

DRAFT

FOR DISCUSSION ONLY

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

**~~REVISED UNIFORM GUARDIANSHIP AND
PROTECTIVE PROCEEDINGS ACT~~**

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

~~October 14-15, 2016 Drafting Committee Meeting~~

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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~~January 2~~March 9, 2017

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**REVISED-UNIFORM GUARDIANSHIP, CONSERVATORSHIP, AND OTHER
PROTECTIVE ARRANGMENTS ACT-AND-PROTECTIVE PROCEEDINGS ACT**

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**REVISED UNIFORM GUARDIANSHIP, CONSERVATORSHIP, AND OTHER
PROTECTIVE ARRANGMENTS ACT AND PROTECTIVE PROCEEDINGS ACT**

Prefatory Note

The Act replaces the Uniform Guardianship and Protective Proceedings Act (UGPPA) approved by the National Conference of Commissioners on Uniform State Laws in 1997. It may be enacted either as a free-standing Act or as part of the Uniform Probate Code (UPC). States enacting the Act as part of the UPC should consult Article V of the UPC for the official text of the Act as conformed to the Code's definitions and general provisions.

The Act covers guardianships and conservatorships for both minors and adults, as well as court orders ~~in lieu of~~ instead of guardianship or conservatorship. It consists of six articles. Article 1 contains definitions and general provisions applicable to both guardianships and conservatorships. Article 2 governs guardianships for minors, whether appointed by a court or by a parent. Article 3 governs guardianships for adults. Article 4 covers conservatorships for both minors and adults. Article 5 contains boilerplate provisions common to Uniform Acts. Article 6 contains optional forms that can be used by persons petitioning for guardianship or conservatorship, and by courts rendering orders as a result of such petitions or notifying ~~persons~~ individuals subject to guardianship or conservatorship of their rights.

The revised Act is the result of the work of the Drafting Committee which, in consultation with a broad range of observers representing a range of constituencies, was charged with revising UGPPA to update the Act including by implement some of the recommendations of the Third National Guardianship Summit (NGS) held in 2011. The Drafting Committee's work built upon two earlier versions of the Act: the 1982 UGPPA which significantly advanced guardianship law by recognizing limited guardianship, and the 1997 UGPPA which further advanced the law by, among other things, adopting a functional definition of capacity and emphasizing that guardianship and conservatorship should be options of last resort. The 1982 UGPPA in turn build upon the provisions of Article V of the UPC as originally approved in 1969.

The revised Act has three overarching aims.

First, it aims to reflect the person-centered philosophy endorsed by the NGS. This approach is evidenced in the revised Act's updated terminology. The terms "ward" and "incapacitated person," which were rejected by the NGS as demeaning and even offensive, are eliminated and the terms "adult subject to guardianship" and "~~person subject to conservatorship~~individual subject to conservatorship" used instead. The person-centered approach is also evident in new provisions requiring that individuals~~persons~~ subject to guardianship or conservatorship be given meaningful notice of their rights and how to assert them; provisions that require individuals ~~persons~~ subject to guardianship and conservatorship be involved in decisions about their lives; the addition of requirements that guardians create person-centered plans; and provisions to facilitate court monitoring of compliance with these plans.

Second, it aims to create a set of legal rules that advance the key objectives embraced by the NGS and that otherwise successfully address key challenges surrounding guardianships and

1 conservatorships. These objectives focus on protecting and respecting the rights and interests of
2 both persons alleged to need a guardian or conservator and ~~individuals~~persons subject to
3 guardianship or conservatorship. This includes ensuring that the least restrictive means are used
4 to protect an individual alleged to need a guardianship or conservatorship, providing better
5 guidance to guardians and conservators, and helping courts to do a better job monitoring
6 guardians and conservators.

7
8 Third, ~~it aims~~to aims to advance rules and systems that make it easier for all persons involved in
9 the process—whether they be petitioners, ~~individuals~~persons subject to guardianship or
10 conservatorship, guardians, or judges—to achieve these objectives. It does this in a number of
11 ways including by creating new petition requirements designed to ensure that judges have the
12 information they need to make appropriate decisions; by creating an option for courts to enter
13 orders ~~in lieu of~~instead of guardianship or conservatorship where such less restrictive alternative
14 would still meet a respondent’s need; and by offering model forms that can be used to make it
15 less burdensome for petitioners to seek limited appointments instead of full ones, and easier for
16 courts to craft limited orders instead of full appointments.

17
18 With these overarching objectives in mind, there are a number of more specific changes that are
19 likely to be particularly noteworthy to those considering the Act’s adoption.

20
21 First, the revised Act includes clearer guidance to appointees, many of whom are lay people.
22 Specifically, the Act clarifies how appointees are to make decisions, including those about
23 particularly fraught issues such as medical treatment and residential placement. Notably, these
24 clarifications are consistent with the person-centered approach embraced by the Act in that
25 appointees are given specific guidance as to involving the person in decisions.

26
27 Second, the revised Act recognizes the role of, and encourages the use of, less restrictive
28 alternatives, including supported decision-making and single-issue court orders ~~in lieu of~~instead
29 of guardianship and conservatorship. To this end, the revised Act provides that neither
30 guardianship nor conservatorship are appropriate where the person’s needs could be met with
31 technological assistance or decision-making support. It also allows for a protective order ~~instead~~
32 ~~of in lieu of~~ guardianship or conservatorship; the 1997 version, by contrast, only provided for
33 such an order ~~as an~~ alternative ~~t-in lieu of~~ conservatorship.

34
35 Third, the revised Act expands the procedural rights for respondents with the aim of ensuring
36 that such persons’ rights are fully respected and that guardianships and conservatorships are only
37 imposed when less restrictive means are not feasible. In expanding these protections, the
38 Drafting Committee worked to strike a balance between the need to provide meaningful
39 procedural rights for persons alleged to need a guardian or conservator, and the need not to make
40 the process for appointing a guardian or conservator overly complex or expensive. Key revisions
41 include a narrowing of the exception to the general rule that the respondent must be present at
42 the hearing, a requirement that explicit findings be made before certain fundamental rights are
43 removed, and the elimination of provisions that would have allowed appointment of a guardian
44 for an adult by will or writing without prior judicial approval.

1 Fourth, the revised Act provide for enhanced monitoring of guardians and conservators as a way
2 of ensuring that such appointees are conforming to their fiduciary duties and protecting against
3 exploitation of those subject to guardianship and conservatorship. One innovation in the revised
4 Act is to allow the court to identify people who will be given notice of certain key changes or
5 suspect actions, and who can therefore serve as an extra set of eyes and ears for the court. Other
6 revisions include a provision that makes bond a default option for conservators and provisions
7 that clarify factors relevant in determining the reasonableness of fees for guardians and
8 conservators.

9
10 Fifth, the revised Act provides enhanced procedural rights for ~~individuals~~persons subject to
11 guardianship and conservatorship. Key revisions include a provision that the court provide the
12 person with plain-language notice of key rights, provisions for attorney representation of ~~persons~~
13 ~~subject to guardianship~~individuals subject to guardianship and conservatorship, greater scrutiny
14 of the guardian or conservator's ability to charge fees to oppose the person's efforts to alter the
15 appointment, and additional triggers for reconsideration of an appointment.

16
17 Sixth, recognizing that ~~persons subject to guardianship~~individuals subject to guardianship and
18 conservatorship benefit from visitation and communication with third parties, the revised Act
19 sets forth specific rights to such interactions. In recent years, some family members of ~~persons~~
20 ~~subject to guardianship~~individuals subject to guardianship have raised concerns that guardians
21 have unreasonably restricted the ability of ~~persons subject to guardianship~~individuals subject to
22 guardianship to receive visitors and communicate with others, and family advocates have
23 encouraged legislative responses to address this concern. The revised Act includes a variety of
24 provisions addressing this concern. These include a limitation on a guardian's ability to curtail
25 communications, visits, or interactions between the adult subject to guardianship and third
26 parties and a requirement that the guardian give priority to ~~a~~-residential settings that allow the
27 person to interact with those important to the person. Along similar vein, it establishes a default
28 that the adult children and spouse of an adult subject to guardianship or conservatorship are
29 entitled to notice of the person's death or a significant change in the person's condition.

30
31 Seventh, the revised Act contains a variety of provisions that are designed to improve the Act's
32 instruction that a full guardianship or conservatorship must not be imposed where a limited one
33 would meet the person's needs. The Drafting Committee recognized that, despite the best efforts
34 of previous Committees, there is a lack of compliance with the 1997 Act's requirement that
35 limited guardianships and conservatorships be used where they would meet the person's needs.
36 In order to facilitate compliance with this direction, the Drafting Committee has -crafted a
37 sample petition which makes it easier for a petitioner to seek a limited order, and a sample order
38 which makes it easier for a court to craft a limited order. In addition, the revised Act requires
39 petitioners seeking a full guardianship or conservatorship to do more to justify that approach, and
40 courts imposing a full guardianship to provide findings to support that imposition.

41
42 Eight, the revised Act modernizes and clarifies provisions related to minors subject to
43 guardianship. For example, consistent with modern trends in the law, the revised Act provides
44 for greater involvement of minors in decisions involving them. The age of involvement for a
45 minor has been lowered from 14 to 12, the decision-making standard for guardians now calls on
46 them to consider the minors' views, and an attorney must be appointed for a minor in certain

1 situations. The revised Act also provides greater guidance to those petitioning for guardianship
2 of a minor, courts determining whether they had jurisdiction over guardianship for minors, and
3 guardians making decisions on behalf of minors.

4
5 Finally, the revised Act has been reorganized with the aim of making the act easier to
6 understand. Ease of use is important as many of those who need to comply with its directives are
7 not attorneys, but are family members or friends responding to urgent or unstable circumstances
8 and persons with limited resources and significant functional challenges.

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(85) “Decision-making support” means assistance from ~~that~~ one or more persons of ~~an~~the individual’s choosing in understanding ~~assist the individual to understand~~ the nature and consequences of potential personal and financial decisions ~~so~~ that enables the individual to ~~can~~ make such decisions and, wh~~en~~ere consistent with the individual’s wishes, assisting the individual ~~to communicate~~in communicating ~~such~~ decisions once made.

(96) “Full conservatorship” means a conservatorship under which the conservator is granted all powers available under the law of this state~~state conservatorship law with no restriction except as provided in [this act].~~

(107) “Full guardianship” means a guardianship under which the guardian is granted all powers available under the law of this state~~state guardianship law with no restriction except as provided in [this act].~~

(118) “Guardian” means a person appointed by a court to make decisions with respect to the personal affairs of an individual ~~minor or adult subject to guardianship~~. The term includes a limited guardian, emergency guardian, and temporary substitute guardian. The term does not include ~~but not~~ a guardian ad litem.

(129) “Guardian ad litem” means a person appointed to inform the court about, and to represent, the needs and best interests of an individual.

(13) “Individual subject to conservatorship” means an adult or minor for whom a conservator has been appointed.

(14) “Individual subject to guardianship” means an adult or minor for whom a guardian has been appointed.

(150) “Less restrictive means” means approaches to meeting an individual ~~person~~’s needs that remove fewer rights than would the appointment of a guardian or ~~a~~ conservator. The

term includes appropriate decision-making support, appropriate technological assistance, the appointment of an agent by the respondent including appointment ~~of an agent~~ under a [power of attorney for health-care] or power of attorney for finances ~~[made pursuant to the Uniform Health-Care Decisions Act (1993)]~~, and a protective arrangement under Section 41711 ~~order in lieu of guardianship or conservatorship~~.

(164) “Letters of office” ~~includes means~~ letters of guardianship ~~or~~ letters of conservatorship.

(172) —“Limited conservatorship” means a conservatorship under which ~~the~~ conservator is granted less than all powers available under the law of this state ~~[state conservatorship law]~~, is granted powers over only certain property assets, or the powers of the conservator are otherwise restricted.

(183) “Limited guardianship” means a guardianship under which the guardian is granted less than all powers available under the law of this state ~~[state guardianship law]~~ or the powers of the guardian are otherwise restricted.

(194) “Minor” means an unemancipated individual who has not attained [18] years of age.

(20) “Minor subject to conservatorship” means a minor for whom a conservator has been appointed under this [act].

(2145) “Minor subject to guardianship” means a minor for whom a guardian has been appointed ~~by a parent under Section 202 or by a court under Section 204.~~ under this [act].

(2246) “Parent” means a parent whose parental rights have not been terminated.

(2317) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or, governmental subdivision, agency, or instrumentality, or other legal

entity.

(24) "Property" includes tangible and intangible property.

~~(18) "Person subject to conservatorshipIndividual subject to" means a minor or adult for whom a conservator has been appointed.~~

~~(2519)~~ "Protective arrangementorder as instead ofin lieu of guardianship or conservatorship" means a court order entered ~~pursuant to~~under Section 11~~887~~. The term includes a court order authorizing a single transaction.

~~(260)~~ "Respondent" means an individual for whom~~the~~ appointment of a guardian or conservator or ~~a protective order in lieu~~protective arrangement instead of guardianship or conservatorship is sought.

~~(274) "Standby guardian" means a person appointed under Section 207 by a court, or a parent for a minor, to act as guardian the guardian is unable or unwilling to act, or on such other event as specified in a court order or parental writing appointing the standby guardian.~~

~~(22) "Standby conservator" means a person appointed by a court to act as conservator the conservator is unable or unwilling to act, or on such other event as specified in a court order appointing the standby conservator.~~

~~(21) "Standby guardian" means a person appointed by a parent under Section 202 to assume the role of guardian of a minor in the event that the conditions set forth in Section 202(c) are satisfied.~~

~~(28232)~~ "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~[(234) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is~~

~~recognized by federal law or formally acknowledged by a state.]~~

SECTION 103. SUPPLEMENTAL GENERAL PRINCIPLES OF LAW

APPLICABLE. Unless displaced by the particular provisions of this [act], the principles of law and equity supplement its provisions.

SECTION 104. SUBJECT-MATTER JURISDICTION.

(a) Except to the extent that jurisdiction is precluded by [insert citation to Uniform Child Custody Jurisdiction and Enforcement Act], the court of this state has jurisdiction over a guardianship for a minors and protective arrangements ~~orders~~ instead of lieu of guardianship for a -minors domiciled or present in this state. The court of this state has jurisdiction over a conservatorship for a minor and a protective arrangement instead of conservatorship for a minors domiciled in or having property located in this state.

(b) The court of this state has jurisdiction over a guardianship, conservatorship, and protective arrangement orders instead lieu of guardianship or conservatorship for an adult ~~individual~~ as provided in the [insert citation to Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act].

(c) After service of notice in a proceeding seeking a guardianship, conservatorship, or protective arrangement instead of order in lieu of guardianship or conservatorship and until termination of the proceeding, the court in which the petition is filed has:

(1) exclusive jurisdiction to determine the need for a guardianship, conservatorship, or ~~protective order in lieu of~~ protective arrangement instead of guardianship or conservatorship;

(2) exclusive jurisdiction to determine how the estate property of the respondent which is subject to the laws of this state must be managed, expended, or distributed to or for the

1 use of the respondent, an individuals who ~~is~~are dependent upon the respondent, or other
2 claimants; and

3 (3) concurrent jurisdiction to determine the validity of a claims against the
4 ~~respondent person~~ or ~~property~~estate of the respondent and a questions of title concerning ~~assets~~
5 ~~of the estate~~the property.

6 (d) A court that has appointed a guardian or conservator, or authorized ~~issued~~ a
7 ~~protective order in lieu of~~protective arrangement instead of guardianship or conservatorship
8 consistent with this [act], has exclusive and continuing jurisdiction over the proceeding until it is
9 terminated by the court or the appointment or ~~protective arrangement~~order expires by its ~~own~~
10 terms.

11 SECTION 105. TRANSFER OF PROCEEDINGS.

12 ~~—— (a)~~
13 Except for a guardianship or conservatorship for an adult that is subject to the transfer provisions
14 of [insert citation to Article 3 of the Uniform Adult Guardianship and Protective Proceedings
15 Jurisdiction Act], as otherwise provided in subsection (b), the following rules apply:

16 (1) After the appointment of a guardian or conservator or entry of a ~~protective~~
17 ~~order in lieu of~~protective arrangement instead of guardianship or conservatorship, the court
18 making the appointment or ~~entering the order~~authorizing the arrangement may transfer the
19 proceeding to a court in another [county] in this state or to another state if the court is satisfied
20 that a transfer will serve the best interest of the individual subject to the proceeding.

21 (2) If a proceeding for a guardianship, conservatorship, or protective arrangement
22 ~~proceeding seeking a protective order in lieu of~~protective arrangement instead of guardianship
23 or conservatorship is pending in another state or a foreign country and a petition for

guardianship, conservatorship, or ~~protective order in lieu of~~protective arrangement instead of
guardianship or conservatorship is filed in a court in this state, the court in this state shall notify
the original court and, after consultation with the original court, assume or decline jurisdiction,
whichever is in the best interest of the respondent.

(3) A guardian, conservator, or ~~like~~ fiduciary appointed in another state may
petition the court for appointment as a guardian or conservator in this state if venue in this state
is or will be established. The appointment may be made on proof of appointment in the other
state and presentation of a certified copy of the portion of the court record in the other state
specified by the court in this state. Notice of hearing on the petition, together with a copy of the
petition, must be given to the respondent, if the respondent has attained 12 years of age, and to
the persons who would be entitled to notice if the regular procedures for appointment of a
guardian or conservator under this [act] were applicable. The court shall make the appointment
in this state unless it concludes that the appointment would not be in the best interest of the
respondent. On the filing of an acceptance of office and any required bond, the court shall issue
appropriate letters of ~~office guardianship or conservatorship~~. Not later than 14 days after ~~an~~
appointment, the guardian or conservator shall send or deliver a copy of the order of appointment
to the ~~minor or adult~~individual subject to guardianship or conservatorship, if the ~~person~~
individual has attained 12 years of age, and to all persons given notice of the hearing on the
petition.

~~(b) This section does not apply to a guardianship or conservatorship or protective order
in lieu of guardianship or conservatorship for an adult individual that is subject to the transfer
provisions of [insert citation to Article 3 of the Uniform Adult Guardianship and Protective
Proceedings Jurisdiction Act (2007)].~~

1 **SECTION 106. VENUE.**

2 (a) Venue for a guardianship proceeding for a minor or a protective arrangement instead
3 of guardianship for a minor is in the [county] of this state in which the minor resides or is present
4 at the time the proceeding ~~is commenced~~commences, or the [county] where another proceeding
5 concerning the custody and parental rights of the minor is pending.

6 (b) Venue for a guardianship proceeding or a ~~protective order in lieu of~~protective
7 arrangement instead of guardianship for an adult is in the [county] of this state in which the
8 respondent resides and, if the respondent has been admitted to an institution by order of a court
9 of competent jurisdiction, in the [county] in which the court is located. Venue for the
10 appointment of an emergency or a temporary substitute guardian of an adult is also in the
11 [county] in which the respondent is present.

12 (c) Venue for a conservatorship proceeding or a ~~protective order in lieu of~~protective
13 arrangement instead of conservatorship is in the [county] of this state in which the respondent
14 resides, whether or not a guardian has been appointed in another place or, if the respondent does
15 not reside in this state, in any [county] of this state in which property of the respondent ~~is~~
16 ~~located~~resides.

17 (d) If a proceeding under this [act] is brought in more than one [county] in this state, the
18 court of the [county] in which the proceeding is first brought has the exclusive right to proceed
19 unless ~~the~~a court determines that venue is properly in another court or that the interests of justice
20 otherwise requires ~~that~~s the proceeding be transferred.

21 **SECTION 107. PRACTICE IN COURT.**

22 (a) Except as otherwise provided in this [act], ~~the~~ rules of evidence and ~~the~~ rules of civil
23 procedure, including ~~the~~ rules concerning appellate review, govern proceedings under this [act].

(b) If guardianship and conservatorship as to the same individual are commenced or pending in the same court, the proceedings may be consolidated.

[(c) A respondent may demand a jury trial for proceedings under this [act] that seek to determine whether the basis for appointment of a guardian or conservator exists.]

SECTION 108. LETTERS OF OFFICE.

(a) On the guardian's filing of an acceptance of office, the court shall issue appropriate letters of guardianship. On the conservator's filing of an acceptance of office and any required bond or compliance with any other ~~required~~-asset--protection arrangement required by the court, the court shall issue appropriate letters of conservatorship. Limitations on the powers of a guardian or conservator or on the property~~f the assets~~ subject to a conservatorship shall be stated on the guardian's or conservator's letters.

(b) The court may limit at any time the powers of a guardian or conservator otherwise conferred. In either event, the court shall issue new letters of office to reflect the limitation, removal, or modification.

SECTION 109. EFFECT OF ACCEPTANCE OF APPOINTMENT. By accepting appointment, a guardian or conservator submits personally to the jurisdiction of the court in any proceeding relating to the guardianship or conservatorship.

SECTION 110. CO-APPOINTEES ~~OR SUCCESSOR APPOINTEES.~~

(a) The court may appoint a co-guardian or co-conservator at any time, including at the time of the initial order, to serve immediately or ~~upon~~ some other designated event~~, and may appoint a successor guardian or conservator in the event of a vacancy or make the appointment in contemplation of a vacancy, to serve if a vacancy occurs.~~

(b) A co-guardian or, co-conservator , ~~or successor guardian or conservator~~ may file an acceptance of appointment at any time after the appointment within the later of 30 days or after ~~the occurrence of the vacancy or other~~ the designated event or 10 days after learning of the ~~vacancy or other~~ designated event.

(c) The co-guardian or, co-conservator, ~~or successor guardian or conservator~~ becomes eligible to act on the occurrence of the ~~vacancy or~~ designated event, or the filing of the acceptance of appointment, whichever last occurs. ~~A successor guardian or conservator succeeds to the predecessor's powers, and a successor conservator succeeds to the predecessor's title to the assets of the person subject to conservatorship.~~

~~(d) Not later than 30 days after a successor guardian or conservator succeeds to the predecessor's powers, the successor guardian or conservator appointed in contemplation of a vacancy shall file a petition for confirmation with the court. Not later than 90 days after the filing of the petition, the court shall issue an order confirming the appointment, hold a hearing on the petition, or do both.~~

SECTION 1110. JUDICIAL APPOINTMENT OF STANDBY SUCCESSOR GUARDIAN OR SUCCESSOR, CONSERVATOR

(a) A successor standby guardian may be appointed by the court at the same time the court appoints a guardian, or at anytime during the existence of a guardianship, to serve immediately or upon a future event.

(b) A standby successor conservator may be appointed by the court at the time the court appoints a conservator, or at anytime during the existence of a conservatorship, to serve immediately or upon a future event.

(c) Any person entitled to petition for a guardian under Section 202 or 302 of this Act

1 may petition the court to appoint a standby successor guardian. Any person entitled to petition
2 the court to appoint a conservator under Section 402 of this Act may petition the court to appoint
3 a standby successor conservator.

4 (d) A standby successor guardian or standby conservator appointed by a court to serve
5 upon a future event becomes eligible to serve as guardian or conservator upon if:

6 (1) the guardian or conservator being is unable or unwilling to perform the
7 duties of the guardian or conservator, or upon such other event designated by the court or by the
8 parental will or writing appointing the standby guardian; and

9 (2) the standby successor guardian or standby successor conservator files an
10 acceptance of appointment, which must be filed by the later of 30 days after the guardian's the
11 event triggering the appointment or 10 days after the standby successor guardian learns of the
12 event triggering the appointment as guardian.

13 (ef) Not later than 90 days after the filing of the acceptance of appointment, the court
14 shall issue an order confirming the appointment, hold a hearing on the petition, or do both.

15 (fg) A successor standby guardian or successor conservator appointed by a court shall
16 succeeds succeeds to the predecessor's powers unless otherwise limited by the court.

17 (gh) Acts done by of the standby successor guardian or conservator after
18 the event triggering the appointment, but before the satisfaction of the requirements of
19 Section-subsection (d)(2) shall have the same effect as those that occurred after the filing of
20 the acceptance of the appointment.

21 SECTION 111. PARENTAL APPOINTMENT OF STANDBY GUARDIAN,
22 CONSERVATOR

23 (a) A standby guardian or standby conservator may be appointed by a parent for any

~~minor child the parent has or may have in the future by will or other signed writing. An appointment by a parent which is effected by filing the standby guardian's acceptance under a will probated in the state of the testator's domicile is effective in this state.~~

~~(b) — The appointment is only effective during the period of the minor's minority. The appointment of a standby guardian by a parent does not supersede the parental rights of either parent. If both parents are dead or have been adjudged unwilling or unable to exercise their parental rights, an appointment by the last parent who died or was adjudged unable or unwilling to exercise parental rights has priority. The appointing parent may revoke or amend the appointment before confirmation by the court.~~

~~(c) — Upon petition of an appointing parent and a finding that the appointing parent will likely become unable to care for the child within [two] years, and after notice as provided in Section 205(a), the court, before the appointment becomes effective, may confirm the parent's selection of a standby guardian and terminate the rights of others to object.~~

~~—— (d) — A standby guardian or standby conservator appointed by a parent for a minor becomes eligible to serve as guardian or conservator upon:~~

~~(1) — the parent's death or other event as specified in a court order or parental writing appointing the standby guardian;~~

~~(2) — the court confirms the standby guardian or standby conservator, or by the later of 30 days after the guardian's the event triggering the appointment or 10 days after the standby guardian learns of the event triggering the appointment as guardian, the standby guardian files:~~

~~(A) — an acceptance of appointment,~~

~~(B) — a copy of the will, if available, with the court of the [county] in which the will was or~~

~~could be probated or, in the case of another appointing instrument, file the acceptance of appointment and the appointing instrument, if available, with the court of the [county] in which the minor resides or is present; and~~

~~(C) — the standby guardian gives written notice of the acceptance of appointment to the appointing parent, if living, the minor, if the minor has attained 12 years of age, and a person other than the parent having care and custody of the minor. Unless the appointment was previously confirmed by the court, the notice given under this subsection must include a statement of the right of those notified to terminate the appointment by filing a written objection as provided in subsection (e).~~

~~—— (d) — Not later than 90 days after the filing of the acceptance of appointment, the court shall issue an order confirming the appointment, hold a hearing on the petition, or do both.~~

~~—— (e) — Unless the court has confirmed an appointment of appointee under subsection (c) or (d), the following persons may file a written objection with the court:~~

~~—— (1) a minor who is the subject of an appointment~~

~~(2) any person entitled to petition for appointment of a guardian for the minor under Section 205 of this Act or a conservator for the minor under Section 402 of this Act.~~

~~(e) A person filing an objection under section (a) must give notice the objection to the standby guardian and any other persons entitled to notice of the acceptance of the appointment under Section 124(e)(2)(c) of this Act.~~

~~(f) If an objection is filed, the court shall hold a hearing to determine whether the standby guardian should be confirmed and, if not, whether another person should be appointed.~~

~~The court may treat the filing of an objection as a petition for the appointment of an~~

~~emergency or a temporary guardian under Section 204, and proceed accordingly.~~

~~(g) An objection made under this Section may be withdrawn, and if withdrawn is of no effect.~~

~~(d) Not later than 30 days after a successor guardian or conservator succeeds to the predecessor's powers, the successor guardian or conservator appointed in contemplation of a vacancy shall file a petition for confirmation with the court. Not later than 90 days after the filing of the petition, the court shall issue an order confirming the appointment, hold a hearing on the petition, or do both.~~

~~(h) Acts done by the standby guardian or conservator after the event triggering the appointment, but before the satisfaction of the requirements of Section (c)(2) have the same effect as those that occurred after the filing of the acceptance of the appointment.~~

~~_____~~

SECTION 1124. EFFECT OF REMOVAL, RESIGNATION, OR DEATH OF APPOINTEE.

