekeeping any will of the deceased protected person that may have come into the conservator's possession;
 - (ii) inform the executor or a beneficiary named in the will that the conservator has done so; and
 - (iii) retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled to it;

- (b) may continue to pay the obligations lawfully due against the estate and to protect the estate from waste, injury, or damages that might reasonably be foreseeable; and
 - (c) may apply to exercise the powers and duties of a personal representative so that the conservator may proceed to administer and distribute the decedent's estate without additional or further appointment, provided that at least 40 days from the death of the protected person no other person has been appointed personal representative and no application or petition for appointment is before the court.
- (6) Upon application for an order granting the powers of a personal representative to a conservator as provided in Subsection (5)(c) and after notice as provided in Section 75-3-310, the court may order the conferral of the power upon determining that there is no objection and endorse the letters of the conservator to note that the formerly protected person is deceased and that the conservator has acquired all of the powers and duties of a personal representative. The making and entry of an order under this section shall have the effect of an order of appointment of a personal representative as provided in Section 75-3-308 and Chapter 3, Part 6, Personal Representative - Appointment, Control, and Termination of Authority, Part 7, Duties and Powers of Personal Representatives, Part 8, Creditors' Claims, Part 9, Special Provisions Relating to Distribution, and Part 10, Closing Estates, except that the estate in the name of the conservator, after administration, may be distributed to the decedent's successors without prior retransfer to the conservator as personal representative.

Amended by Chapter 274, 2012 General Session