

POWER OF ATTORNEY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to a power of attorney.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the nomination of a conservator or a guardian in a power of attorney; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-9-108, as enacted by Laws of Utah 2016, Chapter 256

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

Section 1. Section **75-9-108** is amended to read:

75-9-108. Nomination of conservator or guardian -- Adequacy of power of attorney -- Relation of agent to conservator or other fiduciary.

(1) In a power of attorney, a principal may nominate a conservator of the principal's



28 estate or a guardian of the principal's person for consideration by the court if protective
29 proceedings for the principal's estate or person are begun after the principal executes the power
30 of attorney. [~~Except for good cause shown or disqualification, the court shall make its~~
31 ~~appointment in accordance with the principal's most recent nomination.~~]

32 [~~(2) If, after a principal executes a power of attorney, a court appoints a conservator of~~
33 ~~the principal's estate or other fiduciary charged with the management of some or all of the~~
34 ~~principal's property, the agent is accountable to the fiduciary as well as to the principal.]~~

35 (2) If a principal executes a power of attorney and a petition is filed to appoint a
36 conservator of the principal's estate, the court shall consider whether:

37 (a) the provisions in the power of attorney are adequate to manage and protect the
38 principal's estate without appointing a conservator; or

39 (b) the appointment of a conservator is necessary to manage and protect the principal's
40 estate.

41 (3) If the court appoints a conservator of the principal's estate or a guardian of the
42 principal's person, the court shall appoint a conservator or a guardian in accordance with the
43 principal's most recent nomination unless there is good cause shown or disqualification.

44 (4) If, after a principal executes a power of attorney, the court determines that an
45 appointment of a conservator or other fiduciary is necessary to manage and protect some or all
46 of the principal's estate:

47 (a) the agent named in the principal's power of attorney is accountable to the
48 conservator or other fiduciary as well as the principal; and

49 (b) [The] the power of attorney is not terminated and the agent's authority continues
50 unless limited, suspended, or terminated by the court.