(a) The appointment of a guardian or conservator terminates ~~up~~ upon the death, resignation, or removal of the guardian or conservator.

(b) A guardian or conservator may petition the court for permission to resign. The petition may include a request for a successor appointee. A resignation of a guardian or conservator ~~or guardian~~ is effective when approved by the court.

~~(c) A minor or adult subject to guardianship or conservatorship or a person interested in the welfare of a minor or adult subject to guardianship or conservatorship may for good cause petition the court for removal of the guardian or conservator and appointment of a successor guardian or conservator.~~

(~~dc~~) ~~Resignation or removal~~ ~~Termination of the appointment of~~ of a guardian or conservator does not affect liability for previous acts or the obligation to account for actions taken on behalf of the ~~minor or adult~~ individual subject to guardianship or conservatorship, or to account for the ~~individual person~~'s money or other ~~property~~ assets.

SECTION 11~~3~~2. GENERAL NOTICE REQUIREMENTS.

(a) ~~If Except as otherwise ordered by the court for good cause, if~~ notice of a hearing on a petition filed under this [act] is required, ~~other than a notice for which specific requirements are otherwise provided,~~ the petitioner shall give notice of the time and place of the hearing to the person to be notified unless otherwise ordered by the court for good cause. Notice must be given in compliance with [insert the applicable rule of civil procedure], at least 14 days before the hearing unless this [act] provides otherwise.

(b) Proof of notice must be made before or at the hearing and filed in the proceeding.

(c) ~~NA~~ notice under this [act] must be given in plain language.

SECTION 11~~4~~3. WAIVER OF NOTICE. A person may waive notice under this [act] by a writing signed by the person or the person's attorney and filed in the proceeding, except that ~~. However,~~ a respondent or ~~minor or adult~~ individual subject to guardianship, an individual subject to conservatorship, or an individual for whom a protective arrangement instead of guardianship or conservatorship has been ordered, ~~protective order in lieu of protective arrangement instead of guardianship or conservatorship~~ may not waive notice.

SECTION 11~~5~~4. GUARDIAN AD LITEM. At any stage of a proceeding, the court may appoint a guardian ad litem if the court determines that representation of an individual's interest otherwise would be inadequate. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several individuals or interests. The guardian ad litem may

1 not be the same ~~person-individual~~ as the attorney representing ~~the~~ respondent. The court shall
2 state on the record the duties of the guardian ad litem and its reasons for the appointment.

3 **SECTION 11~~6~~5. REQUEST FOR NOTICE; INTERESTED PERSONS.**

4 (a) An interested person not otherwise entitled to notice who desires to be notified before
5 any order is made in a ~~proceeding under this [act]~~~~guardianship or conservatorship proceeding,~~
6 including a proceeding after the appointment of a guardian or conservator, may file a request for
7 notice with the clerk of the court in which the proceeding is pending. The clerk shall send or
8 deliver a copy of the request to the guardian and to the conservator if one has been appointed. A
9 request is not effective unless it contains a statement showing the interest of the person making it
10 and the address of that person or ~~an attorney-lawyer~~ to whom notice is to be given. The request
11 is effective only as to proceedings conducted after its filing.

12 (b) A governmental agency paying or planning to pay benefits to ~~a the~~ respondent or ~~an~~
13 ~~individual~~~~minor or adult~~ subject to conservatorship or ~~for whom a protective order in lieu~~
14 ~~of protective arrangement instead of~~ conservatorship ~~has been ordered~~ is an interested person in a
15 proceeding under ~~[Article 4] of this Act.~~

16 **SECTION 11~~7~~6. MULTIPLE APPOINTMENTS OR NOMINATIONS.** If a
17 respondent or other person makes more than one written appointment or nomination of a
18 guardian or conservator, the most recent controls.

19 **SECTION 11~~8~~7. ~~PROTECTIVE ORDER IN LIEU OF~~~~PROTECTIVE~~**
20 **~~ARRANGEMENT INSTEAD OF~~ GUARDIANSHIP OR CONSERVATORSHIP.**

21 (a) If the court finds that the basis for appointment of a guardian ~~for an adult or~~
22 ~~conservator~~ exists ~~after following the procedures required by Sections 302 through 308, or the~~
23 ~~basis for appointment of a guardian for a minor exists after following the procedures required by~~

1 Sections 202 through 206, the court; ~~in lieu of appointing a conservator or~~ instead of appointing a
2 guardian, may:

3 (1) ÷

4 ~~(1)~~ authorize or, direct, ~~or ratify~~ any transaction necessary ~~or desirable~~ to meet
5 ~~the respondent's need for~~ achieve any arrangement for security, service, or care ~~meeting the~~
6 ~~foreseeable needs of the respondent~~, including:

7 ~~(A1A)~~ a particular medical treatment or refusal of a particular
8 medical treatment;

9 ~~(B2B)~~ a move to specified place of residence; or

10 ~~(C3)~~ visitation or supervised visitation between the respondent and
11 ~~another person~~;

12 ~~(2)~~ restrict access to the respondent by a person whose access to the
13 ~~respondent~~ places the respondent at serious risk of physical or psychological harm; and

14 ~~(C)~~ payment, delivery, deposit, or retention of funds or property;

15 ~~(D)~~ sale, mortgage, lease, or other transfer of property;

16 ~~(E)~~ purchase of an annuity;

17 ~~(F)~~ entry into a contractual relationship, including a contract for life care,
18 ~~a deposit contract, or a contract for training and education; or~~

19 ~~(G)~~ addition to or establishment of a suitable trust[,
20 ~~including a trust created under the Uniform Custodial Trust Act (1987)]; ~~(34)~~~~
21 ~~make other~~ such other arrangements as may be appropriate on a limited basis;
22 and,

23 (b) If the court finds that the basis for appointment of a conservator exists after following

1 the procedures required by Sections 402 through 409, the court instead of appointing a
2 conservator, may:

3 (1) authorize or direct any transaction necessary to protect the financial
4 interests or property of the respondent, including:

5 (a~~1~~) actions to establish eligibility for benefits;

6 (b~~2~~) payment, delivery, deposit, or retention of funds or property;

7 (c~~3~~) sale, mortgage, lease, or other transfer of property;

8 (d~~4~~) purchase of an annuity;

9 (e~~5~~) entry into a contractual relationship, including a contract to provide
10 for personal care, supportive services, education, training, and employment; a contract for life
11 care, a deposit contract, or a contract for training and education;

12 (f~~6~~) addition to or establishment of a suitable trust[, including a trust
13 created under the Uniform Custodial Trust Act (1987)];

14 (g~~7~~) ratification of a contract, trust, will, or other transaction, including one
15 related to the property or business affairs of the respondent; and

16 (h~~1~~) settlement of a claim; and

17 (2) restrict access to the respondent's property by a person whose access to the
18 property places the respondent at serious risk of financial harm.

19 (c) After following the procedures required by either Sections 202 through 206 if the
20 respondent is a minor or Sections 302 through 308 if the respondent is an adult, the court may
21 restrict access to the respondent or the respondent's property by a person who the court finds:

22 (1) through fraud, coercion, duress, or the use of deception and control,
23 caused the respondent to suffer physical or psychological harm; and

1 (2) would otherwise pose a serious risk of substantial physical or
2 psychological harm to the respondent.

3 (d) After following the procedures required by Sections 402 through 409, a court may
4 restrict access to the respondent or the respondent's property by a person who the court finds:

5 (1) through fraud, coercion, duress, or the use of deception and control,
6 caused the respondent to suffer financial harm; and

7 (2) would otherwise pose a serious risk of substantial financial harm to the
8 respondent or the respondent's property.

9 ~~_____ (2) authorize, direct, or ratify any other contract, trust, will, or transaction relating~~
10 ~~to the property and business affairs of the respondent, including a settlement of a claim.~~

11 ~~(e)~~ In deciding whether to make any order under this section for a minor ~~approve under~~
12 ~~this section a protective arrangement or other transaction related to the personal affairs of a~~
13 ~~minor,~~ the court shall consider the best interests of the minor, ~~and the~~ preference of the minor's
14 parent, and the preferences of the minor if the minor has reached the age of 12.

15 ~~(f)~~ In deciding whether to ~~enter approve under this section~~ an order under this section
16 ~~protective arrangement or other transaction re~~ related to the personal affairs of ~~the adult~~
17 ~~respondent~~ an adult, the court shall consider the factors that a guardian must consider when
18 making decisions on behalf of an adult subject to guardianship.

19 ~~(g)~~ In deciding whether to ~~enter an order under this section~~ approve under this section a
20 ~~protective arrangement or other transaction related to the~~ related to the property or financial
21 affairs of a respondent, the court shall consider the factors that a conservator must consider when
22 making decisions on behalf of ~~an person subject to conservatorship~~ individual subject to
23 conservatorship.

(~~he~~) The court may appoint a [master] to assist in the ~~implementation~~~~accomplishment~~ of any protective arrangement ~~or other transaction~~ authorized under this section. The [master] has the authority conferred by the order and shall serve until discharged by court order ~~after report to the court.~~

SECTION 1~~1918~~. COMPENSATION AND EXPENSES ~~OF APPOINTEES, LAWYERS, AND OTHER PERSONS~~ IN GENERAL.

(a) If not otherwise compensated for services rendered, ~~an attorney~~~~lawyer~~ for a respondent in a proceeding brought under this [act] is entitled to reasonable compensation and reimbursement of reasonable expenses from the property~~estate~~ of the respondent. ~~Such fees and expenses must be approved by the court before compensation is paid or reimbursement is made, but not before the provision of such services or expenses being incurred.~~

(b) If not otherwise compensated for services rendered, an attorney or other person whose services resulted in an order beneficial to an individual ~~s-minor or adult~~ subject to guardianship or conservatorship, or an attorney or other person whose services resulted in an order beneficial to an individual ~~person~~ for whom a ~~protective order in lieu of protective arrangement instead of~~ guardianship or conservatorship was ~~entered~~ordered, is entitled to reasonable compensation ~~from the estate~~ and reimbursement of reasonable expenses from the property ~~estate of such benefited person~~the individual.

(c) Compensation ~~Such fees~~ and expenses payable under this section must be approved by the court before compensation is paid or reimbursement is made. Approval is not required before the services are provided or the expenses are incurred, ~~but not before the provision of such services or expenses being incurred.~~

1 **SECTION ~~12019~~. COMPENSATION OF GUARDIAN OR, CONSERVATOR.**

2 (a) A guardian is entitled to reasonable compensation for services as guardian and to
3 reimbursement for room, board, and clothing provided by the guardian to the ~~minor or~~
4 ~~adult~~individual subject to guardianship, ~~but only as approved by the court~~subject to court
5 approval. If a conservator, other than the guardian or a person who is affiliated with the
6 guardian, has been appointed for ~~the estate of the minor or adult~~an individual subject to
7 ~~guardianship~~conservatorship, reasonable compensation and reimbursement to the guardian may
8 be approved and paid by the conservator without order of the court.

9 (b) A conservator is entitled to reasonable compensation from the ~~property-estate~~ of the
10 ~~person subject to conservatorship~~individual subject to conservatorship, subject to court approval.

11 (c) In determining what is reasonable compensation for a guardian or conservator, the
12 court, or conservator as provided in subsection (a), shall consider:

13 (1) the necessity and quality of the services provided;

14 (2) the experience, training, professional standing, and skills of the guardian or
15 conservator;

16 (3) the difficulty of tasks performed, including the degree of skill and care
17 required;

18 (4) the conditions and circumstances under which services were performed,
19 including whether they were provided outside of regular business hours or under dangerous or
20 extraordinary conditions;

21 (5) the effect of those services on the ~~individual~~minor subject to guardianship or
22 conservatorship;

23 (6) the extent to which the services provided were or were not consistent with the

guardian's plan or conservator's plan; and

(7) the fees customarily paid to persons who perform like services in the community.

(d) A guardian or conservator need not use the personal funds of the guardian or conservator for the expenses of the individual subject to ~~minor subject to guardianship or minor or adult subject to~~ guardianship or conservatorship.

(e) If a minor or adult subject to guardianship or conservatorship seeks court intervention to modify or terminate the guardianship or conservatorship or to remove the guardian or conservator, the guardian or conservator may be compensated only for time spent opposing such efforts to the extent that the court has determined that the involvement or opposition is or was reasonably necessary to protect the interests of the ~~minor or adult~~ individual subject to guardianship or conservatorship.

**SECTION 12~~10~~. LIABILITY-IMMUNITIES OF GUARDIAN OR,
CONSERVATOR ~~TO THIRD PARTIES~~.**

(a) A guardian or conservator is not personally liable to a third person for acts of a minor or adult subject to guardianship or conservatorship solely by reason of the guardianship or conservatorship.

(b) A guardian who exercises reasonable care in choosing and monitoring a direct service provider for an individual subject to guardianship, and who otherwise complies with Section 125, is not liable for injury to the adult or minor subject to guardianship resulting from the wrongful conduct of the provider.

(c) A conservator who exercises reasonable care in choosing and monitoring an agent to perform a duty of the conservator, and who otherwise complies with Section 125, and is not

1 liable for injury to the individual subject to conservatorship resulting from the wrongful conduct
2 of the agent.

3 **SECTION 1224. PETITION FOR INSTRUCTION OR RATIFICATION**
4 **APPROVAL POST APPOINTMENT.**

5 (a) A guardian or conservator acting in the guardian or conservator's sole discretion may
6 petition the appointing court for instructions concerning fiduciary responsibility or for ~~approval~~
7 ratification of a particular act.

8 (b) On notice and hearing ~~the petition~~, the court may give appropriate instructions and
9 make any appropriate order.

10 (c) If the guardian or conservator acts according to the court's instruction or as
11 ~~ratified~~~~approved~~, the guardian or conservator shall not be personally liable for an act covered by
12 ~~the~~~~at~~ instruction or ~~ratification~~~~approval~~. Failure to ~~make such~~ petition the court shall not ~~in itself~~
13 be evidence of a breach of the guardian's or conservator's fiduciary obligations.

14 **SECTION 1232. THIRD-PARTY ACCEPTANCE OF AUTHORITY OF**
15 **GUARDIAN OR, CONSERVATOR.**

16 (a) Except as provided in subsection (b), a~~A~~ person shall accept the decision of a
17 guardian or conservator made on behalf of an individual subject to conservatorship if presented
18 with a court order appointing the guardian or conservator which~~that~~ was certified within the past
19 60 days~~ze~~ months or presented with letters of office issued within the past 60 days that state the
20 extent of, and limitations on, the guardian's or conservator's powers~~unless the conditions set~~
21 forth in part (b) of this Section apply.

22 (b) A person shall refuse to recognize the authority of a guardian or conservator to act
23 on behalf of an individual subject to guardianship or conservatorship if:

1 (1) the guardian's or conservator's proposed action would be inconsistent with
2 state or federal law;

3 (2) the person has actual knowledge or a reasonable, good faith belief that the
4 guardian's or conservator's letters are invalid or that the conservator or guardian is exceeding or
5 improperly exercising authority granted by the court; or

6 (3) the person makes, or has actual knowledge that another person has made, a
7 report to the [local adult protective services office] stating a good faith belief that the individual
8 subject to the guardianship or conservatorship is subject to physical or financial abuse, neglect,
9 exploitation, or abandonment by the guardian or conservator or a person acting for or with the
10 guardian or conservator.

11 **SECTION 1243. USE OF AGENTS BY GUARDIAN OR ~~CONSERVATOR.~~**

12 (a) A guardian or conservator may delegate ~~tasks~~ powers to agents of the guardian or
13 conservator ~~provided that~~ if:

14 (1) such delegation is consistent with the guardian's or conservator's fiduciary
15 duty,

16 (2) the guardian or conservator exercises reasonable care, skill, and caution in:

17 (Aa) selecting the agent;

18 (B) establishing the scope and terms of the agent's work;

19 (Cb) reviewing the agent's performance; and

20 (De) redressing an action or inaction of an agent which would constitute a
21 breach of the guardian's or conservator's ~~guardian's~~ duties if performed by the guardian or
22 conservator.-

1 **(b) Delegation of tasks by a guardian or conservator does not relieve the guardian or**
2 **conservator of duties or liabilities the guardian or conservator would otherwise have.**

3 **(c) A guardian or conservator may not delegate all powers to an agent, but may delegate**
4 **the performance of functions that a prudent guardian or conservator of comparable skills would**
5 **delegate under similar circumstances.**

6 **(d) In performing a delegated function, an agent shall exercise reasonable care to comply**
7 **with the terms of the delegation and reasonable care in the performance of delegated powers.**

8 **(e) By accepting a delegation from a conservator subject to the law of this state, an agent**
9 **submits to the jurisdiction of the courts of this state.**

10 **(f) A guardian or conservator may revoke the delegation of powers at any time.**

11 **SECTION 125. TEMPORARY SUBSTITUTE GUARDIAN OR CONSERVATOR**

12 **(a) If the court finds that a guardian is not effectively performing the guardian's duties**
13 **and that the welfare of the individual subject to guardianship requires immediate action, it may**
14 **appoint a temporary substitute guardian for the individual for a specified period not exceeding**
15 **six months.**

16 **(b) If a court finds that a conservator is not effectively performing the conservator's**
17 **duties and that the welfare of the individual subject to conservatorship or of the conservatorship**
18 **estate requires immediate action, it may appoint a temporary substitute conservator for the**
19 **individual for a specified period not exceeding six months.**

20 **(c) Except as otherwise ordered by the court, a temporary substitute guardian or**
21 **temporary substitute conservator so appointed has the powers set forth in the previous order of**
22 **appointment. The authority of any guardian or conservator previously appointed by the court is**
23 **suspended as long as a temporary substitute guardian or conservator has authority.**

1 (d) The court shall provide notice of appointment of a temporary substitute guardian or a
2 temporary substitute conservator or conservatorship no later than five days after the appointment
3 to:

4 (1) the individual subject to guardianship or conservatorship;

5 (2) the affected guardian or conservator; and

6 (3) in the case of a minor, all parents of the minor and any person currently
7 having custody or care of the minor unless the court finds such notice would not be in the best
8 interest of the minor.

9 (de) The court may remove a temporary substitute guardian or temporary substitute
10 conservator at any time. A temporary substitute guardian or temporary substitute conservator
11 shall make any report the court requires.

12 (ef) Except as provided in this Section, the provisions of this [act] concerning guardians
13 for minors apply to a temporary substitute guardian for a minor, the provisions of this [act]
14 concerning guardians for adults apply to a temporary substitute guardian for an adult, and the
15 provisions of this [act] concerning conservators apply to a temporary substitute conservator.

16 **SECTION 12632. REGISTRATION OF ORDERS.**

17 (a) If a guardian has been appointed in another state and a petition for ~~the appointment of~~
18 ~~guardianship-a guardian~~ is not pending in this state, the guardian appointed in the other state,
19 after giving notice to the appointing court of an intent to register, may register the guardianship
20 order in this state by filing as a foreign judgment ~~in a court~~, in any appropriate [county] of this
21 state, a certified copy of the order and letters of office.

22 (b) If a conservator has been appointed in another state and a petition for a
23 conservatorship is not pending in this state, the conservator appointed in the other state, after

1 giving notice to the appointing court of an intent to register, may register the conservatorship in
2 this state by filing as a foreign judgment ~~in a court of this state~~, in any [county] in which property
3 belonging to the ~~person subject to conservatorship~~ individual subject to conservatorship is
4 located, certified copies of the order, letters of office, and any bond or other asset-protection
5 arrangement required by the court.

6 **SECTION 12~~743~~743. EFFECT OF REGISTRATION OF ORDERS.**

7 (a) On registration of a guardianship or conservatorship order from another state, the
8 guardian or conservator may exercise in this state all powers authorized in the order of
9 appointment except as prohibited under the law of this state other than this [act], including
10 maintaining actions and proceedings in this state and, if the guardian or conservator is not a
11 resident of this state, subject to any conditions imposed ~~upon~~ nonresident parties.

12 (b) A court of this state may grant any relief available under this [act] and law of this
13 state other than this [act] to enforce a registered order.

14 **SECTION 12~~854~~854. FACILITY OF TRANSFERS TO MINOR.**

15 (a) Unless a person required to transfer money or personal property to a minor knows
16 that a conservator has been appointed or that a proceeding for ~~appointment of a~~
17 ~~conservator~~ conservatorship ~~of the estate for a~~ of the minor is pending, the person may do so, as
18 to an amount or value not exceeding [~~\$~~\$14,000] a year, by transferring it to:

19 (1) a person who has the care and custody of the minor and with whom the minor
20 resides;

21 (2) a guardian of the minor;

22 (3) a custodian under the Uniform Transfers to Minors Act or custodial trustee
23 under the Uniform Custodial Trust Act; or

(4) a financial institution as a deposit in an interest-bearing account or certificate in the sole name of the minor and by giving notice of the deposit to the minor.

(b) A person who transfers money or property in compliance with this section is not responsible for its proper application.

(c) A guardian or other person who receives money or property for a minor under subsection (a)(1) or (2) may only apply it to the support, care, education, health, and welfare of the minor, and may not derive a personal financial benefit, except for reimbursement for necessary expenses. Funds in excess of those required to be so applied~~Any excess~~ must be preserved for the future support, care, education, health, and welfare of the minor. The balance, if any, -and any balance must be transferred to the minor ~~up~~when the minor becomes~~on an~~ adult emancipation or attaining majority.

ARTICLE 2

GUARDIANSHIP OF MINOR

SECTION 201. BASIS FOR APPOINTMENT OF GUARDIAN OF MINOR [OR PROTECTIVE ARRANGMENT INSTEAD OF GUARDIANSHIP OF A MINOR].

(a) A person becomes a guardian of a minor ~~by parental appointment or upon~~ appointment by the court or when a person who was -previously nominated as a standby guardian assumes the duties of a guardian in compliance with under Sections 111 or 112~~25~~. The guardianship~~-status~~ continues until terminated, without regard to the location of the guardian or minor.

~~SECTION 202. PARENTAL APPOINTMENT OF STANDBY GUARDIAN.~~

~~(a) A standby guardian may be appointed by will or other signed writing by a parent for any minor child the parent has or may have in the future. The appointment~~

~~may specify the desired limitations on the powers to be given to the standby guardian. The appointing parent may revoke or amend the appointment before confirmation by the court.~~

~~—— (b) Upon petition of an appointing parent and a finding that the appointing parent will likely become unable to care for the child within [two] years, and after notice as provided in Section 205(a), the court, before the appointment becomes effective, may confirm the parent's selection of a standby guardian and terminate the rights of others to object.~~

~~—— (c) A person appointed by a parent as a standby guardian pursuant to this section is presumed to be qualified for appointment as guardian. Subject to Section 203, the standby guardian becomes the guardian of the minor upon the appointing parent's death, a judicial determination that the parent is unwilling or unable to exercise parental rights, or a written determination by a physician who has examined the parent that the parent is no longer able to care for the child, whichever first occurs.~~

~~—— (d) The standby guardian becomes eligible to act as guardian of the minor upon the filing of an acceptance of appointment, which must be filed by the later of 30 days after the guardian's the event triggering the appointment or 10 days after the standby guardian learns of the event triggering the appointment as guardian. The standby guardian shall:~~

~~—— (1) file the acceptance of appointment and a copy of the will, if available, with the court of the [county] in which the will was or could be probated or, in the case of another appointing instrument, file the acceptance of appointment and the appointing instrument, if available, with the court of the [county] in which the minor resides or is present; and~~

~~—— (2) give written notice of the acceptance of appointment to the appointing parent, if living, the minor, if the minor has attained 12 years of age, and a person other than the parent having care and custody of the minor.~~

~~———(e) Unless the appointment was previously confirmed by the court, the notice given under subsection (d)(2) must include a statement of the right of those notified to terminate the appointment by filing a written objection as provided in Section 203.~~

~~———(f) Unless the appointment was previously confirmed by the court, not later than 30 days after filing the notice and the appointing instrument, a standby guardian shall petition the court for confirmation of the appointment, giving notice in the manner provided in Section 205(a).~~

~~———(g) The appointment of a standby guardian by a parent does not supersede the parental rights of either parent. If both parents are dead or have been adjudged unwilling or unable to exercise their parental rights, an appointment by the last parent who died or was adjudged unable or unwilling to exercise parental rights has priority. An appointment by a parent which is effected by filing the standby guardian's acceptance under a will probated in the state of the testator's domicile is effective in this state.~~

~~———(h) The powers of a guardian who timely complies with subsections (d) and (f) relate back to give acts by the guardian which are of benefit to the minor and occurred on or after the date the appointment became effective the same effect as those that occurred after the filing of the acceptance of the appointment.~~

~~———(i) The authority of a guardian appointed under this section terminates upon the first to occur of the appointment of another person as guardian by the court or the giving of written notice to the guardian of the filing of an objection pursuant to Section 203.~~

~~SECTION 203. OBJECTION TO APPOINTMENT OF STANDBY GUARDIAN.~~

~~(a) Unless the court has confirmed an appointee under Section 202, the following persons may file a written objection with the court:~~

~~_____ (1) a minor who is the subject of an appointment, if the minor has attained 12 years of age,~~

~~_____ (2) another parent of the minor,~~

~~_____ (3) a person having primary care or custody of the minor for 60 or more days during the two years preceding the filing of the petition or any person alleged to have had the primary care and custody of the minor for at least 730 days during the five years preceding the filing of the objection.~~

~~(b) A person filing an objection under section (a) must give notice the objection to the standby guardian and any other persons entitled to notice of the acceptance of the appointment.~~

~~(c) If an objection is filed, the court shall hold a hearing to determine whether the standby guardian should be confirmed and, if not, whether another person should be appointed.~~

~~The objection does not preclude judicial appointment of the person selected by the parent. The court may treat the filing of an objection as a petition for the appointment of an emergency or a temporary guardian under Section 204, and proceed accordingly.~~

~~(d) An objection made under this Section may be withdrawn, and if withdrawn is of no effect.~~

~~SECTION 204. BASIS FOR JUDICIAL APPOINTMENT OF GUARDIAN~~

~~(ba) The court may appoint a guardian for a minor who does not have a guardian [or a protective arrangement instead of guardianship] if the court finds the appointment [or arrangement] is in the minor's best interest, and:~~

~~(1) the parents, after being fully informed of the nature and consequences of guardianship [or protective arrangement], provide -consent;~~

~~(2) all parental rights have been terminated; or~~

~~(3) the court finds by clear and convincing evidence that the parents are unwilling~~

1 or unable to exercise their parental rights.

