

26 75-5-303, as last amended by Laws of Utah 2016, Chapter 400

27 75-5-309, as last amended by Laws of Utah 2017, Chapter 403

28 75-5-311, as last amended by Laws of Utah 2013, Chapter 364

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

31 Section 1. Section **63I-2-275** is amended to read:

32 **63I-2-275. Repeal dates -- Title 75.**

33 Subsection 75-5-303(5)(d) is repealed on July 1, [~~2018~~] 2028.

34 Section 2. Section **75-5-303** is amended to read:

35 **75-5-303. Procedure for court appointment of a guardian of an incapacitated**
36 **person.**

37 (1) [~~The~~] An incapacitated person or any person interested in the incapacitated person's
38 welfare may petition for a finding of incapacity and appointment of a guardian.

39 (2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues
40 of incapacity.

41 (b) Unless the allegedly incapacitated person has counsel of the person's own choice,
42 the court shall appoint an attorney to represent the person in the proceeding the cost of which
43 shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated
44 person ~~is~~ **→ [is] and the allegedly incapacitated person's parents are ←** ~~is~~ indigent.

45 (c) If the court determines that the petition is without merit, the attorney fees and court
46 costs shall be paid by the person filing the petition.

47 (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the
48 incapacitated person, regardless of whether the nominee is specified in the moving petition or
49 nominated during the proceedings, the petitioner shall be entitled to receive from the
50 incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting,
51 or defending the petition.

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

54 (a) there are separate conservatorship proceedings still pending before the court
55 subsequent to the appointment of a guardian;

56 (b) there is a timely filed appeal of the appointment of the guardian or the

119 incapacitated person shall be given as provided in Section 75-1-401. Waiver of notice by the
120 person alleged to be incapacitated is not effective unless the person attends the hearing or the
121 person's waiver of notice is confirmed in an interview with the visitor appointed pursuant to
122 Section 75-5-303.

123 ~~§→ [(4) A court shall provide to the Social Security Administration a court order affecting~~
124 ~~the estate of a ward or person alleged to be incapacitated if the ward or person alleged to be~~
125 ~~incapacitated receives social security benefits.] ←§~~

126 Section 4. Section 75-5-311 is amended to read:

127 **75-5-311. Who may be guardian -- Priorities.**

128 (1) As used in this section:

129 (a) "Specialized care professional" means a person who is certified as a National
130 Certified Guardian or National Master Guardian by the Center for Guardianship Certification
131 or similar organization.

132 (b) "Suitable institution" means any nonprofit or for profit corporation, partnership,
133 sole proprietorship, or other type of business organization that is owned, operated by, or
134 employs a specialized care professional.

135 (2) The court shall appoint a guardian in accordance with the incapacitated person's
136 most recent nomination, unless that person is disqualified or the court finds other good cause
137 why the person should not serve as guardian. That nomination shall have been made prior to
138 the person's incapacity, shall be in writing and shall be signed by the person making the
139 nomination. The nomination shall be in substantially the following form:

140 Nomination of Guardian by an Adult

141 I, (Name), being of sound mind and not acting under duress, fraud, or other undue
142 influence, do hereby nominate (Name, current residence, and relationship, if any, of the
143 nominee) to serve as my guardian in the event that after the date of this instrument I become
144 incapacitated.

145 Executed at _____ (city, state)

146 on this _____ day of _____

147 _____
148 (Signature)

149 (3) Except as provided in Subsection (2), persons who are not disqualified have