

152 is specified in the moving petition or nominated during the proceedings, the petitioner shall be  
 153 entitled to receive from the incapacitated person reasonable attorney fees and court costs  
 154 incurred in bringing and defending the petition.

155 (3) The legal representation of the incapacitated person by an attorney shall terminate  
 156 upon the appointment of a guardian, unless:

157 (a) there are separate conservatorship proceedings pending before the court;

158 (b) the appointed guardian elects at the time to maintain the attorney's representation of  
 159 the incapacitated person;

160 (c) there is a timely filed appeal of the appointment of the guardian or the  
 161 determination of incapacity; or

162 (d) ~~§~~ **→ upon an express finding of good cause, ←** ~~§~~ the court orders otherwise.

163 ~~[(3)]~~ (4) The person alleged to be incapacitated may be examined by a physician  
 164 appointed by the court who shall submit a report in writing to the court and may be interviewed  
 165 by a visitor sent by the court. The visitor also may interview the person seeking appointment  
 166 as guardian, visit the present place of abode of the person alleged to be incapacitated and the  
 167 place it is proposed that the person will be detained or reside if the requested appointment is  
 168 made, and submit a report in writing to the court.

169 ~~[(4)]~~ (5) (a) The person alleged to be incapacitated shall be present at the hearing in  
 170 person and see or hear all evidence bearing upon the person's condition. If the person seeking  
 171 the guardianship requests a waiver of presence of the person alleged to be incapacitated, the  
 172 court shall order an investigation by a court visitor, the costs of which shall be paid by the  
 173 person seeking the guardianship.

174 (b) The investigation by a court visitor is not required if there is clear and convincing  
 175 evidence from a physician that the person alleged to be incapacitated has:

176 (i) fourth stage Alzheimer's Disease;

177 (ii) extended comatosis; or

178 (iii) (A) an intellectual disability; and

179 (B) an intelligence quotient score under 20 to 25.

180 (c) The person alleged to be incapacitated is entitled to be represented by counsel, to  
 181 present evidence, to cross-examine witnesses, including the court-appointed physician and the  
 182 visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if

214 attorney to represent [him] the person to be protected who then has the powers and duties of a  
 215 guardian ad litem.

216 (3) The legal representation of the protected person by an attorney shall terminate upon  
 217 the appointment of a conservator, unless:

218 (a) there are separate guardianship proceedings pending before the court;

219 (b) the appointed conservator elects at the time to maintain the attorney's representation  
 220 of the protected person;

221 (c) there is a timely filed appeal of the appointment of the conservator or the  
 222 determination of the incapacity; or

223 (d) ~~§~~ → **upon an express finding of good cause**, ← ~~§~~ the court orders otherwise.

224 (4) If the alleged disability is mental illness, mental deficiency, physical illness or  
 225 disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that  
 226 the person to be protected be examined by a physician designated by the court, preferably a  
 227 physician who is not connected with any institution in which the person is a patient or is  
 228 detained. The court may send a visitor to interview the person to be protected. The visitor may  
 229 be a guardian ad litem or an officer or employee of the court.

230 ~~[(3)]~~ (5) After hearing, upon finding that a basis for the appointment of a conservator  
 231 or other protective order has been established, the court shall make an appointment or other  
 232 appropriate protective order.

233 Section 7. Section **75-5-408** is amended to read:

234 **75-5-408. Permissible court orders.**

235 (1) The court has the following powers which may be exercised directly or through a  
 236 conservator in respect to the estate and affairs of protected persons:

237 (a) While a petition for appointment of a conservator or other protective order is  
 238 pending and after preliminary hearing and without notice to others, the court has power to  
 239 preserve and apply the property of the person to be protected as may be required for the  
 240 person's benefit or the benefit of the person's dependents.

241 (b) After hearing and upon determining that a basis for an appointment or other  
 242 protective order exists with respect to a minor without other disability, the court has all those  
 243 powers over the estate and affairs of the minor which are or might be necessary for the best  
 244 interests of the minor, the minor's family, and the members of the minor's household.

276 **75-5-414. Compensation and expenses.**

277 If not otherwise compensated for services rendered, any visitor, lawyer, physician,  
 278 conservator, or special conservator appointed in a protective proceeding is entitled to  
 279 reasonable compensation from the estate. If the court appoints the petitioner or the petitioner's  
 280 nominee as conservator over the protected person, regardless of whether the nominee is  
 281 specified in the moving petition or nominated during the proceedings, the petitioner is entitled  
 282 to receive from the estate reasonable attorney fees and court costs incurred in bringing and  
 283 defending the petition.

284 Section 9. Section **75-5-415** is amended to read:

285 **75-5-415. Death, resignation, or removal of conservator.**

286 (1) The court may remove a conservator for good cause, upon notice and hearing, or  
 287 accept the resignation of a conservator. After [his] the death, resignation, or removal of a  
 288 conservator, the court may appoint another conservator. A conservator so appointed succeeds  
 289 to the title and powers of [his predecessor] the preceding conservator.

290 ~~H→ (2) An order adjudicating incapacity may specify a minimum period, not exceeding one~~  
 291 ~~year, during which no petition for an adjudication that the protected person is no longer~~  
 292 ~~incapacitated may be filed without special leave. Subject to this restriction, the protected~~  
 293 ~~person or any person interested in the protected person's welfare may petition for an order that~~  
 294 ~~the protected person is no longer incapacitated and for removal or resignation of the~~  
 295 ~~conservator. A request for this order may be made by informal letter to the court or judge and~~  
 296 ~~any person who knowingly interferes with transmission of the request to the court or judge may~~  
 297 ~~be found guilty of contempt of court.~~

298 ~~—— (3) (2) ←H~~ Before removing a conservator, accepting the resignation of a conservator, or  
 299 ordering that a protected person's incapacity has terminated, the court shall follow the same  
 300 procedures to safeguard the rights of the protected person as apply to a petition for appointment  
 301 of a conservator as provided in Section 75-5-407.

302 Section 10. Section **75-5-418** is amended to read:

303 **75-5-418. Inventory and records.**

304 (1) Within 90 days after [his] appointment[~~, every~~] of a conservator, the conservator  
 305 shall prepare and file with the appointing court a complete inventory of the estate of the  
 306 protected person together with [his] an oath or affirmation that it is complete and accurate so