2
3 ~~—— (b) If a guardian appointed by a parent pursuant to Section 202 fails to accept the~~
4 ~~appointment as required under Section 202(f) and the appointment has not been prevented or~~
5 ~~terminated under Section 203, the court may proceed and appoint a guardian for the minor. The~~
6 ~~person selected by the parent shall have priority for appointment by the court.~~

7 ~~(c) If necessary and on petition or motion and whether or not the conditions of~~
8 ~~subsection (a) have been established, the court may appoint a temporary guardian for a~~
9 ~~minor on a showing that an immediate need exists and that the appointment would be in~~
10 ~~the best interest of the minor. Notice must be given to the parents and to a minor who has~~
11 ~~attained 12 years of age. Except as otherwise ordered by the court, the temporary~~
12 ~~guardian has the authority of a full guardian, but the duration of the temporary~~
13 ~~guardianship may not exceed nine months. Not later than seven days after the~~
14 ~~appointment, the temporary guardian shall send or deliver a copy of the order to all~~
15 ~~individuals who would be entitled to notice of hearing under Section 205.~~

16 ~~—— (d) If the court finds that following the procedures of this [article] will likely result~~
17 ~~in substantial harm to a minor's health or safety and that no other person appears to have~~
18 ~~authority to act in the circumstances, the court, on appropriate petition, may appoint an~~
19 ~~emergency guardian for the minor. The duration of the guardian's authority may not~~
20 ~~exceed [30] days and the guardian may exercise only the powers specified in the order.~~
21 ~~Reasonable notice of the time and place of a hearing on the petition for appointment of an~~
22 ~~emergency guardian must be given to the minor, if the minor has attained 12 years of age,~~
23 ~~to each living parent of the minor, and to a person having care or custody of the minor, if~~

1 ~~other than a parent. The court may dispense with the notice if it finds from affidavit or~~
2 ~~testimony that the minor will be substantially harmed before a hearing can be held on the~~
3 ~~petition. If the guardian is appointed without notice, notice of the appointment must be~~
4 ~~given not later than 48 hours after the appointment and a hearing on the appropriateness~~
5 ~~of the appointment held not later than [five] days after the appointment.~~

6 ~~SECTION 20~~25. JUDICIAL APPOINTMENT OF GUARDIAN: PETITION.

7 (a) A ~~person interested minor or person interested~~ in the welfare of a minor, including
8 the minor for whom the order is sought, may petition for appointment of a guardian [or for a
9 protective arrangement instead of guardianship].

10 (b) A petition under subsection (a) must set forth the ~~minor's~~petitioner's name, principal
11 residence, current street address if different, relationship to the ~~minor~~respondent, the
12 petitioner's ~~and~~ interest in the appointment and, to the extent known, ~~state or contain~~ the
13 following with respect to the ~~respondent~~minor and the relief requested:

14 (1) the minor's name, age, principal residence, current street address, and, if
15 different, the address of the dwelling in which it is proposed ~~that~~ the ~~respondent~~minor will
16 reside if the appointment is made;

17 (2) the name and street address of the minor's parents;

18 (3) the name and address, if known, of any person responsible for care or custody
19 of the minor for 60 or more days during the two years preceding the filing of the petition or any
20 person alleged to have had the primary care and custody of the minor for at least 730 total days
21 during the five years preceding the filing of the petition;

22 (4) the reason guardianship [or a protective arrangement instead of guardianship]
23 is sought;

(54) the name and address of any proposed guardian and the reason why the proposed guardian should be selected;

~~(6) if the minor has reached the age of 12, whether or not the minor objects to the petition and the name and address of any person whom the minor prefers be selected as guardian if a guardian is appointed;~~

~~(75)~~ if the minor has property other than personal ~~good~~effects, a general statement of the minor's property with an estimate of its value;

~~(786) if the minor is above the age of 12,~~ the minor's need for an interpreter, ~~or~~ translator, or other form of support to effectively communicate with the court or understand court proceedings; ~~and~~

~~(897)~~ if the minor has parents, the parents' needs for an interpreter, translator, or other form of support ~~or translator if the parents need an interpreter or translator~~ in order to effectively communicate with the court or understand court proceedings; and

~~(9408)~~ any other proceedings concerning the care or custody of the minor currently pending in any court ~~either~~ in this state or ~~in~~ another jurisdiction.

SECTION 2063. JUDICIAL APPOINTMENT OF GUARDIAN: NOTICE.

(a) After a petition ~~for appointment of a guardian~~ is filed under Section 202 of Section 207(f), the court shall schedule a hearing and the petitioner shall:

(1) provide personal service of notice of the time and place of the hearing, together with a copy of the petition to:

(A) the minor, if the minor has attained [12] years of age and is not the petitioner;

(B) each parent of the minor or, if there are none, the adult nearest in

1 kinship that can be found;

2 (C) an adult with whom the minor resides;

3 ~~(2) provide a notice of time and place of the hearing by personal service, mail, or any~~
4 ~~other reasonable means, together with a copy of the petition, to:~~

5 ~~(ADE)~~ any person alleged to have had the primary care and custody of the
6 minor for 60 or more days during the two years preceding the filing of the petition or any person
7 alleged to have had the primary care and custody of the minor for at least 730 days during the
8 five years preceding the filing of the petition; and

9 (ED) any other person whom the court determines should receive personal
10 service of notice.;

11 (2) provide a notice of time and place of the hearing by personal service or
12 certified mail, mail, or any other reasonable means, together with a copy of the petition, to:

13 €

14 (AB) any person nominated as guardian by the minor if the minor has
15 attained [12] years of age;

16 (BE) any appointee of a parent if the ~~whose~~ appointment has not been
17 prevented or terminated ~~under Section 203;~~

18 (C) the grandparents and adult siblings of the minor;~~and~~

19 (D) any guardian or conservator currently acting for the minor in this state
20 or another jurisdiction~~elsewhere;~~ and

21 (E) any other person whom the court determines.;

22 ~~(E) the grandparents and adult siblings of the minor.;~~

23 (b) The notice required in subsection (a) must be in plain language and in at least 16-

point font and, to the extent feasible, in a language in which each individual is proficient~~the~~
~~petitioner must make reasonable efforts to provide notice to each person listed in subsection (a)~~
~~in a language in which the person is proficient.~~ The notice must include a statement of the right
to request appointment of an attorney for the minor, the right to object to an appointment, and a
description of the nature, purpose, and consequences of an appointment.

(c) A failure to serve the parents of the minor and the minor if the minor has reached the
age of [12] with a notice substantially complying with ~~this subsection~~subsections (a) and (b)
precludes the court from granting a petition for ~~permanent~~ guardianship of ~~the~~a minor [or for a
protective arrangement instead of guardianship], but does not preclude the court from granting an
emergency or temporary guardianship for ~~the~~a minor.

SECTION 20~~47~~. JUDICIAL APPOINTMENT OF GUARDIAN: APPOINTMENT
OF ~~LAWYER~~ATTORNEY.

(a) The court shall appoint ~~a lawyer, an attorney giving consideration to the choice of the~~
~~minor if the minor has attained 12 years of age, to~~ to represent the minor who is the subject of a
proceeding under ~~to in the proceeding~~ Section 204 if:

(1) requested by the minor [who has attained [12] years of age]~~or the parent of a~~
~~minor;~~

(2) recommended by the guardian ad litem; or

(3) the court determines that the minor needs representation.

(b) The ~~lawyer-attorney~~ representing the ~~respondent-minor~~ shall make reasonable efforts
to ascertain the ~~respondent's-minor's~~ wishes.

(c) The ~~lawyer-attorney~~ representing the ~~minor~~respondent shall advocate for the
~~respondent's-minor's~~ wishes to the extent ~~that~~ those wishes are reasonably ascertainable.

(d) If the ~~minor~~~~respondent~~'s wishes are not reasonably ascertainable, the attorney lawyer representing the ~~respondent~~minor shall advocate for the result that is the ~~least restrictive option in type, duration, and scope, consistent with the respondent's~~ minor's best interests.

**SECTION 2058. JUDICIAL APPOINTMENT OF GUARDIAN:
PRESENCE AT HEARING**

(a) The minor shall attend the hearing called ~~pursuant to~~ under Section 23034 unless the court finds by clear and convincing evidence that:

(1) the minor consistently or repeatedly refuses to attend the hearing after having been fully informed of the minor's right to attend the hearing;

(2) there is no practicable way for the minor to attend the hearing; ~~or~~

(3) the minor is under the age of [12] and lacks the ability or maturity to meaningfully participate in the hearing; or

(4) the minor is under the age of [12] and attendance would be harmful to the minor.

(b) Unless excused by the court for good cause, the proposed guardian shall attend the hearing.

(c) The parents of the minor shall have the right to attend the hearing.

- (de) Any person may request permission to participate in the proceeding. The court may grant the request, with or without hearing, on determining that the best interest of the minor will be served. The court may attach appropriate conditions to the person's participation.

**SECTION 20698. JUDICIAL APPOINTMENT OF GUARDIAN: ORDER;
PRIORITY OF MINOR'S NOMINEE; LIMITED GUARDIANSHIP.**

(a) The court, on hearing, may appoint a guardian for the minor [or order a protective

1 arrangement instead of guardianship] if appointment is proper under Section 2024 or, dismiss
2 the proceeding,or enter an order another order that serves the best interest of the minor.

3 _____(b) A court appointing a guardian under subsection (a) shall appoint ~~as guardian a~~
4 ~~person whose appointment will be in the best interest of the minor. The court shall appoint a~~
5 person designated as standby guardian by the minor's parent as provided in Section 207
6 ~~nominated by the minor if the minor has attained 12 years of age,~~ unless the court finds the
7 appointment will be contrary to the best interest of the minor. If the minor has multiple parents
8 who have designated different persons to serve as standby guardian, the court shall appoint the
9 designee whose appointment would be in the best interest of the minor unless the court finds that
10 appointment of none of the designees would be in the best interest of the minor. If no person has
11 been designated as standby guardian by the minor's parent or otherwise nominated by the
12 minor's parent, or the court finds that appointment of any person designated as standby guardian
13 by a parent of the minor parent is not in the best interest of the minor, the court shall appoint the
14 person nominated by the minor if the minor has attained [12] years of age unless the court finds
15 that appointment is contrary to the best interest of the minor. In such cases, the court shall
16 appoint as guardian a person whose appointment will be in the best interest of the minor.

17 _____(c) In the interest of maintaining or encouraging involvement by a minor's parent in the
18 minor's life, developing self-reliance of a ~~protected~~ minor, or for other good cause, the court, at
19 the time of appointment or later, on its own motion or on motion of the minor or other interested
20 person, may limit the powers of a guardian otherwise granted by this [article] and thereby create
21 a limited guardianship. Following the same procedure, the court may grant additional powers or
22 withdraw powers previously granted.

1 **SECTION 207. STANDBY GUARDIANSHIP.**

2 (a) A standby guardian for any minor child a parent has or may have in the future may be
3 appointed pursuant to a guardian nomination in a parent's will or by an appointment in another
4 writing. The appointment becomes effective upon an event specified in subsection (b) and the
5 standby guardian may begin acting following the filing of an acceptance as provided in
6 subsection (d). The authority of a standby guardian appointed under this section terminates upon
7 the first to occur of the appointment of a guardian by the court or the giving of written notice to
8 the standby guardian of the filing of an objection pursuant to Section 208.

9 (b) Subject to Section 208, the appointment of a standby guardian pursuant to a
10 nomination in a will becomes effective when the minor has no living parent or all parents of the
11 minor have been adjudged unable or unwilling to exercise parental rights.

12 (c) The appointment of a standby guardian by another writing becomes effective when:

13 (1) as provided in the writing, which may include the parent's death, an
14 adjudication that the parent is unwilling or unable to exercise parental rights, or a written
15 determination by a physician who has examined the parent that the parent is unable to exercise
16 parental rights; and

17 (2) either

18 (a) the minor has no parent other than the appointing parent; or

19 (b) any other parent of the minor has been adjudicated unwilling or unable
20 to exercise parental rights.

21 (d) Upon petition of an appointing parent and a finding that the appointing parent will
22 likely become unable to care for the child within [two] years and no other parent will be able to
23 care for the child, and after notice as provided in Section 208, the court, before the appointment

1 becomes effective, may confirm the parent's selection of a standby guardian and terminate the
2 rights of others to object.

3 (e) Before assuming the duties of standby guardian, the guardian must file an acceptance
4 of appointment. This acceptance must be filed within 30 days after the guardian's appointment
5 becomes effective. The guardian shall:

6 (1) file the acceptance of appointment and a copy of the will with the court of the
7 [county] in which the will was or could be probated or, in the case of another appointing
8 instrument, file the acceptance of appointment and the appointing instrument with the court of
9 the [county] in which the minor resides or is present; and

10 (2) give written notice of the acceptance of appointment to all parents of the
11 minor, the minor, if the minor has attained [12] years of age, and a person other than the parent
12 having care and custody of the minor.

13 (f) The notice given under subsection (d)(2) must include a statement of the right of those
14 notified to terminate the appointment by filing a written objection in the court as provided in
15 Section 208.

16 (g) Within 30 days after filing the notice and the appointing instrument, a guardian shall
17 petition the court for confirmation of the appointment, giving notice in the manner provided in
18 Section 203.

19 (h) The appointing will of other writing may specify desired limitations on the powers to
20 be given to the standby guardian. A parent may revoke or amend the appointment of a standby
21 guardian at any time before confirmation by the court.

22 (i) The appointment of a standby guardian by a parent does not supersede the parental
23 rights of either parent. If both parents are dead or have been adjudged unable or unwilling to

1 exercise parental rights, an appointment by the last parent who died or was adjudged
2 incapacitated has priority. An appointment by a parent which is effected by filing the guardian's
3 acceptance under a will probated in the state of the testator's domicile is effective in this state.

4 (j) The powers of a standby guardian who timely complies with the requirements of
5 subsections (d) and (f) relate back to give acts by the guardian which are of benefit to the minor
6 and occurred on or after the date the appointment became effective the same effect as those that
7 occurred after the filing of the acceptance of the appointment.

8 **SECTION 208. OBJECTION BY MINOR OR OTHERS TO STANDBY**
9 **GUARDIAN APPOINTMENT.** Until the court has confirmed an appointee under Section 207,
10 a minor who is the subject of a standby appointment by a parent and who has attained [12] years
11 of age, the other parent, or a person other than a parent or guardian having care or custody of the
12 minor may prevent or terminate the appointment at any time by filing a written objection in the
13 court in which the appointing instrument is filed and giving notice of the objection to the standby
14 guardian and any other persons entitled to notice of the acceptance of the appointment. An
15 objection may be withdrawn, and if withdrawn is of no effect. The objection does not preclude
16 judicial appointment of the person selected by the parent. The court may treat the filing of an
17 objection as a petition for the appointment of an emergency guardian under Section 209, and
18 proceed accordingly.

19 **SECTION 209. EMERGENCY GUARDIAN**

20 (a) If the court finds that following the procedures of this [article] will likely result in
21 substantial harm to a minor's health, safety or welfare, and that no other person appears to have
22 authority and willingness to act in the circumstances, the court, on petitioner by a person
23 interested in the minor's welfare or on its own motion, may appoint an emergency guardian for

1 the minor. The duration of the guardian's authority may not exceed [30] days and the guardian
2 may exercise only the powers specified in the order. Except as provide in subsection (b),
3 reasonable notice of the time and place of a hearing on the petition for appointment of an
4 emergency guardian must be given to the following:

- 5 _____ (1) the minor, if the minor has attained [12] years of age;
6 _____ (2) the lawyer appointed by the court under this subsection;
7 _____ (3) each parent of the minor;
8 _____ (4) a person having care or custody of the minor, if other than a parent; and
9 _____ (5) any other person required by the court.

10 _____ (b) An emergency guardian may be appointed without notice only if the court finds from
11 an affidavit or testimony that the minor will be substantially harmed before a hearing on the
12 appointment can be held. If the court appoints an emergency guardian without notice to the
13 minor and the minor's attorney, notice of the appointment must be given to the individuals listed
14 in subsection (a) not later than 48 hours after the appointment. The court shall hold a hearing on
15 the appropriateness of the appointment not later than [five] days after the appointment.

16 _____ (c) Appointment of an emergency guardian, with or without notice, is not a
17 determination that the conditions required for appointment of a guardian under Section 201(b)
18 have been satisfied.

19 _____ (d) The court may remove an emergency guardian at any time. An emergency guardian
20 shall make any report the court requires. In other respects, the provisions of this [act] concerning
21 guardians apply to an emergency guardian.

22 _____ **SECTION 2~~101~~090. DUTIES OF GUARDIAN.**

23 (a) Except as otherwise limited by the court, a guardian of a ~~protected~~ minor has the

1 duties and responsibilities of a parent regarding the ~~protected~~ minor's support, care, education,
2 health, and welfare. A guardian shall act at all times in the ~~protected~~ minor's best interest and
3 exercise reasonable care, diligence, and prudence.

4 (b) A guardian shall:

5 (1) become or remain personally acquainted with the ~~protected~~ minor and
6 maintain sufficient contact with the ~~protected~~ minor to know of the ~~protected~~ minor's capacities,
7 limitations, needs, opportunities, and physical and mental health;

8 (2) take reasonable care of the ~~protected~~ minor's personal effects and bring a
9 conservatorship proceeding or proceeding for a ~~protective order in lieu of protective arrangement~~
10 instead of conservatorship if necessary to protect other property of the ~~protected~~ minor;

11 (3) expend money of the ~~protected~~ minor ~~that~~which has been received by the
12 guardian for the ~~protected~~ minor's current needs for support, care, education, health, and welfare;

13 (4) conserve any excess money of the ~~protected~~ minor for the ~~protected~~ minor's
14 future needs, but if a conservator has been appointed for the ~~estate of the protected~~ minor, the
15 guardian shall pay the money at least quarterly to the conservator to be conserved for the
16 ~~protected~~ minor's future needs;

17 (5) report the condition of the ~~protected~~ minor and account for money and other
18 ~~assets property~~ in the guardian's possession or subject to the guardian's control, as ordered by
19 the court on application of any person interested in the ~~protected~~ minor's welfare or as required
20 by court rule;

21 (6) inform the court of any change in the ~~protected~~ minor's dwelling or address;
22 and

23 (7) in determining what is in the ~~protected~~ minor's best interest, take into account

1 the ~~protected~~ minor's preferences to the extent actually known or reasonably ascertainable by the
2 guardian.

3 **SECTION 2~~1114~~10. POWERS OF GUARDIAN.**

4 (a) Except as otherwise limited by the court, a guardian of a ~~protected~~ minor has the
5 powers ~~of~~ a parent would otherwise have regarding the ~~protected~~ minor's support, care,
6 education, health, and welfare.

7 (b) A guardian may:

8 (1) apply for and receive funds for the support of the ~~protected~~ minor otherwise
9 payable to the ~~protected~~ minor's parent, guardian, or custodian under the terms of any statutory
10 system of benefits or insurance or any private contract, devise, trust, conservatorship, or
11 custodianship;

12 (2) if otherwise consistent with the terms of any order by a court of competent
13 jurisdiction relating to custody of the ~~protected~~ minor, take custody of the ~~protected~~ minor and
14 establish the ~~protected~~ minor's place of dwelling, but may only establish or move the ~~protected~~
15 minor's dwelling outside the state on express authorization of the court;

16 (3) if the minor is not subject to conservatorship ~~a conservator for the estate of a~~
17 ~~protected minor has not been appointed with existing authority~~, commence a proceeding,
18 including an administrative proceeding, or take other appropriate action to compel a person to
19 support the ~~protected~~ minor or to pay money for the benefit of the ~~protected~~ minor;

20 (4) consent to medical or other care, treatment, or service for the ~~protected~~ minor;

21 (5) consent to the marriage of the ~~protected~~ minor; and

22 (6) to the extent reasonable, delegate to the ~~protected~~ minor certain
23 responsibilities for decisions affecting the ~~protected~~ minor's well-being.

1 (c) The court may specifically authorize the guardian to consent to the adoption of the
2 ~~protected~~ minor.

3 ~~SECTION 2121. DELEGATION OF POWER BY PARENT OR GUARDIAN.~~

4 ~~—— (a) A parent of a minor, by a power of attorney, may delegate to another person, for a~~
5 ~~period not exceeding nine months, any power regarding care, custody, or property of the minor,~~
6 ~~except the power to consent to marriage or adoption.~~

7 ~~—— (b) A guardian of a protected minor, by a power of attorney, may delegate to another~~
8 ~~person, for a period not exceeding nine months, any power regarding care or custody of the~~
9 ~~minor, except the power to consent to marriage or adoption. The guardian shall exercise~~
10 ~~reasonable care, skill, and caution in:~~

11 ~~—— (1) selecting an agent;~~

12 ~~—— (2) establishing the scope and terms of a delegation, consistent with the purposes~~
13 ~~and terms of the guardianship;~~

14 ~~—— (3) periodically reviewing an agent's overall performance and compliance with~~
15 ~~the terms of the delegation; and~~

16 ~~—— (4) redressing an action or decision of an agent which would constitute a breach~~
17 ~~of trust if performed by the conservator.~~

18 ~~—— (c) A guardian who complies with subsection (b) is not liable to the protected minor or to~~
19 ~~the estate of the minor for the decision or action of the agent to whom a function was delegated.~~

20 ~~—— (d) In performing a delegated function, an agent shall exercise reasonable care to comply~~
21 ~~with the terms of the delegation and reasonable care in the performance of delegated powers.~~

22 ~~—— (e) By accepting a delegation from a parent or guardian of a minor subject to the law of~~
23 ~~this state, an agent submits to the jurisdiction of the courts of this state.~~

1 ~~—— (f) A parent or guardian may revoke a delegation of powers at any time.~~

2 **SECTION 212032. REMOVAL OF GUARDIAN, TERMINATION OF**
3 **GUARDIANSHIP [OR PROTECTIVE ARRANGEMENT]; APPOINTMENT OF**
4 **SUCCESSOR; OTHER PROCEEDINGS AFTER APPOINTMENT.**

5 ~~(a) —— (a) A guardianship of a minor [or protective arrangement instead of guardianship]~~
6 for a minor terminates ~~up~~ upon the minor's death, adoption, emancipation, ~~or~~ attainment of
7 majority, ~~or if the court determines that the minor does not need a court-appointed guardian~~
8 ~~ordered by the court.~~

9 (b) A minor subject to guardianship or any person interested in the welfare of the minor
10 may petition the court for termination of the guardianship[or protective arrangement instead of
11 guardianship], modification of the guardianship[or protective arrangement], or removal of the
12 guardian and appointment of a successor guardian.

13 ~~(c) A protected minor or a person interested in the welfare of a protected minor may~~
14 ~~petition for any order that is in the best interest of the protected minor. The petitioner under~~
15 subsection (b) shall give notice of the hearing on the petition to the ~~protected~~ minor if the
16 ~~protected~~ minor has attained [12] years of age and is not the petitioner, the guardian, the parents
17 of the minor, and any other person as ordered by the court.

18 ~~(d) In selecting a successor guardian, the court shall follow the procedures set forth in~~
19 Section 206(b).

20 ~~(e) Not later than 30 days after an appointment of a successor guardian, the court shall~~
21 send or deliver notice of the appointment to the minor subject to guardianship if the minor has
22 attained [12] years of age, the parents of the minor, any other person the court directs.

1 ARTICLE 3

2 GUARDIANSHIP OF ADULT

3 SECTION 301. BASIS FOR APPOINTMENT OF GUARDIAN OF ADULT OR
4 PROTECTIVE ARRANGMENT INSTEAD OF GUARDIANSHIP.

5 (a) ~~On~~Upon petition and after notice and hearing, ~~thea~~ court may:

6 (1) appoint a limited or full guardian or enter an order for protective order in lieu
7 of protective arrangement instead of guardianship ~~as provided in Section 117~~ for a respondent
8 who is an adult only if it finds by clear and convincing evidence that —:

9 ~~—————(A)~~ the respondent lacks the ability to meet essential requirements for
10 physical health, safety, or self-care because:

11 ~~—————(Ai)~~ the respondent is unable to receive and evaluate information
12 or make or communicate decisions even with appropriate supportive services, technological
13 assistance, and decision-making support; ~~and technological assistance, or~~

14 ~~—————(ii) because the person's own will has been overcome by deception~~
15 ~~and control exerted by another person;~~ and

16 ~~—————(Biii)~~ the respondent's identified needs cannot be met by less
17 restrictive means; or

18 (2) with appropriate findings, treat the petition as one for a conservatorship under
19 ~~Section 401~~Article 4, enter any other appropriate order, or dismiss the proceeding.

20 (b) The court shall grant to a guardian appointed under subsection (a) only those powers
21 necessitated by the limitations and demonstrated needs of the ~~adult subject to~~
22 ~~guardianship~~respondent and make appointive and other orders that will encourage the
23 development of the ~~respondent person~~'s maximum self-determination and independence. The

1 court may not appoint a full guardian if a limited guardian or less restrictive means would meet
2 the needs of the ~~adult subject to guardianship~~respondent.

3 **SECTION 302. ~~ORIGINAL~~ PETITION FOR APPOINTMENT OF GUARDIAN**
4 **OR PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP.**

5 (a) A person interested in ~~the individual's~~an adult's welfare, including the ~~person adult~~
6 for whom the order is ~~sought~~, may petition ~~for a determination that the basis for appointment of~~
7 ~~a guardian exists and~~ for the appointment of a limited or full guardian for the individual or for a
8 ~~protective order in lieu of~~protective arrangement instead of guardianship.

9 (b) A petition filed under subsection (a) must set forth the petitioner's name, principal
10 residence and, current street address, if different, the petitioner's relationship to the respondent,
11 and the petitioner's interest in the appointment. ~~The petition shall also, and, to the extent~~
12 known, state or contain the following with respect to the respondent and the relief requested:

13 (1) the respondent's name, age, principal residence and, current street address, if
14 different, and, if different, the address of the dwelling in which it is proposed that the respondent
15 will reside if the appointment is made or the protective arrangement instead of guardianship is
16 ordered;

17 (2) the name and address of the respondent's:

18 (A) spouse [or domestic partner], or if the respondent has none, an adult
19 with whom the respondent has shared household responsibilities for more than six months before
20 the filing of the petition;

21 (B) adult children or, if the respondent has none, the respondent's parents
22 and adult brothers and sisters, or if the respondent has none, at least one of the adults nearest in
23 kinship to the respondent who can be found; and

(C) adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship within two years of the filing of the petition;

(3) the name and address of each of the following if applicable:~~any~~

(A) a person responsible for care or custody of the respondent;

(4B) the name and address of any lawyer-attorney currently representing
~~for~~ the respondent

(C) the representative payee appointed by the Social Security Administration,

(D) a guardian or conservator acting for a respondent in this state or in
another jurisdiction,

(E) a elsewhere, trustee or custodian of a trust or custodianship of which the respondent is a beneficiary,

(F) the Veterans Administration fiduciary for the respondent,

(G) a, an agent designated under a [power of attorney for health care] in which the respondent is identified as the principal,

(H)and an agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(I5) the name and address of any person nominated as guardian by the respondent;

(J6) the name and address of any person nominated as guardian by the respondent's parent or spouse [or domestic partner]-in a will or other signed writing;

(K7) the name and address of any proposed guardian and the reason why

1 the proposed guardian should be selected; and

2 (L8) ~~the name and address of~~ any person known to have routinely
3 provided the individual respondent with decision-making support within six months of the
4 petition;

5 (49) the reason why guardianship ~~or protective arrangement instead of~~
6 guardianship is necessary, including a brief description of the following:

7 (A) ~~the~~ nature and extent of the respondent's alleged need,

8 (B) ~~, all alternative means~~ less restrictive means of meeting that
9 respondent's alleged need that have been considered or implemented,

10 (C) if no ~~alternative means~~ less restrictive means have been tried, the
11 reason they have not been tried, and

12 (D) ~~, and the~~ reason why ~~alternative means~~ less restrictive means are not
13 sufficient to meet the respondent's alleged needs;

14 (549) whether the petitioner seeks a limited guardianship, a full guardianship, or a
15 protective arrangement instead of guardianship;

16 (6) if the petitioner seeks a full guardianship, if a full guardianship is requested,
17 the reason why limited guardianship or protective arrangement instead of guardianship is
18 inappropriate; and

19 (7) ~~, if a limited guardianship is requested,~~ the powers to be granted to the limited
20 guardian;

21 (844) the name and address, if known, of any person with whom the petitioner
22 seeks to limit the minor² respondent's contact;

23 (9424) if the respondent has property other than personal effects, a general

statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts; and

(~~10132~~) the respondent's need for an interpreter, ~~or~~ translator, or other form of support -to effectively communicate with the court or understand court proceedings.

SECTION 303. NOTICE.

(a) A copy of a petition for appointment filed under Section 302~~guardianship or for a protective order in lieu of~~protective arrangement instead of guardianship and notice of the hearing on the petition must be served personally on the respondent. The notice must be in plain language and in at least 16-point font and, to the extent feasible, in a language in which the respondent is proficient. The notice must include a statement that the respondent must be physically present unless excused by the court, inform the respondent of the respondent's rights at the hearing, and include a description of the nature, purpose, and consequences of an appointment or protective arrangement. A failure to serve the respondent with a notice substantially complying with this subsection precludes the court from granting the petition. ~~The petitioner must make reasonable efforts to provide the notice in a language in which the respondent is proficient.~~

(b) In a proceeding on a petition filed under Section 302~~to establish a guardianship or protective order in lieu of~~protective arrangement instead of guardianship, notice of the hearing must also be given to the persons listed in the petition, and to other persons interested in the respondent's welfare to whom the court has determined that notice must be given. Failure to give notice under this subsection does not preclude the court from appointing~~appointment of~~ a guardian or ordering the making of a ~~protective order in lieu of~~protective arrangement instead of guardianship.

(c) Notice of ~~at~~the hearing on a petition for an order after appointment of a guardian or protective arrangement instead of guardianship, together with a copy of the petition, must be given to the adult subject to guardianship or subject to the protective arrangement, the guardian, and any other person the court directs.

~~———(d) A guardian shall give notice of the filing of the guardian’s report, together with a copy of the report, to the adult subject to guardianship and any other person the court directs. The notice must be delivered or sent not later than 14 days after the filing of the report.~~

SECTION 304. PRELIMINARIES TO HEARING: APPOINTMENT OF [VISITOR].

(a) On receipt of a petition to establish a guardianship or for a ~~or protective order in lieu of~~protective arrangement instead of guardianship, the court shall set a date and time for hearing the petition and appoint a [visitor]. The duties and reporting requirements of the [visitor] are limited to the relief requested in the petition. The [visitor] must be an individual having training or experience in the type of incapacity alleged.

(b) The [visitor] shall interview the respondent in person and in a manner that the respondent is best able to understand in:

(1) explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent’s rights at the hearing, and the general powers and duties of a guardian;

(2) determine the respondent’s views about the appointment or order sought by the petitioner including, if the petition is for a guardianship, any views about any proposed guardian, the guardian’s proposed powers and duties, and the scope and duration of the proposed guardianship;

(3) inform the respondent of the respondent's right to employ and consult with ~~an~~
~~attorney-lawyer~~ at the respondent's own expense and the right to request a court-appointed
~~lawyerattorney~~; and

(4) inform the respondent that all costs and expenses of the proceeding, including
respondent's attorney's fees, will be paid from the respondent's ~~estate~~assets.

(c) In addition to the duties imposed by subsection (b), the [visitor] shall:

(1) interview the petitioner and the proposed guardian;

(2) visit the respondent's present dwelling and any dwelling in which it is
reasonably believed that the respondent will live if the appointment is made;

(3) obtain information from any physician or other person who is known to have
treated, advised, or assessed the respondent's relevant physical or mental condition; and

(4) investigate any other matter relating to the petition ~~make any other~~
~~investigation~~ the court directs.

(d) The [visitor] promptly shall file a report in writing with the court, which must
include:

(1) a recommendation whether ~~an attorney-lawyer~~ should be appointed to
represent the respondent;

(2) a summary of self-care and independent living tasks the respondent can
manage without assistance or with existing supports, could manage with the assistance of
supportive services or benefits, including use of appropriate technological assistance and
appropriate decision-making support, and cannot manage;

(3) recommendations regarding the appropriateness of guardianship, including
whether less restrictive means of meeting a respondent's needs ~~intervention~~ are available and; if

1 a guardianship is recommended, whether it should be full or limited; and, if a limited
2 guardianship, the powers to be granted to the ~~limited~~-guardian;

3 (4) a statement of the qualifications of the proposed guardian, together with a
4 statement whether the respondent approves or disapproves of the proposed guardian;

5 (5) a statement whether the proposed dwelling meets the respondent's ~~individual~~
6 needs and whether the respondent has expressed a preference as to residence;

7 (6) a recommendation as to whether a professional evaluation ~~or further~~
8 ~~evaluation~~ is necessary;

9 (7) a statement as to the respondent's ability to attend a hearing at the location
10 ~~court proceedings are typically conducted~~~~court is typically held~~;

11 (8) a statement of the respondent's ability to participate in a hearing that identifies
12 any technology or other forms of support that would enhance the respondent's ability to
13 participate; and

14 (9) any other matters the court directs.

15 **SECTION 305. PRELIMINARIES TO HEARING: APPOINTMENT AND ROLE**
16 **OF ~~LAWYER~~ATTORNEY.**

17 **Alternative A**

18 [(a) The court shall appoint ~~a lawyer~~an attorney to represent the respondent in the
19 proceeding if:

20 (1) requested by the respondent;

21 (2) recommended by the [visitor]; or

22 (3) the court determines that the respondent needs representation.]

1 **Alternative B**

2 [(a) Unless the respondent is represented by ~~a lawyer~~an attorney, the court shall appoint
3 a lawyer~~an attorney~~ to represent the respondent in the proceeding.]

4 **End of Alternatives**

5 (b) The ~~lawyer~~attorney representing the respondent shall make reasonable efforts to
6 ascertain the respondent's wishes.

7 (c) The ~~lawyer~~attorney representing the respondent shall advocate for the respondent's
8 wishes to the extent ~~that that~~ those wishes are reasonably ascertainable.

9 (d) If the respondent's wishes are not reasonably ascertainable, the ~~lawyer~~attorney
10 representing the respondent shall advocate for the result that is the least restrictive option in type,
11 duration, and scope, consistent with the respondent's interests.

12 ***Legislative Note:** Those states that enact Alternative B of subsection (a) which requires*
13 *appointment of counsel for the respondent in all proceedings for appointment of a guardian*
14 *should not enact Section 304(d)-(1).*

15
16 **SECTION 306. PROFESSIONAL EVALUATION.**

17 (a) At or before a hearing ~~under this [article]~~on a petition filed under Section 302, the
18 court shall order a professional evaluation of the respondent if the respondent so demands. The
19 court shall also order a professional evaluation unless the court finds that it has sufficient
20 information to determine the respondent's cognitive and functional abilities and limitations
21 without ~~such an~~the evaluation.

22 (b) If the court orders an evaluation under subsection (a), the respondent must be
23 examined by a physician, psychologist, social worker, or other individual appointed by the court
24 who is qualified to evaluate the respondent's alleged cognitive and functional abilities and
25 limitations and who will not be advantaged or disadvantaged by a decision to grant the petition.

1 The ~~examiner~~individual conducting the evaluation promptly shall file a written report with the
2 court. Unless otherwise directed by the court, the report must contain:

3 (1) a description of the nature, type, and extent of the respondent's specific
4 cognitive and functional abilities and limitations;

5 (2) an evaluation of the respondent's mental and physical condition and, if
6 appropriate, educational potential, adaptive behavior, and social skills;

7 (3) a prognosis for improvement and a recommendation as to the appropriate
8 treatment, support, or habilitation plan; and

9 (4) the date of ~~any assessment or the~~ examination on which the report is based.

10 **SECTION 307. CONFIDENTIALITY OF RECORDS.**

11 [(a) The existence of a proceeding for a guardianship or for a protective arrangement
12 instead of guardianship, and the existence of a guardianship or a protective arrangement instead
13 of guardianship, is a matter of public record.

14 ~~(b)~~ The written report of a [visitor] and any professional evaluation are confidential and
15 must be sealed on filing, but are available to:

16 (1) the court;

17 (2) the respondent without limitation as to use;

18 (3) the petitioner, the [visitor], and the petitioner's and respondent's

19 ~~lawyersattorneys~~, for purposes of the proceeding;

20 (4) an agent appointed under a [power of attorney for health care] or a power of
21 attorney for finances in which the respondent is identified as the principal, unless the court orders
22 otherwise; and and

23 ~~(5)~~ other persons when it would be in the public interest or for such purposes as

1 the court may order for good cause.

2 (c**b**) The ~~adult person~~ who has been the subject of a proceeding for a guardianship or
3 ~~protective order in lieu of~~protective arrangement instead of guardianship, whether or not a
4 guardian was appointed, any attorney designated by the adult~~the person's attorney~~, and any
5 person entitled to notice under Section 310(d) are entitled to access court records pertaining to
6 the proceeding and resulting guardianship or protective arrangement instead of guardianship,
7 including the annual report and the guardian's plan. In addition, any person ~~with an interest in~~
8 ~~the welfare of the adult subject to guardianship~~ for other good cause may petition the court for
9 access to court records pertaining to the guardianship or protective arrangement instead of
10 guardianship or guardianship proceeding, including the annual report and the guardian's plan.
11 The court shall grant access if access is in the best interest of the respondent or adult subject to
12 guardianship or subject to a protective arrangement instead of guardianship, or would further the
13 public interest and not endanger the respondent or adult~~or adult subject to guardianship.~~]

14 **SECTION 308. PRESENCE AND RIGHTS AT HEARING.**

15 (a) The respondent shall attend the hearing ~~called pursuant to~~conducted under Section
16 303 unless the court finds by clear and convincing evidence that:

17 (1) the respondent consistently or repeatedly refuses to attend the hearing after
18 having been fully informed of the respondent's right to attend the hearing and the potential
19 consequences of failing to do so; or

20 (2) there is no practicable way for the respondent to attend the hearing and the
21 respondent would have no ability to participate in the hearing even with the use of appropriate
22 supportive services, decision-making support, and support~~and~~ technological assistance.

23 (b) Unless excused by the court for good cause, the proposed guardian shall attend the

1 hearing.

2 (c) If it is not reasonably feasible for the respondent to participate at the location court
3 ~~proceedings are typically conducted~~~~is typically held~~, the court shall make reasonable efforts to
4 hold the hearing at an alternative location convenient to the respondent or to allow the
5 respondent to participate in the hearing by using real-time, audio-visual technology.

6 (d) The respondent may be assisted in the hearing by a person or persons of the
7 respondent's choosing, ~~by~~ assistive technology, ~~by~~ an interpreter or translator, or ~~by~~ a
8 combination of such supports. If ~~such~~the assistance, translation, interpretation, or support would
9 facilitate the respondent's participation in the hearing, but is not otherwise available to the
10 respondent, the court shall make reasonable efforts to provide it.

11 (e) The respondent has a right to be represented at the hearing by an attorney ~~lawyer~~ of
12 the respondent's choosing.

13 (f) The respondent may:
14 (1) present evidence and subpoena witnesses and documents;
15 (2) examine witnesses, including any court-appointed physician, psychologist, or
16 other individual qualified to evaluate the alleged cognitive and functional limitations and
17 abilities, and the [visitor]; and

18 (3) otherwise participate in the hearing.

19 (g) The hearing shall be closed on the request of the respondent and a showing of good
20 cause.

21 (h) Any person may request permission to participate in the proceeding. The court may
22 grant the request, with or without hearing, on determining that the best interest of the respondent
23 will be served. The court may attach appropriate conditions to the person's participation.

1 **SECTION 309. WHO MAY BE GUARDIAN: PRIORITIES.**

2 (a) Except as otherwise provided in subsection (c), the court in appointing a guardian
3 shall consider persons otherwise qualified in the following order of priority:

4 (1) a guardian, other than a temporary or emergency guardian, currently acting for
5 the respondent in this state or ~~another jurisdiction~~elsewhere;

6 (2) a person nominated as guardian by the respondent, including the respondent's
7 most recent nomination made in a power of attorney ~~for finances, if at the time of the nomination~~
8 ~~the respondent was able to express a preference~~;

9 (3) an agent appointed by the respondent under [a power of attorney for health
10 care] ~~[the Uniform Health Care Decisions Act (1993)]~~; and

11 (4) a family member or other person who has exhibited special care and concern
12 for the respondent. ~~a conservator, other than a temporary or emergency conservator, or like~~
13 ~~fiduciary currently acting for the respondent in this state or elsewhere;~~

14 ~~(5) the spouse [or domestic partner] of the respondent or an individual nominated by will or other~~
15 ~~signed writing of a deceased spouse [or domestic partner];~~

16 ~~—————(6) an adult child of the respondent;~~

17 ~~—————(7) a parent of the respondent, or an individual nominated by will or other signed~~
18 ~~writing of a deceased parent;~~

19 ~~—————(8) an adult with whom the respondent has shared household responsibilities for~~
20 ~~more than six months before the filing of the petition;~~

21 ~~(9) an adult stepchild whom the respondent actively parented during the stepchild's minor years~~
22 ~~and with whom the respondent had an ongoing relationship within two years of the petition; and~~

23 ~~(10) an adult who has exhibited special care and concern for the respondent and who is familiar~~

1 ~~with the respondent's values and preferences.~~

2 (b) With respect to persons having equal priority, the court shall select the person the
3 court ~~it~~ considers best qualified. In determining who is best qualified, the court shall consider
4 the potential guardian's relationship with the respondent, the potential guardian's skills ~~and~~
5 ~~relationship with the respondent~~, the expressed wishes of the respondent, the extent to which the
6 potential guardian and the respondent have similar values and preferences, and the likelihood
7 that the potential guardian will be able to successfully satisfy the duties of a guardian.

8 (c) The court, acting in the best interest of the respondent, may decline to appoint a
9 person having priority and appoint a person having a lower priority or no priority.

10 (d) A person who provides paid services to the respondent, who is employed by a person
11 who provides paid services to the respondent, or who is the spouse, [domestic partner,]parent, or
12 child [, or domestic partner] of a person who provides paid services to the respondent, may not
13 be appointed guardian unless:

14 (1) the person is related to the respondent by blood, marriage, or adoption; or

15 (2) the court finds by clear and convincing evidence that the person is the best
16 qualified person available for appointment and that such appointment is in the best interest of the
17 respondent.

18 (e) An owner, operator, or employee of [a long-term-care institution] at which the
19 respondent is receiving care may not be appointed as guardian unless the owner, operator, or
20 employee is related to the respondent by blood, marriage, or adoption.

21 **SECTION 310. ORDER OF APPOINTMENT.**

22 (a) A court order granting a guardianship must clearly state:

23 (1) the court's finding that the identified needs of the respondent ~~respondent's~~

1 ~~identified needs~~ cannot be met by less restrictive means, including use of appropriate
2 technological supportive services and technological assistance and ~~appropriate~~ decision-making
3 support;

4 (2) the court's finding that there is clear and convincing evidence that the
5 respondent was given proper notice of the hearing on the petition;

6 (3) whether or not the adult subject to guardianship retains the right to vote and, if
7 not, the court's findings that support removing that right [including a finding that the adult
8 subject to guardianship cannot communicate, with or without support, a specific desire to
9 participate in the voting process]. ~~I; if the~~ no such statement is made in the order, the adult
10 subject to guardianship retains the right to vote; and

11 (4) whether or not the adult subject to guardianship retains the right to marry and,
12 if not, the court's findings that support removing that right. ~~I; if no~~ such statement is made ~~in the~~
13 ~~order as to whether the adult subject to guardianship retains the right to marry~~, the adult subject
14 to guardianship retains the right to marry.

15 (b) A court order granting a full guardianship clearly shall state the basis for granting a
16 full guardianship and provide specific findings to support the conclusion that a limited
17 guardianship would not meet the functional needs of the adult subject to guardianship.

18 (c) A court order granting a limited guardianship must state clearly the powers granted to
19 the guardian.

20 (d) The court shall, as part of any order granting a guardianship, identify any persons
21 who ~~is~~are subsequently entitled to:

22 (1) notice of the rights of the ~~person's rights of the~~ adult subject to
23 conservatorship guardianship;

(2) notice of a change in the primary residence of the adult subject to guardianship,

(3) a copy of the guardian's annual report and plan;

(4) access to court records pertaining to the guardianship; and

(5) notice of the death of the adult subject to guardianship or significant change in the condition of the adult subject to guardianship.

(e) ~~A~~The persons entitled to ~~such~~ notice under subsection (d) shall include the spouse[, domestic partner,] and adult children of the adult subject to guardianship unless the court determines that such notice would be contrary to the preferences or prior directions of the adult subject to guardianship or not in the best interest of the adult subject to guardianship.

**SECTION 311. NOTIFICATION OF ORDER OF APPOINTMENT ~~ADULT~~
~~SUBJECT TO GUARDIANSHIP OF ORDER~~; RIGHTS.**

(a) A guardian appointed under Section 310~~Not later than 14 days after an appointment,~~
~~a guardian~~ shall send or deliver to the adult subject to guardianship and to all other persons given notice of the hearing on the petition a copy of the order of appointment, together with a notice of the right to request termination or modification. The order and notice shall be sent or delivered not later than 14 days after the appointment.

(b) Not later than 30 days after an appointment under Section 310, the court shall send or deliver to the adult subject to guardianship, the guardian, and any other persons entitled to such notice ~~pursuant to~~under Section 310(d), a statement of the rights of the adult subject to guardianship and how to seek relief if the adult is denied those rights. The statement shall be in plain language, in at least 16-point font, and, to the extent feasible, in a language in which the adult subject to guardianship ~~can understand~~is proficient. The notice must notify the adult

1 subject to guardianship of the right to:

2 (1) seek termination or modification of the guardianship, seek removal of a
3 guardian, and obtain ~~counsel~~an attorney of the adult's ~~subject to guardianship's~~ choosing to
4 represent the ~~person~~adult in these matters;

5 (2) be involved in decisions affecting the adult~~subject to guardianship~~, including
6 decisions about the adult's ~~person's~~ care, residence, activities, and social interactions, to the
7 extent reasonably possible;

8 (3) be involved in health care decision-making to the extent reasonably feasible,
9 and to be supported in understanding the risks and benefits of health care options when~~re~~
10 practicable;

11 (4) be notified of a change in the ~~adult~~person's primary residence and the right to
12 be notified of a permanent move to a nursing home or other restrictive or secure facility at least
13 14 days in advance unless the action is proposed in the guardian's plan or expressly authorized
14 by the court, and of the right to contest such move and the process for contesting it;

15 (5) communicate, visit, or interact with other~~s~~persons, including the right to
16 receive visitors, telephone calls, personal mail, or electronic communications, unless:

17 (A) the guardian has been specifically authorized by the court to restrict
18 such communications, visits, or interactions;

19 (B) a protective order, including a protective arrangement instead of
20 guardianship~~order~~ is in effect that limits contact between the adult subject to guardianship and
21 such other persons; or

22 (C) the guardian has good cause to believe the restriction is necessary
23 because interactions with a specified person poses a risk of significant physical, psychological,

or financial harm to the adult subject to guardianship and:

(i) the restriction is for a period of not more than 60 day; or

(ii) the person with whom contact is restricted does not have a family or social relationship with the individual subject to conservatorship; and

(6) receive a copy of the guardian's report and the guardian's plan.

SECTION 312. EMERGENCY GUARDIAN.

(a) If the court finds that compliance with the procedures of this [article] will likely result in substantial harm to the respondent's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the respondent's welfare or on its own motion, may appoint an emergency guardian for the respondent. The duration of the guardian's ~~whose~~ authority may not exceed [60] days and the emergency guardian ~~who~~ may exercise only the powers specified in the order. Immediately ~~upon~~ receipt of ~~a~~the petition for an emergency guardianship, the court shall appoint ~~an attorney-lawyer~~ to represent the respondent in the proceeding. Except as ~~otherwise~~ provided in subsection (b), reasonable notice of the time and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and ~~any~~ other persons as the court directs.

(b) The court may appoint a ~~An emergency guardian may be appointed~~ without notice ~~and a hearing to the respondent and the respondent's lawyer~~ only if the court finds from an affidavit or testimony that the respondent will be substantially harmed before a hearing on the appointment can be held. If the court appoints an emergency guardian without notice and a hearing to the respondent ~~respondent's attorney,~~ the respondent, the respondent's lawyer, and other persons as the court directs must be given notice of the appointment not later than 48 hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment

not later than [five] days after the appointment.

(c) Appointment of an emergency guardian under this section, ~~with or without notice~~, is not a determination that the conditions required for appointment of a ~~limited or full~~ guardian under Section 301 have been satisfied.

(d) The court may remove an emergency guardian at any time. An emergency guardian shall make any report the court requires. In other respects, the provisions of this [act] concerning guardians apply to an emergency guardian appointed under this section.

~~SECTION 313. TEMPORARY SUBSTITUTE GUARDIAN.~~

~~—— (a) If the court finds that a guardian is not effectively performing the guardian's duties and that the welfare of the adult subject to guardianship requires immediate action, it may appoint a temporary substitute guardian for the person for a specified period not exceeding six months. Except as otherwise ordered by the court, a temporary substitute guardian so appointed has the powers set forth in the previous order of appointment. The authority of any full or limited guardian previously appointed by the court is suspended as long as a temporary substitute guardian has authority. If an appointment is made without previous notice to the adult subject to guardianship or the affected guardian, the court, not later than five days after the appointment, shall inform the adult subject to guardianship or guardian of the appointment.~~

~~—— (b) The court may remove a temporary substitute guardian at any time. A temporary substitute guardian shall make any report the court requires. In other respects, the provisions of this [act] concerning guardians apply to a temporary substitute guardian.~~

~~SECTION 31~~34. DUTIES OF GUARDIAN.

(a) Except as otherwise limited by the court, a guardian shall make decisions regarding

1 the support, care, education, health, and welfare of the adult subject to guardianship to the extent
2 necessitated by the person's limitations.

3 (b) A guardian shall promote the self-determination of the adult subject to guardianship
4 and, to the extent possible, shall encourage the ~~adult person~~ to participate in decisions, act on the
5 ~~person's adult's~~ own behalf, and develop or regain the capacity to manage the ~~person's adult's~~
6 personal affairs. In furtherance~~As part~~ of this duty, the guardian shall:

7 (1) become or remain personally acquainted with the adult subject to guardianship
8 and
9 maintain sufficient contact, including through regular visitation, with the ~~person adult~~ to know of
10 the ~~person's adult's~~ abilities, limitations, needs, opportunities, and physical and mental health;

11 (2) to the extent reasonably possible, identify the values and preferences of the
12 ~~person adult subject to guardianship~~ and involve the adult ~~subject to guardianship~~ in decisions
13 affecting the adult, including decisions about the adult's care, residence, activities, and social
14 interactions; and

15 (3) make reasonable efforts to identify and facilitate supportive relationships and
16 services for the adult subject to guardianship.

17 (c) A guardian at all times shall exercise reasonable care, diligence, and prudence when
18 acting on behalf of or making decisions for the adult subject to guardianship. In furtherance of
19 ~~this~~As part of this duty, the guardian shall:

20 (1) take reasonable care of the personal effects and pets of the adult subject to
21 guardianship and bring a proceeding for a conservatorship or ~~protective order in lieu of protective~~
22 arrangement instead of conservatorship if necessary to protect the adult's property;

23 (2) expend money of the adult subject to guardianship that has been received by

1 the guardian for the adult's current needs for support, care, education, health, and welfare;

2 (3) conserve any excess money of the adult subject to guardianship for the adult's
3 future needs, but if a conservator has been appointed for the ~~estate of the~~ adult, the guardian shall
4 pay the money to the conservator, at least quarterly, to be conserved for the adult's future needs;

5 and

6 (4) monitor the quality of services, including long-term care services, provided to
7 the adult subject to guardianship.;

8 (d) A guardian making a decision on behalf of ~~an~~the adult subject to guardianship shall
9 make the decision the guardian reasonably believes the adult ~~subject to guardianship~~ would make
10 if the adult were able unless doing so would unreasonably harm or endanger the welfare or
11 interests of the adult ~~subject to guardianship~~. To determine the decision the adult subject to
12 guardianship would make if the adult were able, the guardian shall consider the ~~adult~~person's
13 prior or current directions, preferences, opinions, values, and actions to the extent actually
14 known or reasonably ascertainable by the guardian.

15 (e) If the guardian does not know or cannot reasonably ascertain the decision that the
16 adult subject to guardianship probably would make if the adult were able, or making the decision
17 the guardian reasonably believes the ~~person~~adult would make would unreasonably harm or
18 endanger the welfare or interests of the adult ~~subject to guardianship~~, the guardian shall act in
19 accordance with the best interests of the adult ~~subject to guardianship~~. In determining the best
20 interests of the adult subject to guardianship under this section, the guardian shall take into
21 account:

22 (1) information received from professionals and persons who demonstrate
23 sufficient interest in the welfare of the adult ~~subject to guardianship~~;

(2) other information the guardian believes the adult ~~subject to guardianship~~ would have considered if the adult were able to act;⁵ and

(3) other factors that a reasonable person in the circumstances of the adult ~~subject to guardianship~~ would consider, including consequences for others.

(f) A guardian immediately shall notify the court if the condition of the adult subject to guardianship has changed so that the ~~person~~ adult is capable of exercising rights previously removed and of any change in the dwelling or address of the adult ~~subject to guardianship~~.

SECTION 31~~5~~4. ~~SCOPE OF POWERS OF GUARDIAN.~~

(a) Except as otherwise limited by the court, a guardian may:

(1) apply for and receive money payable to the adult subject to guardianship or the ~~adult~~person's guardian or custodian for the support of the adult ~~subject to guardianship~~ under the terms of any statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship;

(2) if otherwise consistent with the terms of any order by a court with jurisdiction relating to custody of the adult subject to guardianship, take custody of the ~~person~~ adult and establish the ~~person's~~ adult's place of dwelling;

~~;~~ ~~however, the guardian shall:~~

~~(A) select a residential setting that the guardian believes the adult subject to guardianship would select if the adult were able in accordance with the decision-making standard set forth in Section 314(d). If the guardian does not know or cannot reasonably ascertain what setting the adult subject to guardianship probably would choose if the adult were able, the guardian shall choose a residential setting that is consistent with the person's best interests in accordance with the decision-making standard set forth in Section 314(d);~~

1 ~~(B) in selecting among residential settings, give priority to a residential setting that is in a~~
2 ~~location that will allow the adult subject to guardianship to interact with persons important to the~~
3 ~~person and that meets the person's needs in the least restrictive manner reasonably possible~~
4 ~~unless doing so would be inconsistent with decision-making standard set forth in Section 314(d);~~
5 ~~and~~

6 ~~(C) not later than 30 days after a change in the dwelling of the adult subject to guardianship,~~
7 ~~provide notice of a change to the court, the adult subject to guardianship, and any persons~~
8 ~~identified as entitled to such notice in the court order appointing the guardian or in a subsequent~~
9 ~~court order. The notice shall include the address and nature of the new dwelling and state~~
10 ~~whether the adult subject to guardianship received advance notification of the change and~~
11 ~~whether the person objected to the change;~~

12 ~~————— (D) only establish or move the permanent place of dwelling of an adult~~
13 ~~subject to guardianship to a nursing home or other restrictive or secure facility if such a move is~~
14 ~~set forth in the guardian's plan, or upon express authorization of the court, or if notice of the~~
15 ~~move is provided at least 14 days before the move to the adult subject to guardianship and all~~
16 ~~persons entitled to such notice pursuant to Section 310(d);~~

17 ~~————— (E) only establish or move the place of dwelling of an adult subject to~~
18 ~~guardianship outside this state upon express authorization of the court; and~~

19 ~~————— (F) only take action that would result in the sale of or surrender lease to~~
20 ~~the person's primary residence if that action is specifically set forth in the guardian's plan, or~~
21 ~~upon express authorization of the court, or if notice of such action is provided to at least 14 days~~
22 ~~before such action to the adult subject to guardianship and all persons entitled to such notice~~
23 ~~pursuant to Section 310(d).~~

1 ~~_____ (3) if a conservator for the estate of the protected person~~adult subject to
2 guardianship ~~has not been appointed commence a proceeding, including an administrative~~
3 ~~proceeding, or take other appropriate action to compel another person to support the adult subject~~
4 ~~to guardianship or to pay funds for the person's benefit;~~

5 (34) consent to medical or other care, treatment, or service for the adult subject to
6 guardianship; ~~When making health care decisions for the adult subject to guardianship, the~~
7 ~~guardian must:~~

8 ~~(A) involve the person in health care decision making to the extent reasonably feasible,~~
9 ~~including by encouraging and supporting the person in understanding the risks and benefits of~~
10 ~~health care options where practicable;~~

11 ~~(B) defer to decisions made pursuant to a valid [power of attorney for health care made pursuant~~
12 ~~to the Uniform Health Care Decisions Act (1993)] executed by the adult subject to guardianship~~
13 ~~before the appointment of the guardian and cooperate to the extent feasible with the agent~~
14 ~~making such decisions; and~~

15 ~~_____ (C) take into account:~~

16 ~~_____ (i) the risks and benefits of treatment options; and~~

17 ~~_____ (ii) the current and previous wishes and values of the adult subject~~
18 ~~to guardianship if known to the guardian or reasonably ascertainable by the guardian;~~

19 _____ (4) if a conservator for the adult subject to guardianship has not been appointed,
20 commence a proceeding, including an administrative proceeding, or take other appropriate action
21 to compel another person to support the adult or to pay funds for the adult's benefit;

22 _____ (5) to the extent reasonable, delegate to the adult ~~subject to guardianship~~ certain
23 responsibilities for decisions affecting the ~~adult~~person's well-being; and

(6) receive the personally identifiable health-care information of the adult ~~subject~~
~~to guardianship.~~

_____ (b) The court may specifically authorize the guardian to consent to the adoption
of the adult subject to guardianship[~~;~~ consent or deny consent to the marriage if the
~~adult person's~~ right to marry has been removed under Section 310~~;~~ consent or deny consent to
the divorce, dissolution, or annulment of the marriage of the ~~person adult;~~ ~~or~~ petition for divorce,
dissolution, or annulment of marriage of the ~~adult person, or;~~ petition for a declaration of
invalidity of the ~~person's adult's~~ marriage or oppose such a petition]. In determining whether to
authorize a power in this subsection, the court shall consider whether the underlying act would
be in accordance with the ~~person's adult's~~ preferences, values, and prior directions and whether
the underlying act would be in the ~~person's adult's~~ best interest.

~~SECTION 316. DELEGATION OF POWER BY GUARDIAN.~~

~~(a) A guardian, by power of attorney, may delegate to another person, any power
regarding care, custody, or property of the adult subject to guardianship, except the power to
consent to marriage, adoption, divorce, or dissolution of marriage~~

~~(c) In exercising the guardian's power to establish the dwelling of the person subject
to guardianship under subsection (a)(2), a guardian shall:~~

~~(1) select a residential setting that the guardian believes the adult subject to
guardianship would select if the adult were able in accordance with the decision-making standard
set forth in Section 314(d). If the guardian does not know or cannot reasonably ascertain what
setting the adult subject to guardianship probably would choose if the adult were able, the
guardian shall choose a residential setting that is consistent with the adult's best interest in
accordance with the decision-making standard set forth in Section 314(d);~~

1 (2) in selecting among residential settings, give priority to a residential setting that
2 is in a location that will allow the adult subject to guardianship to interact with persons important
3 to the adult and that meets the adult's needs in the least restrictive manner reasonably possible
4 unless doing so would be inconsistent with the decision-making standard set forth in Section
5 314(d);

6 (3) not later than 30 days after a change in the dwelling of the adult subject to
7 guardianship, provide notice of a change to the court, the adult subject to guardianship, and any
8 persons identified as entitled to such notice in the court order appointing the guardian or in a
9 subsequent court order. The notice shall include the address and nature of the new dwelling and
10 state whether the adult subject to guardianship received advance notification of the change and
11 whether the adult objected to the change;

12 (4) only establish or move the permanent place of dwelling of an adult subject to
13 guardianship to a nursing home or other restrictive or secure facility if such a move is set forth in
14 the guardian's plan, or on express authorization of the court, or if notice of the move is provided
15 at least 14 days before the move to the adult subject to guardianship and all persons entitled to
16 such notice under Section 310(d) and no objection has been filed;

17 (5) only establish or move the place of dwelling of an adult subject to
18 guardianship outside this state on express authorization of the court; and

19 (6) only take action that would result in the sale of or surrender the lease to the
20 primary residence of the adult subject to guardianship if that action is specifically set forth in the
21 guardian's plan, or on express authorization of the court, or if notice of such action is provided at
22 least 14 days before such action to the adult subject to guardianship and all persons entitled to
23 such notice under Section 310(d) and no objection has been filed.

1 (d) In exercising the guardian's power to make health care decisions under subsection
2 (a)(3), the guardian must:

3 (1) involve the adult in decision-making to the extent reasonably feasible,
4 including by encouraging and supporting the adult in understanding the risks and benefits of
5 health care options when practicable;

6 (2) defer to decisions made by an agent under a valid [power of attorney for
7 health care made] executed by the adult and cooperate to the extent feasible with the agent
8 making such decisions; and

9 (3) take into account:

10 (A) the risks and benefits of treatment options; and

11 (B) the current and previous wishes and values of the adult if known

12 to the guardian or reasonably ascertainable by the guardian. ~~The guardian shall exercise~~
13 ~~reasonable care, skill, and caution in: —~~

14 ~~(1) selecting an agent;~~

15 ~~(2) establishing the scope and terms of a delegation, consistent with the purposes and terms~~
16 ~~of the guardianship;~~

17 ~~(3) periodically reviewing an agent's overall performance and compliance with the terms of~~
18 ~~the delegation; and~~

19 ~~(4) redressing an action or decision of an agent which would constitute a breach of the~~
20 ~~guardian's duties if performed by the guardian.~~

21 ~~— (b) If the delegation of powers is for a period in excess of 30 days, the guardian may~~
22 ~~delegate powers only if the guardian is unavailable to act or for other good cause.~~

23 ~~(c) If the delegation of powers is for a period in excess of 60 days, the guardian must file a~~

~~petition with the court requesting permission to delegate powers for an extended period.~~
~~The petition shall state the name and address of the agent, the duration of appointment,~~
~~and the reason for the delegation. Not later than 30 days of receipt of the notice, the court~~
~~shall confirm the delegation, hold a hearing on the petition, or both.~~
~~—— (d) A guardian who complies with subsections (a), (b), and (c) is not liable to the~~
~~adult subject to guardianship or to the estate of the person for the decisions or actions of~~
~~the agent to whom a function was delegated.~~
~~—— (e) In performing a delegated function, an agent shall exercise reasonable care to~~
~~comply with the terms of the delegation.~~
~~—— (f) By accepting a delegation from a guardian subject to the law of this state, an~~
~~agent submits to the jurisdiction of the courts of this state.~~
~~—— (g) A guardian may revoke the delegation of powers at any time.~~

SECTION 31~~576~~. IMMUNITIES OF GUARDIAN; SPECIAL LIMITATIONS ON
GUARDIAN'S POWER.

~~(a) A guardian need not use the guardian's personal funds for the expenses of the adult~~
~~subject to guardianship.~~
~~(b) A guardian is not liable to a third person for acts of the adult subject to~~
~~guardianship protected person solely by reason of the relationship. A guardian who exercises~~
~~reasonable care in choosing a third person providing medical or other care, treatment, or service~~
~~for the adult subject to guardianship is not liable for injury to the person resulting from the~~
~~wrongful conduct of the third party.~~
~~—— (ae) A guardian, without authorization of the court, does not have the power to revoke or~~

1 amend a valid [power of attorney for health care] ~~[made pursuant to the Uniform Health Care~~
2 ~~Decisions Act (1993)]~~ or a valid power of attorney for finances executed by the ~~[made pursuant~~
3 ~~to the Uniform Power of Attorney Act (2006)]~~ which the adult subject to guardianship ~~executed~~
4 ~~before the guardian's appointment~~. If a [power of attorney for health care] ~~[made pursuant to the~~
5 ~~Uniform Health Care Decisions Act (1993)]~~ is in effect, absent an order of the court to the
6 contrary, a health-care decision of the agent takes precedence over that of a guardian and the
7 guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances
8 ~~[made pursuant to the Uniform Power of Attorney Act (2006)]~~ is in effect, absent an order of the
9 court to the contrary, a decision by the agent that the agent is authorized to make under the
10 power of attorney for finances takes precedence over that of a guardian and the guardian shall
11 cooperate with the agent to the extent feasible.

12 (b) A guardian may not initiate the commitment of a adult subject to guardianship to a
13 [mental health-care] institution except in accordance with the state's procedure for involuntary
14 civil commitment.

15 (c) A guardian may not restrict the ability of the adult subject to guardianship to
16 communicate, visit, or interact with other persons, including the ability to receive visitors or
17 make or receive telephone calls, personal mail, or electronic communications including through
18 social media, or to participate in social activities ~~including social media~~, unless:

- 19 (1) specifically authorized by the court;
- 20 (2) a protective order arrangement is in effect that limits contact between the adult
21 subject to guardianship and such other persons; or
- 22 (3) the guardian has good cause to believe the restriction is necessary because
23 interactions with a specified person poses a risk of significant physical, psychological, or

financial harm to the adult subject to guardianship and:

(Aa) the restriction is for a period of not more than 60 days, or

(Bb) the person with whom contact is restricted does not have a family
or social relationship with the individual subject to conservatorship.-

SECTION 31~~67~~8. GUARDIAN'S PLAN.

(a) Not later than ~~60990~~ days after appointment, and at least once every ~~five years~~year thereafter, a guardian shall submit a plan to the court identifying:

(1) the living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult subject to guardianship;

(2) social or educational activities the guardian expects to facilitate on behalf of the adult subject to guardianship;

(3) persons, if any, with whom the adult subject to guardianship has a relationship and any plans the guardian has for facilitating visits with those persons;

(4) the anticipated nature and frequency of the guardian's visits and communication with the adult subject to guardianship;

(5) goals for the adult subject to guardianship, including any goals related to the restoration of the adultperson's rights, and how the guardian anticipates achieving those goals;
and

(6) whether the adult subject to guardianship already has a plan in place and, if so, whether the guardian's plan is consistent with the adultperson's plan.

(b) The court shall review the guardian's plan to determine whether or not to approve it. In deciding whether to approve the plan, the court shall consider whether the plan is consistent with the duties set forth in Section 31~~24~~.

(c) After the guardian's plan is approved by the court, the guardian shall provide a copy of the guardian's plan to the adult subject to guardianship and such other persons as the court directs.

SECTION 31~~789~~. GUARDIAN'S REPORTS; MONITORING OF GUARDIANSHIP.

(a) Not later than ~~60~~³⁰ days after appointment, a guardian shall report to the court in writing on the condition of the adult subject to guardianship and account for money and other ~~assets-property~~ in the guardian's possession or subject to the guardian's control. A guardian shall report at least annually thereafter and whenever ordered by the court. A report must state or contain:

(1) the current mental, physical, and social condition of the adult subject to guardianship;

(2) the living arrangements of the adult subject to guardianship during the reporting period;

(3) the decision-making support, technological assistance, medical services, educational and vocational services, and other supports and services provided to the adult subject to guardianship and the guardian's opinion as to the adequacy of the ~~adult~~^{person}'s care;

(4) a summary of the guardian's visits with the adult subject to guardianship, including the dates of the ~~ese~~ visits;

(5) ~~actions taken~~^{activities} on behalf of the adult subject to guardianship;

(6) the extent to which the adult subject to guardianship has participated in decision-making;

(7) if the adult subject to guardianship is living in a [mental health-care]

1 institution or living in a facility that provides the ~~person-adult~~ with health care or other personal
2 services, whether the guardian considers the institution or facility's current plan for support, care,
3 treatment, or habilitation to be consistent with the ~~person's-adult's~~ preferences, values, prior
4 directions, and best interest;

5 (8) anything of more than de minimis value that the guardian, any person who
6 resides with the guardian, -or the spouse,[domestic partner,] parent, child, or sibling~~an~~
7 ~~immediate family member~~ of the guardian, has received from individuals providing goods or
8 services to the adult subject to guardianship;

9
10 _____ (9) any business relations that the guardian has with a person who the guardian
11 has paid or has otherwise benefited using the ~~assets-property~~ of the adult subject to
12 guardianship;~~and~~

13 (10) a copy of the guardian's previously approved plan and a statement as to
14 whether the guardian has deviated from the plan and, if so, how the guardian has deviated and
15 why~~the reason for that deviation~~;

16 (11) plans for future care and support;

17 (12) a recommendation as to the need for continued guardianship and any
18 recommended changes in the scope of the guardianship; and

19 (13) whether the ~~successor-standby~~ guardian, if any, is alive and able to serve.

20 (b) The court may appoint a [visitor] to review a report, interview the guardian or adult
21 subject to guardianship, and ~~make any other investigation~~ investigate any other matter involving
22 the guardianship the court directs.

23 (c) A notice of the filing of the guardian's report, together with a copy of the report, ~~copy~~

1 ~~of the guardian's report~~ shall be provided to the adult subject to guardianship and any other
2 person whom the court has determined is entitled to ~~thesuch~~ report. The notice and report must
3 be delivered or sent not later than 14 days after the filing of the report.

4 (d) The court shall establish a system for monitoring annual reports and review such
5 reports ~~no lessat least -than~~ annually in order to determine whether:

6 (1) the report provides sufficient information to establish that the guardian has
7 complied with the guardian's duties;

8 (2) the guardianship should continue; and

9 (3) the guardian's requested fees, if any, should be approved.

10 (e) If the court determines that there is reason to believe that the guardian has not
11 complied with the guardian's duties, the guardianship should be modified or terminated, or the
12 requested fees are not reasonable, the court:

13 (1) shall notify the adult subject to guardianship, the guardian, and any other
14 person entitled to such notification according to the initial court order or a subsequent court
15 order;

16 (2) ~~shall-may~~ require such additional information from the guardian as the court
17 determines;

18 (3) may appoint a [visitor] to interview the adult subject to guardianship or
19 guardian, and make investigate any other matter involving the guardianship~~any other~~
20 ~~investigation~~ the court directs; and

21 (4) may hold a hearing to consider removal of the guardian, termination of the
22 guardianship, a change in the powers granted to the guardian or other terms of the guardianship,
23 or adjustment of fees ~~if the court concludes that a hearing would help the court determine~~

1 ~~whether the guardian has complied with the guardian's duties, the guardianship should continue,~~
2 ~~the scope of the guardian's powers or other terms of the guardianship should be modified, or the~~
3 ~~requested fees are reasonable.~~

4 **SECTION 3~~189~~20. REMOVAL OF GUARDIAN; APPOINTMENT OF**
5 **SUCCESSOR.**

6 (a) A court may remove a guardian for failure to perform the guardian's duties or for
7 other good cause and appoint a successor guardian to assume the duties of guardian.

8 ~~. (b) An adult subject to guardianship, guardian, or person interested in the welfare of an~~
9 ~~adult subject to guardianship may petition for removal of the guardian and appointment of a~~
10 ~~successor guardian.~~

11 ~~(be)~~ The court shall ~~engage in fact finding and may~~ conduct a hearing to determine
12 whether removal of a guardian and appointment of a successor is appropriate on:

13 (1) ~~a~~ petition of an adult subject to guardianship, a guardian, or ~~another~~ person
14 interested in the welfare of an adult subject to guardianship, except provided that the court shall
15 have the discretion not to hold a hearing~~engage in fact finding~~ if ~~such a~~ similar petition has been
16 made-filed within the preceding six months;

17 (2) ~~a~~ communication from an adult subject to guardianship, a guardian, or ~~other a~~
18 person interested in the welfare of the adult subject to guardianship that suggests that removal of
19 the guardian and appointment of a successor may be appropriate; or

20 (3) the court's determination that such a hearing would be in the best interest of
21 the adult subject to guardianship.

22 ~~(dc)~~ An adult subject to guardianship seeking to remove a guardian and have a successor
23 appointed is entitled to be represented by ~~counsel an attorney~~ of the person's-adult's choosing.

[If the ~~person-adult~~ is not represented by ~~counsel~~an attorney, the court shall appoint an attorney ~~counsel~~ under the conditions set forth in Section 305.] The court shall award ~~counsel~~reasonable attorney's fees ~~for such representation if the legal services benefited the adult subject to guardianship or were reasonably necessary to protect the person's interests.~~

(de) In selecting a successor guardian, the court shall follow the procedures set forth in Section 309.

(e) Not later than 30 days after an appointment of a successor guardian, the court shall send or deliver notice of the appointment to the individual subject to guardianship and any other person entitled to such notice under Section 310(d).

SECTION 3~~19210~~. TERMINATION OR MODIFICATION OF GUARDIANSHIP.

(a) An adult subject to guardianship, a guardian, or a person interested in the welfare of an adult subject to guardianship may petition for:

(1) termination of the guardianship on the ground that the basis for appointment of a guardian set forth in Section 301 does not exist, that termination would be in the best interest of the adult ~~subject to guardianship~~, or for other good cause; or

(2) modification of a guardianship on the grounds that the extent of the protection or assistance previously granted is not ~~longer~~ appropriate or for other good cause.

(b) The court shall ~~engage in fact-finding and may~~ conduct a hearing to determine whether termination or modification of a guardianship ~~or removal of a guardian~~ is appropriate on:

(1) a petition of an adult subject to guardianship, guardian, or another person interested in the ~~welfare of an adult subject to guardianship~~protected person's welfare, ~~except provided~~ that the court shall have the discretion not to ~~hold a hearing~~engage in fact-finding if

1 such a similar petition has been ~~made-filed~~ within the preceding six months ~~unless~~;

2 (2) ~~a~~ communication from an adult subject to guardianship, a guardian, or ~~a~~ other
3 person interested in the welfare of an adult subject to guardianship ~~protected person's welfare~~ that
4 gives rise to a reasonable suspicion ~~suggests~~ that termination or modification of the guardianship
5 ~~, or removal of the guardian,~~ may be appropriate;

6 (3) a report from a guardian or conservator that indicates that the functional needs,
7 supports, or services of the adult subject to guardianship have changed or that less restrictive
8 means for meeting the adult's needs are available such that termination or modification may be
9 appropriate; or

10 (4) the court's determination that a hearing would be in the best interest of the
11 ~~person subject to guardianship~~ adult subject to guardianship.

12 (c) On presentation by the petitioner of evidence establishing a prima facie case for
13 termination, the court shall order the termination unless it is proven that the basis for
14 appointment of a guardian set forth in Section 301 is satisfied ~~that continuation of the~~
15 ~~guardianship is in the best interest of the adult subject to guardianship and necessary to meet the~~
16 ~~person's needs~~.

17 (d) The court shall modify the powers granted to the guardian if the powers are either
18 excessive or inadequate due to changes in the abilities or limitations of the adult subject to
19 guardianship, the ~~person's~~ adult's supports, or other circumstances.

20 (e) Except as otherwise ordered by the court for good cause, the court, before
21 terminating or modifying a guardianship, shall follow the same procedures to safeguard the
22 rights of the adult subject to guardianship as apply to a petition for guardianship.

23 (f) An adult subject to guardianship seeking to terminate or modify the terms of the

1 ~~person's~~ guardianship is entitled to be represented by ~~an attorney~~counsel of the ~~person's~~adult's
2 choosing. [If the ~~adult~~person is not represented by ~~an attorney~~counsel, the court shall appoint
3 ~~counsel~~an attorney under the conditions set forth in Section 305.] The court shall award ~~counsel~~
4 reasonable attorney's fees ~~for such representation if the legal services benefited the adult subject~~
5 ~~to guardianship or were reasonably necessary to protect the person's interests.~~

6 ARTICLE 4

7 CONSERVATORSHIP ~~AND PROTECTION OF PROPERTY~~

8 SECTION 401. BASIS FOR APPOINTMENT OF CONSERVATOR OR; 9 PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP ORDER.

10 (a) On petition and after notice and hearing, the court may appoint a limited or full
11 conservator or ~~make a order a protective order in lieu of~~protective arrangement instead of
12 conservatorship ~~as provided in Section 118~~ in relation to the ~~property~~estate and affairs of ~~;~~

13 _____ ~~(1)~~ a minor, if the court determines that:

14 _____ (1) the minor owns money or property requiring management or protection that
15 cannot otherwise be provided; or

16 _____ (2) appointment of a conservator would be in the minor's best interest and:

17 _____ (A) if the minor has a parent, the court gives weight to any
18 recommendation of the minor's parent as to whether an appointment is in the minor's best
19 interest; and

20 _____ (B) either:

21 _____ (i) ~~the minor~~ ~~or~~ has or may have financial affairs that may be put
22 at unreasonable risk or ~~prevented~~ hindered because of the minor's age; ~~or~~

23 _____ (ii) ~~that~~ money is needed for the support, care, or ~~and~~ education of

1 ~~the minor~~ and ~~that protection~~ appointment of a conservator is necessary or desirable to obtain or
2 provide such money; ~~or~~

3 ~~———(b2)~~ On petition and after notice and hearing, the court may appoint a limited or
4 full conservator or order a protective arrangement instead of conservatorship in relation to the
5 property and affairs of an adult individual, including a minor, if the court determines that, ~~for~~
6 ~~reasons other than age:~~

7 ~~———(1A)~~ by clear and convincing evidence, the ~~individual-adult~~ is unable to
8 manage property and financial affairs because:

9 ~~———~~ (Ai) of a limitation in the ability to receive and evaluate
10 information or make or communicate decisions even with the use of appropriate supportive
11 services, technological assistance, ~~and a and appropriate~~ decision-making support; ~~;~~

12 ~~———(ii) the person's own will has been overcome by deception and~~
13 ~~control exerted by another person, or~~

14 ~~———(Biii)~~ the ~~individual-adult~~ is missing, detained, or unable to return
15 to the United States; and

16 ~~———(2B)~~ by a preponderance of the evidence, the ~~individual-adult~~ has property
17 that is likely to be wasted or dissipated unless management is provided, or money is needed for
18 the support, care, education, health, and welfare of the ~~individual-adult~~ or ~~an~~ individuals who
19 ~~is~~ are entitled to the ~~individual's-adult's~~ support and ~~that~~ protection is necessary or desirable to
20 obtain or provide money for such purpose.

21 (cb) The court shall grant to a conservator only those powers necessitated by the
22 limitations and demonstrated needs of the ~~person subject to conservatorship~~ respondent and make
23 appointive and other orders that will encourage the development of the respondent ~~person's~~

1 maximum self-determination and independence. The court may not appoint a full conservator if
2 a limited conservator or decision-making support would meet the needs of the respondent.

3 (de) The conservatorship continues until terminated, ~~without regard to the location of the~~
4 ~~conservator or the person subject to conservatorship.~~

5 **SECTION 402. ~~ORIGINAL~~ PETITION FOR APPOINTMENT OF**
6 **CONSERVATOR OR PROTECTIVE ARRANGEMENT INSTEAD OF**
7 **CONSERVATORSHIPORDER.**

8 (a) The following may petition for the appointment of a conservator or for a protective
9 ~~order in lieu of conservatorship~~arrangement instead of conservatorship:

10 (1) the individual~~person~~ for whom the order is sought;
11 _____ (2) a person ~~an individual~~ interested in the estate, affairs, or welfare of the
12 ~~respondent~~person to be protected, including a parent, spouse, [domestic partner,] child,
13 ~~grandchild, or guardian of the protected person~~person to be protected;
14 _____ (3) the guardian of the respondent; or

15
16 _____ (34) a person who would be adversely affected by lack of effective
17 management of the property and financial affairs of the ~~person to be protected~~respondent.

18 (b) A petition under subsection (a) must set forth the petitioner's name, principal
19 residence and, current street address, if different, the petitioner's relationship to the respondent,
20 and the petitioner's interest in the appointment or ~~other protective order~~protective arrangement.
21 The petition must also state, and, to the extent known, state or contain the following with respect
22 to the respondent and the relief requested:

23 (1) the respondent's name, age, principal residence and, current street address,

1 ~~and~~, if different, and, if different, the address of the dwelling where it is proposed ~~that~~ the
2 respondent will reside if the appointment is made or the protective arrangement instead of
3 conservatorship is ordered;

4 (2) if the petition alleges a limitation in the respondent's ability to receive and
5 evaluate information, a brief description of the nature and extent of the respondent's alleged
6 limitation;

7 (3) if the petition alleges that the respondent is missing, detained, or unable to
8 return to the United States, a statement of the relevant circumstances, including the time and
9 nature of the disappearance or detention and a description of any search or inquiry concerning
10 the respondent's whereabouts;

11 (4) the name and address of the respondent's:

12 (A) spouse [or domestic partner] or, if the respondent has none, an adult
13 with whom the respondent has shared household responsibilities for more than six months before
14 the filing of the petition;

15 (B) adult children or, if the respondent has none, the respondent's parents
16 and adult brothers and sisters or, if the respondent has none, at least one ~~of the adults~~ nearest in
17 kinship to the respondent who can be found; and

18 (C) adult stepchildren whom the respondent actively parented during the
19 stepchildren's minor years and with whom the respondent had an ongoing relationship within
20 two years of the filing of the petition;

21 (5) the name and address of the person responsible for care or custody of the
22 respondent;

23 (6) the name and address of each of the following, if applicable:

1 (A) any attorney currently representing the respondent;
2 any lawyer for the respondent, representative payee (B) a guardian or
3 conservator acting for a respondent in this state or elsewhere another jurisdiction;
4 (C) a trustee or custodian of a trust or custodianship of which the
5 respondent is a beneficiary;
6 (D) the respondent's representative payee appointed by the Social Security
7 Administration;
8 (E) the respondent's Veterans Administration fiduciary; and
9 (F) for the respondent, or an agent designated under a [power of attorney
10 for health care] or power of attorney for finances, whether for health care or property, in which
11 the respondent is identified as the principal;
12 (7) a general statement of the respondent's property with an estimate of its value;
13 ~~including any insurance or pension~~, and the source and amount of other anticipated income or
14 receipts;
15 (8) the reason why a conservatorship or protective arrangement instead of
16 conservatorship other protective order is necessary, including a brief description of the following:
17 (A) the nature and extent of the respondent's alleged need,
18 (B) all alternative means less restrictive means of meeting the
19 respondent's alleged need that have been considered or implemented,
20 (C); if no less restrictive alternative means have been tried, the reason they
21 have not been tried, and
22 (D), and the reason alternative less restrictive means are insufficient to
23 meet the respondent's need; and

(9) the respondent's need for an interpreter, ~~or~~ translator, or other form of support to effectively communicate with the court or understand court proceedings.

(c) If appointment of a conservator ~~conservatorship~~ is requested, the petition must also set forth to the extent known:

(1) the name and address of any proposed conservator and the reason why the proposed conservator should be selected;

(2) the name and address of any person nominated as conservator by the respondent if the respondent has attained [12] years of age; ~~and~~

(3) whether the petitioner seeks a limited conservatorship or a full conservatorship; and

(4) if the petitioner seeks a full conservatorship, the reason why a limited conservatorship is not appropriate ~~the type of conservatorship requested and, if a full conservatorship, the reason why limited conservatorship is inappropriate or,~~

(d) A petition for a limited conservatorship shall include a description of ~~if a limited conservatorship,~~ the property to be placed under the conservator's control and any other requested ~~limitation on the authority of the conservator~~ ~~conservator's powers and duties.~~

SECTION 403. NOTICE.

(a) A copy of the petition filed under Section 402 and ~~the~~ notice of the hearing on the a petition ~~for conservatorship or other protective order~~ must be served personally on the respondent. ~~If, but if~~ the respondent's whereabouts are ~~is~~ unknown or personal service cannot be made, service on the respondent must be made by [substituted service] [or] [publication]. The notice must be in plain language, in at least 16-point font, and, to the extent feasible, in a language in which the respondent is proficient. The notice must include a statement that the

1 respondent must be physically present unless excused by the court, inform the respondent of the
2 respondent's rights at the hearing, and, ~~if the appointment of a conservator is requested,~~ include a
3 description of the nature, purpose, and consequences of ~~an appointment~~ conservatorship or the
4 proposed protective arrangement instead of conservatorship. A failure to serve the respondent
5 with a notice substantially complying with this subsection precludes the court from granting the
6 petition.

7 (b) In a proceeding on a petition filed under Section 402 ~~to establish a conservatorship or~~
8 ~~for a protective order in lieu of~~ protective arrangement instead of conservatorship, notice of the
9 hearing must also be given to the persons listed in the petition, and to other persons interested in
10 the respondent's welfare to whom the court has determined that notice must be given. Failure to
11 give notice under this subsection does not preclude the court from appointing a conservator or
12 ordering a protective arrangement instead of conservatorship ~~appointment of a conservator or the~~
13 ~~making of another protective order~~.

14 (c) Notice of ~~a~~ the hearing on a petition for an order after appointment of a conservator or
15 ~~protective order in~~ lieu of conservatorship, together with a copy of the petition, must be given to
16 the person subject to conservatorship if the individual ~~person~~ has attained [12] years of age and is
17 not missing, detained, or unable to return to the United States, ~~the~~ any conservator appointed for
18 the individual, if applicable, of the protected person's estate, and any ~~other~~ person ~~as ordered by~~
19 the court directs.

20 (d) ~~A conservator shall give notice of the filing of the conservator's inventory, report,~~
21 ~~and plan of conservatorship, together with a copy of the inventory, report, and plan of~~
22 ~~conservatorship to the person subject to conservatorship~~ individual subject to conservatorship and
23 ~~any other person the court directs. The notice must be delivered or sent not later than 14 days~~

1 ~~after the filing of the inventory, report, or plan of conservatorship.~~

2 **SECTION 404. PRELIMINARIES TO HEARING ON ~~PROPOSED~~**
3 **~~CONSERVATORSHIP PETITION INVOLVING~~ MINOR.**

4 (a) On the filing of a petition to ~~appoint a conservator or order a~~ establish a
5 ~~conservatorship or for a protective order in lieu of~~ protective arrangement instead of
6 conservatorship ~~for the reason that the respondent i~~for s-a minor, the court shall ~~set a date~~
7 ~~for~~schedule a -hearing. If the court determines at any stage of the proceeding that the interests of
8 the minor are or may be inadequately represented, ~~the court~~it shall appoint ~~a lawyer an attorney~~
9 to represent the minor, giving consideration to the choice of the minor if the minor has attained
10 [12] years of age.

11 (b) While a petition ~~under subsection (a) to establish a conservatorship or for a~~
12 ~~protective order in lieu of~~ protective arrangement instead of conservatorship is pending, after
13 preliminary hearing and without notice to others, the court may ~~make enter~~ orders to preserve
14 and apply the property of the minor as may be required for the support of the minor or
15 individuals who are in fact dependent ~~up~~on the minor. The court may appoint a [master] to assist
16 ~~in the implementation of the orders in that task.~~

17 **SECTION 405. PRELIMINARIES TO HEARING ~~ON PROPOSED~~**
18 **~~CONSERVATORSHIP FOR~~ INVOLVING -ADULT; APPOINTMENT OF [VISITOR].**

19 (a) On the filing of a petition for ~~appointment of a conservator or for a~~ a conservatorship
20 ~~or other a protective order in lieu of~~ protective arrangement instead of conservatorship for ~~an~~
21 ~~adult a respondent for reasons other than being a minor~~, the court shall ~~set a date for~~schedule a
22 hearing. The court shall appoint a [visitor] unless the petition does not request the appointment
23 of a conservator and the respondent is represented by ~~an attorney lawyer~~. The duties and

1 reporting requirements of the [visitor] are limited to the relief requested in the petition. The
2 [visitor] must be an individual having training or experience in the type of incapacity alleged.

3 (b) The [visitor] shall interview the respondent in person and in a manner the respondent
4 is best able to understand:

5 (1) explain to the respondent the substance of the petition; ~~and~~ the nature,
6 purpose, and effect of the proceeding; ~~the respondent's rights at the hearing;~~ and the general
7 powers and duties of a conservator;

8 (2) determine the respondent's views about the ~~order or~~ appointment or protective
9 arrangement sought by the petitioner including, if the petition is for a conservatorship, any views
10 about any proposed conservator, the conservator's proposed powers ~~and duties~~, and the scope
11 and duration of the proposed conservatorship;

12 (3) inform the respondent of the respondent's right to employ and consult with an
13 attorney-lawyer at the respondent's own expense and the right to request a court-appointed
14 ~~lawyer~~attorney; and

15 (4) inform the respondent that all costs and expenses of the proceeding, including
16 respondent's attorney's fees, will be paid from the respondent's ~~estate~~property.

17 (c) In addition to the duties imposed by subsection (b), the [visitor] shall:

18 (1) interview the petitioner and the proposed conservator, if any; and

19 (2) investigate any other matter regarding relating to the petition ~~make any other~~
20 ~~investigation~~ the court directs.

21 (d) The [visitor] promptly shall file a report with the court, which must include:

22 (1) a recommendation as to whether an attorney-lawyer should be appointed to
23 represent the respondent;

(2) recommendations regarding the appropriateness of a conservatorship, including whether less restrictive means ~~of intervention~~ are available, the type of conservatorship, and, if a limited conservatorship, the powers ~~and duties~~ to be granted to the ~~limited~~ conservator, and the ~~assets~~ property that should be placed under the conservator's control ~~over which the conservator should be granted authority~~;

(3) a statement of the qualifications of the proposed conservator, together with a statement whether the respondent approves or disapproves of the proposed conservator;

(4) a recommendation whether a professional evaluation ~~or further evaluation~~ is necessary;

(5) a statement as to the respondent's ability to attend a hearing at the location ~~court is typically held~~ court proceedings are typically conducted;

(6) a statement as to the respondent's ability to participate in a hearing that identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(7) any other matters the court directs.

(e) While a petition filed under Section 402 ~~to establish a conservatorship or for a protective order in lieu of protective arrangement instead of conservatorship~~ is pending, after preliminary hearing and without notice to others, the court may ~~issue~~ enter orders to preserve and apply the property of the respondent as may be required for the support of the respondent or individuals who are in fact dependent on the respondent. The court may appoint a [master] to assist in ~~that task~~ implementing the orders.

**SECTION 406. PRELIMINARIES TO HEARING: APPOINTMENT AND ROLE
OF ~~LAWYER~~ATTORNEY.**

Alternative A

[(a) The court shall appoint an attorney ~~lawyer~~ to represent the respondent in the proceeding if:

- (1) requested by the respondent;
- (2) recommended by the [visitor]; or
- (3) the court determines that the respondent needs representation.]

Alternative B

[(a) Unless the respondent is represented by an attorney~~a lawyer~~, the court shall appoint ~~a lawyer~~an attorney to represent the respondent in the proceeding, regardless of the respondent's ability to pay.]

End of Alternatives

(b) The ~~lawyer~~attorney representing the respondent shall make reasonable efforts to ascertain the respondent's wishes.

(c) The ~~lawyer-attorney~~ representing the respondent shall advocate for the respondent's wishes to the extent ~~those wishes are~~ reasonably ascertainable.

(d) If the respondent's wishes are not reasonably ascertainable, the ~~lawyer-attorney~~ representing the respondent shall advocate for the result that is the least restrictive option in type, duration, and scope, consistent with the respondent's interests.

Legislative Note: *Those states that enact Alternative B of subsection (a) which requires appointment of counsel for the respondent in all conservatorship proceedings should not enact Section 405(d)(1).*

1 **SECTION 407. PROFESSIONAL EVALUATION.**

2 (a) At or before a hearing on a petition filed under Section 402~~on a proposed~~
3 ~~conservatorship for an adult respondent~~, the court shall order a professional evaluation of the
4 respondent if the respondent so demands. The court shall also order a professional evaluation
5 unless the court finds that the court has sufficient information to determine the respondent's
6 needs and abilities without ~~such~~the evaluation.

7 (b) If the court orders the evaluation under subsection (a), the respondent must be
8 examined by a physician, psychologist, social worker, or other individual appointed by the court
9 who is qualified to evaluate the respondent's alleged cognitive and functional abilities and
10 limitations ~~and abilities~~ and who will not be advantaged or disadvantaged by a decision to grant
11 the petition. The ~~examiner~~person conducting the evaluation promptly shall file a written report
12 with the court. Unless otherwise directed by the court, the report must contain:

13 (1) a description of the nature, type, and extent of the respondent's specific
14 cognitive and functional abilities and limitations ~~and abilities~~ with regard to the management of
15 the respondent's property and financial affairs;

16 (2) an evaluation of the respondent's mental and physical condition and, if
17 appropriate, educational potential, adaptive behavior, and social skills;

18 (3) prognosis for improvement with regard to the ability to manage the
19 respondent's property and financial affairs; and

20 (4) the date of ~~any assessment or~~the examination on which the report is based.

21 **SECTION 408. CONFIDENTIALITY OF RECORDS.**

22 [(a) The existence of a proceeding for conservatorship or for a protective arrangement
23 instead of a conservatorship, and the existence of a conservatorship or protective arrangement

1 instead of conservatorship, is a matter of public record.

2 (ba) __ The written report of a [visitor] and any professional evaluation are confidential
3 and must be sealed on filing, but are available to:

4 (1) the court;

5 (2) the respondent without limitation as to use;

6 (3) the petitioner, the [visitor], and the petitioner's and respondent's

7 attorneyslawyers, for purposes of the proceeding;

8 (4) an agent appointed under a power of attorney for finances in which the
9 respondent is identified as the principal, unless the court orders otherwise; and

10 (54) other persons when it would be in the public interest or for asuch purposes
11 as the court may order for good cause.

12 (cb) The person-individual who has been the subject of a proceeding for a
13 conservatorship or protective order in lieu of protective arrangement instead of conservatorship,
14 whether or not a conservator was appointed, any attorney designated by the individualthe
15 person's attorney, and any person entitled to notice under Section 411(ed) are entitled to access
16 court records pertaining to the proceeding and any resulting conservatorship or protective
17 arrangement, including the annual report and the conservator's plan. In addition, any person
18 with an interest in the welfare of the person subject to conservatorshipindividual subject to
19 conservatorship for other good cause may petition the court for access to court records
20 pertaining to a conservatorship or conservatorship proceedingor protective arrangement instead
21 of conservatorship, including the annual report and conservator's plan. The court shall grant
22 access if access is in the best interest of the respondent or person subject to
23 conservatorshipindividual subject to conservatorship or would further the public interest and not

endanger the welfare of the respondent or ~~person subject to conservatorship~~individual subject to conservatorship or protective arrangement instead of conservatorship.]

SECTION 409. PRESENCE AND RIGHTS AT HEARING.

(a) The respondent shall attend the hearing ~~conducted~~called pursuant to Section 403 unless the court finds by clear and convincing evidence that:

(1) the respondent consistently or repeatedly refuses to attend the hearing after having been fully informed of the respondent's right to attend the hearing and the potential consequences of failing to do so;

(2) there is no practicable way for the respondent to attend the hearing and the respondent would have no ability to participate in the hearing even with appropriate supportive services, decision-making support, and technological assistance; or

(3) the respondent is a minor and has received proper notice.

(b) Unless excused by the court for good cause, a proposed conservator shall attend the hearing.

(c) ~~When~~re it is not reasonably feasible for the respondent to participate at the location ~~court is typically held~~court proceedings are typically conducted, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to participate in the hearing by using real-time, audio-visual technology.

(d) The respondent may be assisted in the hearing by a person or persons of the respondent's choosing, ~~by~~ assistive technology, ~~by~~ an interpreter or translator, or ~~by~~ a combination of such supports. If ~~such~~the assistance, translation, interpretation, or other support would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(e) The respondent has a right to be represented in the hearing by an attorney lawyer of the respondent's choosing.

(f) The respondent may present evidence and subpoena witnesses and documents; examine witnesses, including any court-appointed physician, psychologist, social worker, or other individual qualified to evaluate the respondent's alleged cognitive and functional limitations and abilities, and the [visitor]; and otherwise participate in the hearing.

(g) The hearing shall be closed on request of the respondent and a showing of good cause.

(h) Any person may request permission to participate in the proceeding. The court may grant the request, with or without hearing, on determining that the best interest of the respondent will be served. The court may attach appropriate conditions to ~~the~~ the person's participation.

SECTION 410. WHO MAY BE CONSERVATOR: PRIORITIES.

(a) Except as otherwise provided in subsection (~~cd~~), the court, in appointing a conservator, shall consider persons otherwise qualified in the following order of priority:

(1) a conservator, other than a temporary or emergency conservator, currently acting for the respondent in this state or ~~anelsewhere~~ other jurisdiction;

(2) a person nominated as conservator by the respondent, including the respondent's most recent nomination made in a power of attorney for finances, ~~if the respondent has attained 12 years of age and at the time of the nomination was able to express a preference~~;

(3) an agent appointed by the respondent to manage the respondent's property under a power of attorney for finances; and

_____ (4) a family member or other person who has exhibited special

1 ~~care and concern for the respondent a guardian, other than a temporary or emergency guardian, or~~
2 ~~like fiduciary currently acting for the respondent in this state or elsewhere; _____.~~

3 ~~(5) the spouse [or domestic partner] of the respondent;~~

4 ~~(6) an adult child of the respondent;~~

5 ~~(7) a parent of the respondent;~~

6 ~~(8) a person appointed as a trustee of a trust established by the respondent for the~~
7 ~~benefit of the respondent or the respondent's estate;~~

8 ~~(9) an agent appointed by the respondent as a health care agent under a [power of~~
9 ~~attorney for health care] [made pursuant to the Uniform Health Care Decisions Act (1993)];~~

10 ~~(10) an adult with whom the respondent has shared household responsibilities for~~
11 ~~more than six months before the filing of the petition;~~

12 ~~(11) an adult stepchild whom the respondent actively parented during the~~
13 ~~stepchild's minor years and with whom the respondent had an ongoing relationship within two~~
14 ~~years of the petition; and~~

15 ~~(12) an adult who has exhibited special care and concern for the person and who~~
16 ~~is familiar with the person's values and preferences.~~

17 ~~_____ (b) A person having priority under subsection (a)(1), (4), (5), or (6) may designate in~~
18 ~~writing a substitute to serve and thereby transfer the priority to the substitute.~~

19 ~~(be)~~ With respect to persons having equal priority, the court shall select the person the
20 court ~~one it~~ considers best qualified. In determining who is best qualified, the court shall
21 consider the potential potential conservator's relationship with the respondent, the potential
22 conservator's skills, ~~and relationship with the respondent,~~ the likelihood that the potential
23 conservator will be able to successfully satisfy the duties of a conservator, ~~and the preferences,~~

1 ~~values, and prior directions of the respondent.~~ the expressed wishes of the respondent, the extent
2 to which the potential conservator and the respondent have similar values and preferences, and
3 the likelihood that the potential conservator will be able to successfully satisfy the duties of a
4 conservator.

5 (c4) The court, acting in the best interest of the ~~respondent~~person subject to
6 ~~conservatorship~~, may decline to appoint a person having priority and appoint a person having a
7 lower priority or no priority.

8 ~~(d) A person who provides paid services to the respondent, who is employed by a person~~
9 ~~that who provides paid services to the respondent, or who is the spouse, [domestic partner,~~
10 ~~]parent, or child[, or domestic partner]~~ of a person who provides paid services to the respondent,
11 may not be appointed conservator unless:

12 (1) the person is related to the respondent by blood, marriage, or adoption;; or
13 (2) the court finds by clear and convincing evidence that the person is the best
14 qualified person available for appointment and that such appointment is in the best interest of the
15 respondent.

16 _____(e) An owner, operator, or employee of [a long-term care institution] at which the
17 respondent is receiving care may not be appointed as conservator unless the owner, operator, or
18 employee is related to the respondent by blood, marriage, or adoption.

19 **SECTION 411. ORDER OF APPOINTMENT.**

20 _____(a) A court order granting a conservatorship for a minor clearly must state the court's
21 finding supporting appointment of a conservator, whether the conservatorship is full or limited,
22 and, if the conservatorship is limited, the powers granted to the conservator and the property
23 placed under the conservator's control. ~~If a proceeding is brought for the reason that the~~

1 respondent is a minor, after a hearing on the petition, on finding that the appointment of a
2 conservator or protective order in lieu of protective arrangement instead of conservatorship is in
3 the best interest of the minor, the court shall make an appointment or other appropriate protective
4 order.

5 _____ (b) ~~A~~If a proceeding is brought for reasons other than that the respondent is a minor, a
6 court order granting a conservatorship for an adult ~~shall clearly must clearly~~ state:

7 (1) the court's finding that the respondent's identified needs cannot be met by less
8 restrictive means, including use of appropriate supportive services, technological assistance, and
9 ~~appropriate~~ decision-making support; and

10 (2) the court's finding that there is clear and convincing evidence that the
11 respondent was given proper notice of the hearing on the petition.

12 (c) ~~A court order granting a full conservatorship for an adult clearly must state the basis~~
13 for granting a full conservatorship and provide specific findings to support the conclusion that a
14 limited conservatorship would not meet the functional needs of the adult.

15 _____ (d) A court order granting a limited conservatorship must state the property placed under
16 the control of the conservator and the powers granted to the conservator.~~If a proceeding is~~
17 ~~brought for reasons other than that the respondent is a minor, after a hearing on the petition, on~~
18 ~~finding that the basis for appointing a conservator exists, the court shall make the least restrictive~~
19 ~~order consistent with its findings. The court shall make orders necessitated by the limitations~~
20 ~~and demonstrated needs of the person subject to conservatorship~~individual subject to
21 conservatorship~~individual subject to conservatorship, including appointive and other orders that~~
22 ~~will encourage the development of maximum self-determination and independence of the person~~
23 ~~subject to conservatorship~~individual subject to conservatorship.

(ed) The court shall, as part of any order granting a conservatorship, identify any persons who shall subsequently be entitled to:

(1) notice of the rights of the ~~person subject to conservatorship~~individual subject to conservatorship;

(2) notice of a sale of or surrender of a lease to the primary residence of the ~~person subject to conservatorship~~individual subject to conservatorship;

(3) a copy of the conservator's annual report and plan;

(4) access to court records pertaining to the conservatorship; and

(5) notice of the death of the ~~person subject to conservatorship~~individual subject to conservatorship or significant change in the person's condition.

(fe) If the individual subject to conservatorship is an adult, ~~The~~ persons entitled to notice under subsection (ed) shall include the spouse[, domestic partner,] and adult children of the ~~person subject to conservatorship~~individual adult subject to conservatorship unless the court determines that ~~such~~ notice would be contrary to the preferences or prior directions of the ~~person subject to conservatorship~~individual adult subject to conservatorship or not in the best interest of the ~~person subject to conservatorship~~individual adult subject to conservatorship.

(g) If the individual subject to conservatorship is a minor, the persons entitled to notice under subsection (e) shall include the parents of the minor and adult siblings of the minor unless the court determines that notice would not be in the best interest of the minor subject to conservatorship.

1 SECTION 412. NOTIFICATION OF ORDER OF APPOINTMENT~~PERSON~~
2 ~~SUBJECT TO CONSERVATORSHIP~~INDIVIDUAL SUBJECT TO
3 CONSERVATORSHIP OF ORDER; RIGHTS.

4 (a) A conservator appointed under Section 411 shall send or deliver~~Not later than 14~~
5 ~~days after an appointment, the conservator shall deliver or send~~ a copy of the order of
6 appointment, together with a statement notice of the right to request termination or modification,
7 to the ~~person subject to conservatorship~~individual subject to conservatorship, if the person has
8 attained [12] years of age, and to all other persons given notice of the hearing on the petition.
9 The order and notice shall be sent or delivered no later than 14 days after the appointment is
10 made, and is not missing, detained, or unable to return to the United States, and to all other
11 persons given notice of the petition.

12 (b) Not later than 30 days after an appointment under Section 411, the court shall send or
13 deliver to the ~~person subject to conservatorship~~individual subject to conservatorship, the
14 conservator, and any other persons entitled to such notice ~~pursuant to~~under Section 411(~~ed~~) a
15 statement of the rights of the ~~person subject to conservatorship~~individual subject to
16 conservatorship and how ~~the person can~~to seek relief if the ~~person individual~~individual is denied those
17 rights. The statement shall be in plain language, in at least 16-point font, and, to the extent
18 feasible, in a language in which the ~~person subject to conservatorship~~individual subject to
19 conservatorship is proficient. The notice must notify the ~~person subject to~~
20 ~~conservatorship~~individual subject to conservatorship of the right to:

21 (1) seek termination or modification of the conservatorship, seek removal of a
22 conservator, and obtain an attorney~~counsel~~ of the ~~person subject to conservatorship~~individual's
23 subject to conservatorship's choosing to represent the ~~person individual~~individual in these matters;

1 (2) participate in decision-making to the extent possible; and
2 (3) receive a copy of the conservator's inventory, report, and plan of
3 conservatorship.

4 (c) If the conservator is appointed under Section 401(b)(1)(B) and the individual subject
5 to conservatorship is missing, notice under subsection (a) and (b) to the individual is not
6 required.

7 **SECTION 413. EMERGENCY CONSERVATOR**

8 (a) If the court finds that compliance with the procedures of this [article] will likely
9 result in substantial and irreparable harm to the respondent's propertyestate, financial interests,
10 or both, and that no other person appears to have authority and willingness to act in the
11 circumstances, the court, on petition by a person interested in the respondent's welfare or on its
12 own motion, may appoint an emergency conservator for the respondent. The duration of the
13 emergency conservator's authority~~whose authority~~ may not exceed [60] days and the emergency
14 conservator~~who~~ may exercise only the powers specified in the order. Immediately ~~upon~~ receipt
15 of ~~the~~ petition for an emergency conservator, the court shall appoint a ~~lawyer~~an attorney to
16 represent the respondent in the proceeding. Except as otherwise provided in subsection (b),
17 reasonable notice of the time and place of a hearing on the ~~petition~~appointment of a conservator
18 under this subsection must be given to the respondent, the respondent's attorney, and~~any~~ other
19 persons as the court directs.

20 (b) The court may appoint an~~An emergency con~~ emergency conservator ~~may be~~
21 ~~appointed~~ without notice and a hearing~~to the respondent and the respondent's lawyer~~ only if the
22 court finds from affidavit or testimony that the respondent's ~~estate~~property or financial interests
23 will be substantially and irreparably harmed before a hearing on the appointment can be held. If

1 ~~the court appoints an emergency conservator without notice and a hearing, to the respondent, the~~
2 ~~respondent, the respondent's attorney, and other persons as the court directs -must be given~~
3 ~~notice of the appointment not later than 48 hours after the appointment. The court shall hold a~~
4 ~~hearing on the appropriateness of the appointment not later than [five] days after the appointment~~
5 ~~under this section.~~

6 ~~_____ (c) Appointment of an emergency conservator, with or without notice, is not a~~
7 ~~determination that the conditions required for appointment of a limited or full conservator under~~
8 ~~Section 401 have been satisfied.~~

9 ~~_____ (d) The court may remove an emergency conservator at any time. An emergency~~
10 ~~conservator shall make any report the court requires. In other respects, the provisions of this~~
11 ~~[act] concerning conservators apply to an emergency conservator.~~

12 **SECTION 41~~43~~. POWERS OF COURT AFTER APPOINTMENT OF**
13 **CONSERVATOR.**

14 ~~_____ (a) After hearing and on determining that a basis for a conservatorship exists appointing a~~
15 ~~conservator, the court has the following powers, which may be exercised directly or through the~~
16 ~~a conservator:~~

17 (1) with respect to a minor ~~for whom an appointment has been made for reasons~~
18 ~~of age~~, all the powers over the ~~estate-property~~ and financial affairs of the minor which may be
19 necessary for the best interest of the minor and members of the minor's immediate family; and

20 (2) with respect to an adult, ~~or to a minor for whom an appointment has been~~
21 ~~made for reasons other than age~~, for the benefit of the ~~person subject to~~
22 ~~conservatorship individual adult subject to conservatorship~~ and individuals who are in fact
23 dependent on the ~~person subject to conservatorship individual subject to conservatorship adult~~ for

support, all the powers over the ~~estate property~~ and financial affairs of the ~~person subject to conservatorship individual subject to conservatorship adult~~ which the ~~adult person~~ could exercise if ~~the person were an adult~~, present, and not subject to conservatorship ~~or other protective order~~.

~~—— (b) Subject to Section 108 requiring endorsement of limitations on the letters of office, the court may limit at any time the powers of a conservator otherwise conferred and may remove or modify any limitation.~~

SECTION 4154. POWERS OF CONSERVATOR REQUIRING COURT APPROVAL.

(a) A conservator may exercise the following powers with respect to the conservatorship estate property of the person subject to conservatorship individual subject to conservatorship only after notice to interested persons and ~~on~~ express authorization of the court, ~~a conservator may~~:

(1) the power to make gifts, except those of de minimus value;

(2) the power to sell real property, encumber an interest in real property, or surrender a lease to the primary residence of an ~~person subject to conservatorship individual subject to conservatorship~~;

(3) the power to convey, release, or disclaim contingent and expectant interests in property, including marital property ~~rights~~ and any right of survivorship incident to joint tenancy or tenancy by the entireties;

(4) the power to exercise or release a power of appointment;

(5) the power to create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the ~~person subject to conservatorship individual subject to conservatorship~~;

1 (6) the power to exercise rights to elect options and change beneficiaries under
2 insurance policies and annuities or surrender the policies and annuities for their cash value;

3 (7) the power to exercise any right to an elective share in the estate of the
4 deceased spouse [or domestic partner] of the ~~person subject to conservatorship~~individual subject
5 to conservatorship and to renounce or disclaim any interest by testate or intestate succession or
6 by transfer inter vivos; [and]

7 (8) the power to grant a creditor a priority for payment over creditors of the same
8 or higher class if the creditor is providing property or services used to meet the basic living and
9 care needs of the ~~person subject to conservatorship~~individual subject to conservatorship and such
10 preferential treatment would be otherwise impermissible under Section 431(e)]; and

11 ~~{(9)}~~ the power to make, modify, amend, or revoke the will of the ~~person subject~~
12 ~~to conservatorship~~individual subject to conservatorship.

13 ~~——(b)——~~A conservator, in making, amending, or revoking the will of ~~an person subject to~~
14 ~~conservatorship~~individual subject to conservatorship, shall comply with [the state's statute for
15 executing wills]].

16 ~~(eb)~~ The court, in exercising or approving a conservator's exercise of the powers listed in
17 subsection (a), shall consider primarily the decision that the ~~person subject to~~
18 ~~conservatorship~~individual subject to conservatorship would make ~~if~~if able, to the extent that the
19 decision can be ascertained.

20 ~~——(c)——~~
21 ~~——~~To determine the decision the ~~person~~individual subject to conservatorship would make if
22 ~~the person were~~ able, the court shall consider the ~~individual~~person's prior or current directions,
23 preferences, opinions, values, and actions to the ~~to the~~ extent actually known or reasonably

ascertainable. The court shall also consider:

(1) the financial needs of the ~~person subject to conservatorship~~individual subject to conservatorship and the needs and of individuals who are dependent on the ~~person subject to conservatorship~~individual subject to conservatorship for support, and the interest of creditors;

(2) possible reduction of income, estate, inheritance, or other tax liabilities;

(3) eligibility for governmental assistance;

(4) the previous pattern of giving or level of support provided by the ~~person subject to conservatorship~~individual subject to conservatorship;

(5) ~~any~~the existing estate plan of the individual subject to conservatorship;

(6) the life expectancy of the ~~person subject to conservatorship~~individual subject to conservatorship and the probability that the conservatorship will terminate before the ~~person's~~individual's death; and

(7) any other factors the court considers relevant.

~~(dd) Without authorization of the court, A~~a conservator may not revoke or amend a power of attorney for finances ~~executed by that the person subject to conservatorship~~individual subject to conservatorship ~~executed before the conservator's appointment~~. If a power of attorney for finances is in effect, ~~absent a court order to the contrary~~, a decision of the agent takes precedence over that of a conservator absent a court order to the contrary.

SECTION 41~~6~~5. PETITION FOR ORDER SUBSEQUENT TO APPOINTMENT.

~~An person subject to conservatorship~~individual subject to conservatorship or a person interested in the welfare of an ~~person subject to conservatorship~~individual subject to conservatorship may file a petition in the appointing court for an order:

~~(a1)~~ requiring the conservator to furnish bond or collateral or additional bond or

1 collateral, or ~~allowing a reduction in a bond or collateral previously furnished~~ reducing bond;

2 (2b) requiring an accounting for the administration of the conservatorship estate ~~of the~~

3 ~~person subject to conservatorship~~;

4 (3e) directing distribution;

5 (4d) removing the conservator and appointing a temporary or successor conservator;

6 (5e) modifying the type of appointment or powers granted to the conservator if the extent

7 of protection or management previously granted is currently excessive or insufficient to meet the

8 individual's needs, including because the individual's abilities or supports have changed ~~or the~~

9 ~~ability of the person subject to conservatorship~~ individual subject to conservatorship to manage

10 ~~the estate and financial affairs has so changed as to warrant the action~~; or

11 (6f) granting other appropriate relief.

12 **SECTION 4176. BOND; ALTERNATIVE ASSET-PROTECTION**

13 **ARRANGEMENT.**

14 (a) The court shall require a conservator to furnish a bond with ~~sureties~~ a surety as it may

15 specify, or require an alternative asset-~~protection~~ arrangement, conditioned on faithful discharge

16 of all duties of the conservator~~ship according to law~~ under this [act]. The court may waive this

17 requirement only if the court finds that ~~such~~ a bond or other asset-protection arrangement is not

18 necessary to protect the interests of the ~~person subject to conservatorship~~ individual subject to

19 conservatorship. The court may not waive this requirement if the conservator is in the business

20 of serving as a conservator and is being paid for the conservator's ~~is~~ service.

21 (b) Unless otherwise directed by the court, the bond must be in the amount of the

22 aggregate capital value of conservatorship estate ~~the property of the estate in the conservator's~~

23 ~~control~~, plus one year's estimated income, ~~and minus~~ less the value of assets-property deposited

1 under arrangements requiring an order of the court for their removal and the value of any real
2 property that the ~~fiduciary~~conservator, by express limitation, lacks power to sell or convey
3 without court authorization. The court, in place of surety~~ies~~ on a bond, may accept collateral for
4 the performance of the bond, including a pledge of securities or a mortgage of real property.

5 **SECTION 41~~78~~. TERMS AND REQUIREMENTS OF BOND.**

6 (a) The following rules apply to the bond required under Section 417:

7 (1) Except as otherwise provided by the terms of the bond, ~~the surety~~sureties and
8 the conservator are jointly and severally liable.

9 (2) By executing ~~the~~ bond ~~provided by~~ a conservator under Section 417, a
10 surety submits to the jurisdiction of the court that issued letters of office to the ~~primary~~
11 ~~obligor~~conservator in any proceeding pertaining to the ~~fiduciary~~ duties of the conservator in
12 which the surety is named as a party. Notice of any proceeding must be sent or delivered to the
13 surety at the address shown in the court records at the place where the bond is filed and to any
14 other address then known to the ~~petitioner~~person required to provide the notice.

15 (3) On petition of a successor conservator or any interested person, a proceeding
16 may be brought against a surety for breach of the obligation of the bond~~of the conservator~~.

17 (4) The bond ~~of the conservator~~ may be proceeded against until liability under the
18 bond is exhausted.

19 (b) A proceeding may not be brought against a surety on any matter as to which an
20 action or proceeding against the ~~primary obligor~~conservator is barred.

21 **SECTION 41~~8~~ 419. GENERAL DUTIES OF CONSERVATOR.**

22 (a) A conservator, ~~in relation to powers conferred by this [article] or implicit in the title~~
23 ~~acquired by virtue of the proceeding~~, is a fiduciary and shall observe the standards of care

1 applicable to a trustee. A conservator at all times shall exercise reasonable care, diligence, and
2 prudence.

3 (b) A conservator shall promote the self-determination of the ~~person subject to~~
4 ~~conservatorship~~individual subject to conservatorship and exercise authority only as necessitated
5 by the individual~~person~~'s limitations and, to the extent possible, shall encourage the ~~person~~
6 individual to participate in decisions, act on the ~~person's~~individual's own behalf, and develop or
7 regain the capacity to manage the individual~~person~~'s personal affairs.

8 (c) A conservator making a decision on behalf of the ~~person subject to~~
9 ~~conservatorship~~individual subject to conservatorship shall make the decision the conservator
10 reasonably believes the individual~~person~~ would make if the ~~person~~individual were able unless
11 doing so would fail to preserve the resources needed to maintain the ~~person's~~individual's well-
12 being and lifestyle or otherwise unreasonably harm or endanger the welfare or interests of the
13 ~~person subject to conservatorship~~individual subject to conservatorship. To determine the
14 decision the individu~~person~~ would make if the ~~person~~individual were able, the conservator
15 shall consider the ~~person's~~individual's prior or current directions, preferences, opinions, values,
16 and actions to the ~~to the~~ extent actually known or reasonably ascertainable by the conservator.

17 (d) If the conservator does not know or cannot reasonably ascertain the decision that the
18 ~~person subject to conservatorship~~individual subject to conservatorship probably would make if
19 the individual~~person~~ were able, or if the decision the conservator believes the individual~~person~~
20 would make would fail to the preserve ~~the~~ resources needed to maintain the individual~~person~~'s
21 well-being and lifestyle or would otherwise unreasonably harm or endanger the welfare of the
22 ~~person subject to conservatorship~~individual subject to conservatorship, the conservator shall act
23 in accordance with the individual~~person~~'s best interests~~s~~. In determining the best interests~~s~~ of the

1 ~~person subject to conservatorship~~individual subject to conservatorship, the conservator shall
2 consider:

3 (1) information received from professionals and persons who demonstrate
4 sufficient interest in the welfare of the ~~person subject to conservatorship~~individual subject to
5 conservatorship,

6 (2) other information that the conservator believes the ~~individual~~person would
7 have considered ~~the person were~~if able to act, and

8 (3) other factors that a reasonable person in the circumstances of the ~~person~~
9 ~~subject to conservatorship~~individual would consider, including consequences for others.

10 (e) Except when ~~re~~ inconsistent with the conservator's duties under subsections (b), (c),
11 and (d) ~~of this Section~~, a conservator shall invest and manage the ~~conservatorship estate~~estate as
12 a prudent investor would ~~;~~ by considering g:g

13 ~~(1) the purposes, terms, distribution requirements, and other the~~ circumstances of
14 the ~~person subject to conservatorship~~individual subject to conservatorship and the
15 conservatorship estate~~including~~:

16 ~~(12)~~ general economic conditions;

17 ~~(32)~~ the possible effect of inflation or deflation;

18 ~~(43)~~ the expected tax consequences of investment decisions or strategies;

19 ~~(54)~~ the role that each investment or course of action plays in relation to the
20 conservatorship estate as a whole;

21 ~~(65)~~ the expected total return from income and ~~the~~ appreciation of capital;

22 ~~(76)~~ needs for liquidity, regularity of income, and preservation or appreciation of
23 capital; and

(87) ~~an asset's~~the special relationship or special value, if any, of specific property
to the ~~person subject to conservatorship~~individual subject to conservatorship.

(f) A conservator's investment and management of the property of the
individual subject to conservatorship is determined in light of the facts and circumstances
existing at the time of a conservator's decision or action and not by hindsight.

(gf) A conservator shall make a reasonable effort to verify facts relevant to the
investment and management of the conservatorship estate~~assets~~.

(hg) A conservator who has special skills or expertise, or is named conservator in
reliance ~~upon~~ the conservator's representation of special skills or expertise, has a duty to use
those special skills or expertise in carrying out the conservator's duties.

(ih) In investing ~~an estate~~, selecting ~~assets of the estate~~specific property for distribution,
and invoking powers of revocation or withdrawal available for the use and benefit of the ~~person~~
~~subject to conservatorship~~individual subject to conservatorship and exercisable by the
conservator, a conservator shall take into account any estate plan of the ~~person~~individual known
to the conservator and may examine the will and any other donative, nominative, or other
appointive instrument of the individual~~person~~.

(ji) A conservator shall maintain insurance on ~~the person's~~the insurable real and personal
property of the individual subject to conservatorship, unless the conservatorship estate lacks
sufficient funds to pay for insurance or a court determines, and issues an order finding:

(1) the property lacks sufficient equity;[;]

(2) the property is uninsurable;[;] or

(3) insuring the property would unreasonably dissipate the conservatorship estate

or otherwise not be in the best interest of the ~~person subject to conservatorship~~individual subject to conservatorship.

(kj) ~~A conservator, without authorization of the court, may not revoke a power of attorney for finances [made pursuant to the Uniform Power of Attorney Act (2006)] which the person subject to conservatorship~~individual subject to conservatorship executed before the conservator's appointment. If a power of attorney for finances ~~[made pursuant to the Uniform Power of Attorney Act (2006)]~~ is in effect, the ~~absent an order of the court to the contrary, a decision by the agent that the agent is authorized to make under the power of attorney for finances takes precedence over that of a conservator and the~~ conservator shall cooperate with the agent to the extent feasible.

(l) A conservator has access to and authority over a digital asset of the individual subject to conservatorship to the extent provided by [the Revised Uniform Fiduciary Access to Digital Assets Act] or by order of court.

SECTION ~~419~~ 420. CONSERVATOR'S PLAN.

(a) Not later than 60 days after appointment, and a least once every ~~five years~~year thereafter, a conservator shall file with the appointing court a plan for protecting, managing, expending, and distributing the assets of the conservatorship ~~estate of the person subject to conservatorship~~individual subject to conservatorship. The plan must be based on the actual needs of the ~~person subject to conservatorship~~individual subject to conservatorship and take into account the best interest of the individual~~person~~ as well as the individual~~person~~'s preferences, values, and prior directions to the extent known to the conservator or reasonably ascertainable by the conservator. The conservator shall include in the plan steps to develop or restore the ability of the ~~person subject to conservatorship~~individual subject to conservatorship to manage the

1 ~~individual~~person's property, how the conservator will involve the ~~individual~~person in decisions
2 about property management, an estimate of the duration of the conservatorship, and projections
3 of resources and expenses, including projections of any fees the conservator anticipates charging
4 ~~to the person~~for the conservator's services.

5 (b) The court shall review the conservator's plan to determine whether or not to approve
6 it. In deciding whether to approve the plan, the court shall consider whether the plan is
7 consistent with the conservator's duties set forth in this ~~section~~[article].

8 (c) After the conservator's plan is approved by the court, the conservator shall provide a
9 copy of the conservator's plan to the ~~person subject to conservatorship~~individual subject to
10 conservatorship and such other persons as the court directs.

11 (d) A conservator shall give notice of the filing of the conservator's inventory, report,
12 and plan of conservatorship, together with a copy of the inventory, report, and plan of
13 conservatorship to the individual subject to conservatorship and any other person the court
14 directs. The notice must be delivered or sent not later than 14 days after the filing of the
15 inventory, report, or plan of conservatorship.

16 **SECTION ~~420~~ 421. INVENTORY; RECORDS.**

17 (a) Not later than 60 days after appointment, a conservator shall prepare and file with the
18 appointing court a detailed inventory of the ~~estate subject to the~~conservatorship estate, together
19 with an oath or affirmation that the inventory is believed to be complete and accurate as far as
20 information permits.

21 (b) A conservator shall keep records of the administration of the conservatorship estate
22 and make them available for examination on reasonable request of the ~~person subject to~~
23 ~~conservatorship~~individual subject to conservatorship or an interested person.

1 **SECTION ~~421~~ 422. POWERS OF CONSERVATOR IN ADMINISTRATION.**

2 (a) Except as otherwise qualified or limited by the court in its order of appointment and
3 ~~endorsed-stated in~~ the letters of office, a conservator has all of the powers granted in this section
4 and any additional powers granted ~~by law~~ to a trustee in this state by law of this state other than
5 this [act].

6 (b) A conservator, acting reasonably and in an effort to accomplish the purpose of the
7 appointment, and without further court authorization or confirmation, may:

8 (1) collect, hold, and retain property included in the conservatorship~~assets of the~~
9 estate, including ~~assets-property~~ in which the conservator has a personal interest and real
10 property in another state, until the conservator considers that disposition of the an-assetproperty
11 should be made;

12 (2) receive additions to the conservatorship estate;

13 (3) continue or participate in the operation of any business or other enterprise;

14 (4) acquire an undivided interest ~~in in-an-asset-of-the-estate~~property included in
15 the conservatorship estate in which the conservator, in any fiduciary capacity, holds an undivided
16 interest;

17 (5) invest assets of the conservatorship estate;

18 (6) deposit money of the conservatorship estate in a financial institution, including
19 one operated by the conservator;

20 (7) acquire or dispose of ~~an-assetproperty~~ of the conservatorship estate, including
21 real property in another state, for cash or on credit, at public or private sale, and manage,
22 develop, improve, exchange, partition, change the character of, or abandon ~~an-assetproperty~~
23 included in the conservatorship-of-the estate;

(8) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, and raze existing or erect new party walls or buildings;

(9) subdivide, develop, or dedicate land to public use, make or obtain the vacation of plats and adjust boundaries, adjust differences in valuation ~~on, or of~~ exchange or partition land by giving or receiving consideration, and dedicate easements to public use without consideration;

(10) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the term of the conservatorship;

(11) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(12) grant an option involving disposition of ~~an asset of the estate~~ property included in the conservatorship estate and ~~take~~ accept or exercise an option for the acquisition of property ~~any asset~~;

(13) vote a security, in person or by general or limited proxy;

(14) pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(15) sell or exercise stock subscription or conversion rights;

(16) consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(17) hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery;

(18) insure ~~the assets of the estate~~ the conservatorship estate against damage or loss and the conservator against liability with respect to a third person in accordance with Section 419(i);

1 (19) borrow money, with or without security, to be repaid from the
2 conservatorship estate or otherwise and advance money for the protection of the conservatorship
3 estate or the ~~person subject to conservatorship~~individual subject to conservatorship and for all
4 expenses, losses, and liability sustained in the administration of the conservatorship estate or
5 because of the holding ~~or ownership of any asset~~of any property, for which the conservator has a
6 lien on the conservatorship estate as against the ~~person subject to conservatorship~~individual
7 subject to conservatorship for advances so made;

8 (20) pay or contest any claim, settle a claim by or against the conservatorship
9 estate or the ~~person subject to conservatorship~~individual subject to conservatorship by
10 compromise, arbitration, or otherwise, and release, in whole or in part, any claim belonging to
11 the conservatorship estate to the extent the claim is uncollectible;

12 (21) pay a ~~taxes~~, ~~assessments~~, compensation of the conservator and any guardian,
13 and other expenses incurred in the collection, care, administration, and protection of the
14 conservatorship estate;

15 (22) allocate items of income or expense to income or principal of the
16 conservatorship estate, as provided by law of this state other than this [act], including creation of
17 reserves out of income for depreciation, obsolescence, or amortization or for depletion of
18 minerals or other natural resources;

19 (23) pay any sum distributable to an ~~person subject to conservatorship~~individual
20 subject to conservatorship or individual who is in fact dependent on the ~~person subject to~~
21 ~~conservatorship~~individual subject to conservatorship by paying the sum to the distributee or by
22 paying the sum for the use of the distributee:

23 (A) to the guardian of the distributee;

(B) to a distributee's custodian under [the Uniform Transfers to Minors Act (1983/1986)] or custodial trustee under [the Uniform Custodial Trust Act (1987)]; or

(C) if there is no guardian, custodian, or custodial trustee, to a relative or other person having physical custody of the distributee;

(24) prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of ~~assets of the~~ conservatorship estate and of the conservator in the performance of fiduciary the conservator's duties; and

(25) structure the finances of the ~~person subject to conservatorship individual~~ subject to conservatorship to establish eligibility for public benefits, including by making gifts in a way that is consistent with the individual person's preferences, values, and prior directions, ~~provided that if~~ the conservator's actions do not jeopardize the individual's welfare ~~of the person subject to conservatorship individual subject to conservatorship and~~, are otherwise consistent with the conservator's fiduciary duty duties including the ~~conservator's~~ duty to seek court approval when required by act in compliance with Section ~~414 of this Act~~ 415; and

(26) execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the conservator.

SECTION ~~422~~ 423. DELEGATION BY CONSERVATOR.

~~—(a) A conservator may not delegate to an agent or another conservator the entire administration of the estate, but a conservator may otherwise delegate the performance of functions that a prudent trustee of comparable skills may delegate under similar circumstances.~~

~~———— (b) The conservator shall exercise reasonable care, skill, and caution in:~~

~~———— (1) selecting an agent;~~

~~———— (2) establishing the scope and terms of a delegation, consistent with the purposes and terms of the conservatorship;~~

~~———— (3) periodically reviewing an agent's overall performance and compliance with the terms of the delegation; and~~

~~———— (4) redressing an action or decision of an agent which would constitute a breach of fiduciary duties if performed by the conservator.~~

~~———— (c) A conservator who complies with subsections (a) and (b) is not liable to the person subject to conservatorship individual subject to conservatorship or to the person's estate for the decisions or actions of the agent to whom a function was delegated.~~

~~———— (d) In performing a delegated function, an agent shall exercise reasonable care to comply with the terms of the delegation and reasonable care in the performance of delegated powers.~~

~~———— (e) By accepting a delegation from a conservator subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.~~

~~———— (f) A conservator may revoke the delegation of powers at any time.~~

~~————~~ **SECTION ~~423~~ 424. PRINCIPLES OF DISTRIBUTION BY CONSERVATOR.**

(a) Unless otherwise specified in the order of appointment and ~~endorsed-stated in~~ the letters of ~~appointment office~~ or unless contrary to the plan filed ~~pursuant to~~ under Section 420, a conservator may expend or distribute income or principal of the conservatorship estate ~~of the person subject to conservatorship~~ individual subject to conservatorship without further court authorization or confirmation for the support, care, education, health, and welfare of the ~~person~~

1 ~~subject to conservatorship~~individual subject to conservatorship and an individuals who ~~is~~are in
2 fact dependent on the ~~person subject to conservatorship~~individual subject to conservatorship,
3 including the payment of child or spousal support, in accordance with the following ~~rules~~rules:

4 (1) A conservator shall consider recommendations relating to the appropriate
5 standard of support, care, education, health, and welfare for the ~~person subject to~~
6 ~~conservatorship~~individual subject to conservatorship or an individual who is in fact dependent on
7 the ~~person subject to conservatorship~~individual subject to conservatorship made by a guardian, if
8 any, and, if the ~~person subject to conservatorship~~individual subject to conservatorship is a minor,
9 the conservator shall consider recommendations made by a parent of the minor.

10 (2) A conservator may not be surcharged for money paid to persons furnishing
11 support, care, education, or benefit to ~~an person subject to conservatorship~~individual subject to
12 conservatorship, or an individual who is in fact dependent on the ~~person subject to~~
13 ~~conservatorship~~individual subject to conservatorship, in accordance with the recommendations
14 of a parent or guardian of the ~~person subject to conservatorship~~individual subject to
15 conservatorship unless the conservator knows that the parent or guardian derives personal
16 financial benefit from the payment of the money~~therefrom~~, including relief from any personal
17 duty of support, or the recommendations are not in the best interest of the ~~person subject to~~
18 ~~conservatorship~~individual subject to conservatorship.

19 (3) In making expenditures or distributions under this subsection, the conservator
20 shall consider:

21 (A) the size of the conservatorship estate, the estimated duration of the
22 conservatorship, and the likelihood that the ~~person subject to conservatorship~~individual subject
23 to conservatorship, at some future time, may be fully self-sufficient and able to manage the

1 individual's financial affairs and the conservatorship estate;

2 (B) the accustomed standard of living of the ~~person subject to~~
3 ~~conservatorship~~individual subject to conservatorship and an individuals who ~~is~~are in fact
4 dependent on the ~~person subject to conservatorship~~individual subject to conservatorship;

5 (C) other money or sources used for the support of the ~~person subject to~~
6 ~~conservatorship~~individual subject to conservatorship; and

7 (D) the preferences, values, and prior directions of the ~~person subject to~~
8 ~~conservatorship~~individual subject to conservatorship.

9 (4) Money expended or distributed under this subsection may be paid by the
10 conservator to any person, including the ~~person subject to conservatorship~~individual subject to
11 conservatorship, as reimbursement for expenditures that the conservator might have made, or in
12 advance for services to be rendered to the ~~person subject to conservatorship~~individual subject to
13 conservatorship if it is reasonable to expect the services will be performed and advance payments
14 are customary or reasonably necessary under the circumstances.

15 **SECTION ~~424~~ 4245. CONSERVATOR'S REPORTS AND ACCOUNTINGS;**
16 **APPOINTMENT OF [VISITOR]; MONITORING.**

17 (a) A conservator shall report to the court for administration of the conservatorship estate
18 annually unless the court otherwise directs, on resignation or removal, on termination of the
19 conservatorship, and at other times as the court directs. An order, after notice and hearing,
20 allowing an intermediate report of a conservator adjudicates liabilities concerning the matters
21 adequately disclosed in the accounting included in the report. An order, after notice and hearing,
22 allowing a final report adjudicates all previously unsettled liabilities relating to the
23 conservatorship.

1 (b) A report must state or contain:

2 (1) an accounting that contains a list of the property included in the
3 conservatorship assets of the ~~estate under the conservator's control~~ and a list of the receipts,
4 disbursements, and distributions during the period for which the report is made;

5 (2) a list of the services provided to the ~~person subject to~~
6 conservatorship individual subject to conservatorship;

7 (3) a copy of the conservator's previously approved plan and a statement as to
8 whether the conservator has deviated ~~for the conservator's previously approved~~ from the plan
9 and, if so, how the conservator has deviated and why ~~the reason for that deviation~~;

10 (4) any recommended changes in the plan for the conservatorship, including its
11 scope, and whether there is a need to continue the conservatorship as well as a recommendation
12 as to the continued need for conservatorship and any recommended changes in the scope of the
13 conservatorship;

14 (5) to the extent feasible, copies of the most recent reasonably available financial
15 statements evidencing the status of ~~the~~ bank accounts, investment accounts, and mortgage or
16 other debts of the ~~person subject to conservatorship~~ individual subject to conservatorship;

17 (6) anything of more than de minimis value that the conservator, any person who
18 resides with the conservator, or the spouse, [domestic partner,] parent, child, or sibling of the or
19 an immediate family member of the the conservator or an immediate family member of the
20 conservator has received from individuals providing goods or services to the ~~person subject to~~
21 conservatorship individual subject to conservatorship;

22 (7) any business relations that the conservator has with a person ~~individuals~~
23 providing goods or services to the ~~person subject to conservatorship~~ individual subject to

1 conservatorship, and

2 (8) any business relations that the conservator has with a person who the
3 conservator has paid or has otherwise benefited using the property of the individual subject to
4 conservatorship;

5 ~~—————(8) a copy of the conservator’s previously approved plan and a statement as to~~
6 ~~whether the conservator has deviated from the plan and, if so, the reason for that deviation; and~~

7 (9) ~~a recommendation as to the need for continued conservatorship and any~~
8 ~~recommended changes in the scope of the conservatorship; and (10) whether the successor~~
9 standby conservator, if any, is alive and able to serve.

10 (c) The court may appoint a [visitor] to review a report or conservator’s plan, interview
11 the ~~person subject to conservatorship~~individual subject to conservatorship or conservator, and
12 ~~make any other investigation~~investigate any other matter involving the conservatorship the court
13 directs. In connection with a report, the court may order a conservator to submit the
14 conservatorship ~~assets of the~~ estate to an appropriate examination ~~to be made~~ in a manner the
15 court directs.

16 (d) A notice of the filing of the conservator’s report, together with a copy of the report, A
17 ~~copy of the conservator’s report~~ shall be provided to the ~~person subject to~~
18 ~~conservatorship~~individual subject to conservatorship and any other person ~~entitled to such report~~
19 ~~as a result of the initial or subsequent court order. —whom the court has determined is entitled to~~
20 the report. The notice and report must be delivered or sent not later than 14 days after the filing
21 of the report.

22 (e) The court shall establish a system for monitoring a conservator’s ~~annual~~ report and
23 plan, and shall review such report and plan no less than annually in order to determine whether:

1 (1) the report and plan provide sufficient information to establish that the
2 conservator has complied with the conservator's duties;

3 (2) the conservatorship should continue; and

4 (3) the conservator's requested fees, if any, should be approved.

5 (f) If the court determines that there is reason to believe that the conservator has not
6 complied with the conservator's duties, the conservatorship should not continue, or the requested
7 fees are not reasonable, the court:

8 (1) shall notify the conservator, the ~~person subject to conservatorship~~individual
9 subject to conservatorship, and any other person entitled to such notification according to the
10 initial court order or subsequent court order;

11 (2) ~~may shall~~ require such additional information from the conservator as the
12 court determines;

13 (3) may appoint a [visitor] to interview the ~~person subject to~~
14 ~~conservatorship~~individual subject to conservatorship or conservator, and investigate any other
15 matter involving the conservatorship~~make any other investigation~~ the court directs; and

16 (4) may hold a hearing to consider removal of the conservator, termination of the
17 conservatorship, a change in the powers granted to the conservator or other terms of the
18 conservatorship, or adjustment of fees ~~if the court concludes that a hearing would help the court~~
19 ~~determine whether the conservator has complied with the conservator's duties, the~~
20 ~~conservatorship should continue, the scope of the conservator's powers or other terms of the~~
21 ~~conservatorship should be modified, or the requested fees are reasonable.~~

1 **SECTION ~~425~~ 4256. TITLE BY APPOINTMENT EFFECT OF**
2 **CONTRACT AGREEMENTS ENTERED INTO BY INDIVIDUAL SUBJECT TO**
3 **CONSERVATORSHIP; FILING AND RECORDING OF DOCUMENTS.**

4 (a) If an individual subject to conservatorship enters into a contract after having the right
5 to enter into that contract removed by the court, the contract is void against the individual and the
6 individual's estate property, but enforceable against the person who contracted with the
7 individual subject to conservatorship.

8 ~~The appointment of a conservator vests title in the conservator as trustee to all property of the~~
9 ~~protected person, or to the part thereof specified in the order, held at the time of appointment or~~
10 ~~thereafter acquired. An order vesting title in the conservator to only a part of the property of the~~
11 ~~protected person creates a conservatorship limited to assets specified in the order.~~

12 ~~—— (b) Letters of conservatorship are evidence of vesting title of the protected person's~~
13 ~~assets in the conservator. An order terminating a conservatorship transfers title to assets~~
14 ~~remaining subject to the conservatorship, including any described in the order, to the formerly~~
15 ~~protected person or the person's successors.~~

16 (eb) Subject to the requirements of other statutes governing the filing or recordation of
17 documents of title to land or other property, letters of conservatorship and orders terminating
18 conservatorships may be filed or recorded ~~to give notice of title as between the conservator and~~
19 ~~the protected person.~~

20 **SECTION ~~426~~ 4267. INTEREST OF **PERSON SUBJECT TO****
21 **CONSERVATORSHIP INDIVIDUAL SUBJECT TO CONSERVATORSHIP**
22 **INALIENABLE.**

23 (a) Except as otherwise provided in subsections (c) and (d), the interest of an ~~person~~

~~subject to conservatorship~~individual subject to conservatorship in property included in the conservatorship estate ~~vested in a conservator~~ is not transferrable or assignable by the ~~person subject to conservatorship~~individual subject to conservatorship. An attempted transfer or assignment by the ~~person subject to conservatorship~~individual subject to conservatorship, although ineffective to affect property rights, may give rise to a claim against the ~~person subject to conservatorship~~individual subject to conservatorship for restitution or damages ~~which, subject to presentation and allowance, may be satisfied as provided in Section 429.~~

(b) The interest of an individual subject to conservatorship in property included in the conservatorship estate is ~~Property vested in a conservator by appointment and the interest of the person subject to conservatorship~~individual subject to conservatorship in that property are not subject to levy, garnishment, or similar process for claims against the ~~person subject to conservatorship~~individual subject to conservatorship unless allowed under Section ~~430~~429.

(c) A person without knowledge of ~~the~~ conservatorship who in good faith and for value receives delivery from ~~an person subject to conservatorship~~individual subject to conservatorship of tangible personal property of a type normally transferred by delivery of possession, is protected as if the ~~person subject to conservatorship~~individual subject to conservatorship had the power to transfer the property ~~or transferee had valid title.~~

(d) A third party who deals with the ~~person subject to conservatorship~~individual subject to conservatorship with respect to property ~~vested in a conservator~~included in the conservatorship estate is entitled to any protection provided in ~~other~~ law other than this [act].

SECTION ~~427~~ 4278. SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING CONFLICT OF INTEREST. Any transaction involving the conservatorship estate which is affected by a substantial conflict between the conservator's fiduciary and

1 personal interests is voidable unless the transaction is expressly authorized by the court after
2 notice to interested persons. A transaction affected by a substantial conflict between personal
3 and fiduciary interests includes any sale, encumbrance, or other transaction involving the
4 conservatorship estate entered into by the conservator, a person with whom the conservator
5 resides, the spouse, [domestic partner,]-descendant, sibling, agent, or lawyer-attorney of a
6 conservator, or a corporation or other enterprise in which the conservator has a substantial
7 beneficial interest.

8 **SECTION ~~428~~ 4289. PROTECTION OF PERSON DEALING WITH**
9 **CONSERVATOR.**

10 (a) A person who assists or deals with a conservator in good faith and for value in any
11 transaction other than one requiring a court order under Section ~~411 or 413~~415 is protected as
12 though the conservator properly exercised the power in question. That a person knowingly deals
13 with a conservator does not alone require the person to inquire into the existence of ~~a power~~the
14 authority of the conservator or the propriety of the conservator's exercise of such authority~~its~~
15 ~~exercise~~, but restrictions ~~on power~~on the authority of the conservator that are ~~of conservators~~
16 ~~which are endorsed stated in on~~ letters of office~~letters as provided in Section 108,~~ or as provided
17 by law, are effective as to third persons. A person who pays or delivers ~~assets~~ property to a
18 conservator is not responsible for ~~their~~ proper application of the property.

19 (b) Protection provided by this section extends to any procedural irregularity or
20 jurisdictional defect that occurred in proceedings leading to the issuance of letters of office
21 and is not a substitute for protection provided to persons assisting or dealing with a
22 conservator by comparable provisions in ~~other~~ law other than this [act] relating to
23 commercial transactions or to simplifying transfers of securities by fiduciaries.

1
2 **SECTION ~~429~~ 42930. DEATH OF PERSON SUBJECT TO**
3 **CONSERVATORSHIP INDIVIDUAL SUBJECT TO CONSERVATORSHIP.**

4 [(a)] If ~~an person subject to conservatorship~~ individual subject to conservatorship dies,
5 the conservator shall deliver to the court for safekeeping any will of the ~~person subject to~~
6 ~~conservatorship~~ individual which may have come into the conservator's possession, inform the
7 personal representative or beneficiary named in the will of the delivery, and retain the
8 conservatorship estate for delivery to the personal representative of the decedent or to another
9 person entitled to it.

10 [(b) If a personal representative has not been appointed within 40 days after the death of
11 ~~an person subject to conservatorship~~ individual subject to conservatorship and an application or
12 petition for appointment is not before the court, the conservator may apply to exercise the powers
13 and duties of a personal representative in order to administer and distribute the decedent's estate.
14 On application for an order conferring on the conservator the powers of a personal
15 representative, after notice given by the conservator to any person nominated as personal
16 representative by any will of which the ~~conservator~~ applicant is aware, the court may grant the
17 application on determining that there is no objection and endorse the letters ~~of conservatorship~~ of
18 office to note that the ~~formerly person subject to conservatorship~~ individual formerly subject to
19 conservatorship is deceased and that the conservator has acquired all of the powers and duties of
20 a personal representative.

21 (c) The issuance of an order under this section has the effect of an order of appointment
22 of a personal representative [as provided in Section 3-308 and Parts 6 through 10 of Article III of
23 the Uniform Probate Code].

1 (d) On the death of an individual subject to conservatorship, the conservator shall
2 conclude the administration of the estate by distribution to the person's successors. The
3 conservator shall file a final report and petition for discharge not later than [30] days after
4 distribution.~~However, the estate in the name of the conservator, after administration, may be~~
5 ~~distributed to the decedent's successors without retransfer to the conservator as personal~~
6 ~~representative.]~~

7 **SECTION ~~430~~ 4310. PRESENTATION AND ALLOWANCE OF CLAIMS.**

8 (a) A conservator may pay, or secure by encumbering property included in the
9 conservatorship assets of the estate, ~~a claims~~ against the conservatorship estate or against the
10 ~~person subject to conservatorship~~ individual subject to conservatorship arising before or during
11 the conservatorship on ~~their~~ presentation and allowance in accordance with the priorities stated
12 in subsection (d). A claimant may present a claim by:

13 (1) sending or delivering to the conservator a written statement of the claim,
14 indicating its basis, the name and address of the claimant, and the amount claimed; or

15 (2) filing a written statement of the claim, in a form acceptable to the court, with
16 the clerk of court and sending or delivering a copy of the statement to the conservator.

17 (b) A claim is deemed presented on receipt of the written statement of claim by the
18 conservator or the filing of the claim with the court, whichever first occurs. A presented claim is
19 allowed if it is not disallowed by written statement sent or delivered by the conservator to the
20 claimant not later than 60 days after its presentation. The conservator before payment may
21 change an allowance to a disallowance in whole or in part, but not after allowance under a court
22 order or judgment or an order directing payment of the claim. The presentation of a claim tolls
23 the running of any statute of limitations that has not already expired relating to the claim until 30

1 days after its disallowance.

2 (c) A claimant whose claim has not been paid may petition the court for determination of
3 the claim at any time before it is barred by a statute of limitations and, on due proof, procure an
4 order for its allowance, payment, or security by encumbering ~~assets of the estate~~property
5 included in the conservatorship estate. If a proceeding is pending against an ~~person subject to~~
6 ~~conservatorship~~individual subject to conservatorship at the time of appointment of a conservator
7 or is initiated against the ~~person subject to conservatorship~~individual subject to conservatorship
8 thereafter, the moving party shall give to the conservator notice of any proceeding that could
9 result in creating a claim against the conservatorship estate.

10 (d) If it appears that the estate is likely to be exhausted before all existing claims are
11 paid, the conservator shall distribute the estate in money or in kind in payment of claims in the
12 following order:

- 13 (1) costs and expenses of administration;
- 14 (2) claims of the federal or state government having priority under ~~other~~ law other
15 than this [act];
- 16 (3) claims incurred by the conservator for support, care, education, health, and
17 welfare previously provided to the ~~person subject to conservatorship~~individual subject to
18 conservatorship or an individuals who ~~are~~is in fact dependent on the ~~person subject to~~
19 ~~conservatorship~~individual subject to conservatorship;
- 20 (4) a claims arising before the conservatorship; and
- 21 (5) all other claims.

22 (e) Preference may not be given in the payment of a claim over any other claim of the
23 same class, and a claim due and payable may not be preferred over a claim not due unless:

(1) doing so would leave the conservatorship estate without sufficient funds to pay the basic living and health care expenses of the ~~person subject to conservatorship~~individual subject to conservatorship; and

(2) the court authorizes such preference ~~pursuant to~~under Section 41~~53~~(a)(8).

(f) If assets of the conservatorship estate are adequate to meet all existing claims, the court, acting in the best interest of the ~~person subject to conservatorship~~individual subject to conservatorship, may order the conservator to grant a security interest in the conservatorship estate for payment of any or all claims at a future date.

SECTION ~~431~~ 4312. PERSONAL LIABILITY OF CONSERVATOR.

(a) Except as otherwise agreed by the conservator, a conservator is not personally liable on a contract properly entered into in a fiduciary capacity in the course of administration of the conservatorship estate unless the conservator fails to reveal in the contract the representative capacity ~~and identify the estate~~.

(b) A conservator is personally liable for an obligations arising from ~~ownership or~~ control of property of the conservatorship estate or for ~~other acts~~an act or omissions occurring in the course of administration of the conservatorship estate only if the conservator has breached the conservator's fiduciary duty ~~ies as set forth in this Act~~.

(c) ~~A c~~laims based on a contracts entered into by a conservator in a fiduciary capacity, an obligations arising from ~~ownership or~~ control of property included in the conservatorship estate, and a claims based on a torts committed in the course of administration of the conservatorship estate, may be asserted against the conservatorship estate ~~in any~~ proceeding against the conservator in a fiduciary capacity, whether or not the conservator is personally liable therefor.

(d) A question of liability between the conservatorship estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification, or in another appropriate proceeding or action.

~~———[(e) A conservator is not personally liable for any environmental condition or injury resulting from any environmental condition on land solely by reason of an acquisition of title under Section 426.]~~

SECTION ~~432~~ 4323. REMOVAL OF CONSERVATOR; APPOINTMENT OF SUCCESSOR

(a) A court may remove a conservator for failure to perform the conservator's duties or for other good cause and appoint a successor.

~~_.———(b) A person subject to conservatorshipindividual subject to conservatorship, conservator, or person interested in the welfare of a person subject to conservatorshipindividual subject to conservatorship may petition for removal of a conservator and appointment of a successor conservator.~~

(~~b~~e) The court shall ~~engage in fact finding and may~~ conduct a hearing to determine whether removal of a conservator and appointment of a successor is appropriate on:

(1) a petition of ~~an~~ person subject to conservatorshipindividual subject to conservatorship, conservator, or ~~another~~ person interested in welfare of ~~an~~ person subject to conservatorshipindividual subject to conservatorship if ~~a similar~~such a p petition has not been made within the preceding six months;

(2) a communication from ~~an~~ person subject to conservatorshipindividual subject to conservatorship, -conservator, or ~~other~~ person interested in the welfare of the ~~person subject to conservatorshipindividual subject to conservatorship~~ that suggests that removal of the

conservator and appointment of a successor may be appropriate; or

(3) the court's determination that ~~such~~ a hearing would be in the best interest of the ~~person subject to conservatorship~~ individual subject to conservatorship.

(c) ~~An person subject to conservatorship~~ individual subject to conservatorship seeking to remove a conservator is entitled to be represented by ~~counsel~~ an attorney of the ~~individual~~ person's choosing. [If the ~~person~~ individual is not represented by ~~an attorney~~ counsel, the ~~c~~ Court shall appoint ~~counsel~~ an attorney under the conditions set forth in Section 406.] The court shall award ~~counsel~~ reasonable attorney's fees ~~for such representation if the legal services benefited the person subject to conservatorship or were reasonably necessary to protect the person's interests.~~

(d) In selecting a successor conservator, the court shall follow the procedures set forth in Section 410.

(e) Not later than 30 days after an appointment of a successor conservator, the court shall send or deliver notice of the appointment to the individual subject to conservatorship and any other person entitled to such notice under Section 411(e).

SECTION ~~433~~ 4334. TERMINATION OR MODIFICATION OF CONSERVATORSHIP.

(a) ~~A conservatorship terminates on the death of the person subject to conservatorship~~ individual subject to conservatorship or on order of the court. Unless created for reasons other than that the person subject to conservatorship ~~individual subject to conservatorship is a minor, a~~ A conservatorship created for ~~granted over~~ a minor also terminates on order of the court or when the ~~person subject to conservatorship~~ individual minor subject to conservatorship attains majority, is ~~or is~~ emancipated, or dies.

1 (b) A conservatorship granted over an adult terminates on order of the court or when the
2 adult dies.

3 (c) On the death of an person subject to conservatorship individual subject to
4 conservatorship, the conservator shall conclude the administration of the estate by distribution to
5 the person's successors. The conservator shall file a final report and petition for discharge not
6 later than [30] days after distribution.

7 . (b) An person subject to conservatorship individual subject to conservatorship, a
8 conservator, or a person interested in the welfare of an person subject to
9 conservatorship individual subject to conservatorship may petition for:

10 (1) termination of the conservatorship on the grounds that the basis for
11 appointment of a conservator set forth in Section 401 does not exist, that termination would be in
12 the best interest of the individual, or for other good cause; or appointing a conservator no longer
13 exists or for other good cause; or

14
15 (2) modification of the conservatorship on the grounds that the extent of
16 protection or assistance previously granted is no longer not appropriate of for other good cause.

17 (ed) The court shall engage in fact finding to hold a hearing to determine whether
18 termination or modification of a conservatorship is appropriate on:

19 (1) a petition of an person subject to conservatorship individual subject to
20 conservatorship, - conservator, or another person interested in the welfare of the person individual
21 subject conservatorship if a similarsuch a petition has not been made-filed within the preceding
22 six months;

23 (2) a communication from an person subject to conservatorship individual subject

1 ~~to conservatorship,~~ conservator, or ~~another~~ person interested in the welfare of an ~~person subject~~
2 ~~to conservatorship~~ individual subject to conservatorship that ~~suggests gives rise to a reasonable~~
3 ~~suspicion~~ that termination or modification of the conservatorship may be appropriate; or

4 (3) a report from a guardian or conservator that indicates that the functional needs,
5 services, or supports of the ~~person subject to conservatorship~~ individual subject to
6 conservatorship have changed or that less restrictive means for meeting the individual's needs
7 are available such that gives rise to a reasonable suspicion that termination or modification may
8 be appropriate.

9 (e) On presentation by the petitioner of evidence establishing a prima facie case for
10 termination, the court shall order termination unless it is proven that the basis for appointment of
11 a conservator set forth in Section 401 is satisfied ~~continuation of the conservatorship is in the best~~
12 ~~interest of the person subject to conservatorship and necessary to meet the person's needs.~~

13 Termination of the conservatorship does not affect a conservator's liability for previous acts or
14 the obligation to account for ~~funds and assets of the~~ conservatorship estate ~~person subject to~~
15 ~~conservatorship~~ individual subject to conservatorship.

16 (f) The court shall modify the powers granted to the conservator if the powers are either
17 excessive or inadequate due to changes in the abilities or limitations of the ~~person subject to~~
18 ~~conservatorship~~ individual subject to conservatorship, the individual ~~person's~~ supports, or other
19 circumstances.

20 (g) Except as otherwise ordered by the court for good cause, before terminating a
21 conservatorship, the court shall follow the same procedures to safeguard the rights of the ~~person~~
22 ~~subject to conservatorship~~ individual subject to conservatorship that apply to a petition for the
23 appointment of a conservatorship.

1 (h) ~~An person subject to conservatorship~~individual subject to conservatorship seeking to
2 terminate or modify the terms of the ~~person's~~ conservatorship is entitled to be represented by an
3 ~~attorney~~counsel of the ~~individual's choosing~~person's choice for that purpose. [If the person is
4 not represented by ~~counsel~~an attorney, the ~~c~~Court shall appoint ~~counsel~~an attorney under the
5 conditions set forth in Section 406.] The court shall award ~~counsel~~ reasonable attorney's fees.
6 ~~for such good faith representation if the legal services benefited the person subject to~~
7 ~~conservatorship or were reasonably necessary to protect the person's interests.~~

8 (ih) On termination of a conservatorship and whether or not formally distributed by the
9 conservator, ~~property of the conservatorship title to assets of the~~ estate passes to the ~~formerly~~
10 ~~person subject to conservatorship~~individual formerly subject to conservatorship or the
11 ~~person's~~conservatorship or the individual's heirs, successors, or assigns~~successors~~. The order of
12 termination must provide for expenses of administration and direct the conservator to ~~execute~~
13 ~~appropriate instruments to evidence the transfer of title or confirm a distribution previously made~~
14 ~~and to~~ file a final report and ~~a~~ petition for discharge on approval of the final report.

15 (ji) The court shall enter a final order of discharge on the approval of the final report and
16 satisfaction by the conservator of any other conditions placed by the court on the conservator's
17 discharge.

18 ARTICLE 5

19 MISCELLANEOUS PROVISIONS

20 SECTION 501. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
21 applying and construing this uniform act, consideration must be given to the need to promote
22 uniformity of the law with respect to its subject matter among states that enact it.

1 **SECTION 502. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
2 **AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the
3 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but
4 does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
5 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
6 U.S.C. Section 7003(b).

7 **SECTION 503. APPLICABILITY.**

8 (a) This [act] applies to all proceedings for the appointment of a guardian or conservator
9 commenced on or after [effective date] and all guardianships and conservatorships created on or
10 after the effective date of this [act].

11 (b) This [act] applies to all proceedings for appointment of a guardian, conservator, or
12 protective arrangement instead of guardianship or conservatorship prior to [effective date] and all
13 guardianships, conservatorships, and protective arrangements instead of guardianship or
14 conservatorship in existence on [effective date] unless the court finds that application of a
15 particular provision of this [act] would substantially interfere with the effective conduct of
16 judicial proceedings or prejudice the rights of the parties, in which case the particular provision
17 of this [act] does not apply and the superseded law applies.

18
19 **SECTION 50~~43~~. SEVERABILITY-~~CLAUSE~~.** If any provision of this [act] or its
20 application to any person or circumstances~~s~~ is held invalid, the invalidity does not affect other
21 provisions or applications of th~~is~~^{is}e [act] which can be given effect without the invalid provision
22 or application, and to this end the provisions of this [act] are severable.

SECTION 5054. REPEALS; CONFORMING AMENDMENTS.

(a)

(b)

(c) . . .

~~**SECTION 505. APPLICATION TO EXISTING GUARDIANSHIPS,
CONSERVATORSHIPS**~~

~~———— (a) This Act applies to all proceedings for the appointment of a guardian or conservator commenced on or after [effective date] and all guardianship and conservatorships created on or after [effective date].~~

~~(b) This Act applies to all proceedings commenced prior to [effective date] and all guardianships and conservatorships in existence on [effective date] unless the court finds that application of a particular provision of this Act would substantially interfere with the effective conduct of judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this Act does not apply and the superseded law applies.~~

SECTION 506. EFFECTIVE DATE. This [act] takes effect . . .

ARTICLE 6

FORMS

SECTION 601. USE OF MODEL FORMS. Use of the forms contained in this ~~Section-article~~ is optional. Failure to use these forms shall not prejudice any party.

SECTION 602. MODEL PETITION FOR GUARDIANSHIP OF MINOR[, OR ORDER INSTEAD OF GUARDIANSHIP FOR MINOR]. This form may, but need not be, used to petition for guardianship of a minor, or to petition for a protective arrangement instead of guardianship for a minor.

Petition for Guardianship[or Protective Arrangement Instead of Guardianship] for Minor

State of:

County of:

Name and address of attorney representing petitioner, if applicable:

***Note to petitioner:** This form can be used to petition for a guardian [or protective arrangement instead of either a guardianship] for a minor. A court may appoint a guardian for a minor who does not have a guardian [or a protective arrangement instead of guardianship] if the court finds the appointment [or arrangement] is in the minor's best interest, and: (1) the parents, after being fully informed of the nature and consequences of guardianship [or protective arrangement], provide consent; (2) all parental rights have been terminated; or (3) the court finds by clear and convincing evidence that the parents are unwilling or unable to exercise their parental rights.*

1. Information about the person filing this petition (the "petitioner").

- a. Name:
- b. Principal residence:
- c. Current street address (if different):
- d. Relationship to minor:
- e. Interest in this petition:
- e. How, if at all, would the protective arrangement sought benefit the petitioner?
- f. Telephone number (optional):

2. Information about the minor alleged to need protection.

Provide the following information to the extent known.

- a. Name:
- b. Age:
- c. Principal residence:
- d. Current street address (if different):
- e. If petitioner anticipates the minor moving, or seeks to move the minor, proposed new address:
- f. Does the minor need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain.
- g. Telephone number (optional):

3. Information about the minor's parent(s).

- a. Name(s) of living parent(s):
- b. Principal residence(s) of living parent(s):
- c. Current street address(es) of living parent(s) (if different):
- d. Does any parent need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain.

- 1 **4. People who are required to be notified of this petition.** State the name and address of
2 any of the people listed in Appendix A.
3
- 4 **5. Action requested.** State whether the petitioner is seeking appointment of a guardian[or
5 a protective arrangement instead of an appointment].
6
- 7 **[6a. Order requested.** If seeking a protective arrangement instead of an appointment, state
8 the transaction or other action you would want the court to order. (Skip this section if
9 seeking an appointment).]
10
- 11 **6[b]. Appointment requested.** If seeking appointment of a guardian, state the the name and
12 address of any proposed guardian and the reason why the proposed guardian should be
13 selected;
14
- 15 **7. State why the petitioner seeks the appointment or protective arrangement.** Include a
16 description of the nature and extent of the minor's alleged need.
17
- 18 **8. Property.** If the minor has property other than personal effects, state the minor's
19 property with an estimate of its value.
20
- 21 **9. Other proceedings.** If there are any other proceedings concerning the care or custody of
22 the minor currently pending in any court in this state or another jurisdiction, please
23 describe them.
24
- 25 **10. Attorney(s).** If minor or the minor's parent is represented by an attorney in this matter,
26 state the name, address, and telephone number of the attorney(s) involved.
27

28 **VERIFICATION AND ACKNOWLEDGMENT**

29
30 I declare under penalty of perjury under the laws of this state that the information above is true
31 and correct to the best of my knowledge.
32

33 _____
34 Signature of Petitioner
35

Date

36 _____
37 Signature of Petitioner's Attorney if
38 Petitioner is Represented by Counsel
39

Date

40 **APPENDIX A:**

41 **People whose name and address must be listed in Section 4 of this petition.**

- 42 • The minor, if the minor has attained [12] years of age and is not the petitioner;
- 43 • Each parent of the minor or, if there are none, the adult nearest in kinship that can be found;
- 44 • An adult with whom the minor resides;
- 45 • Any person alleged to have had the primary care and custody of the minor for 60 or more
46 days during the two years preceding the filing of the petition or any person alleged to have
had the primary care and custody of the minor for at least 730 days during the five years

- preceding the filing of the petition; and
- Any person nominated as guardian by the minor if the minor has attained [12] years of age;
 - Any appointee of a parent if the appointment has not been prevented or terminated;
 - The grandparents of the minor
 - Adult siblings of the minor;
 - Any guardian or conservator currently acting for the minor in this state or another jurisdiction.

SECTION 603. MODEL PETITION FOR GUARDIANSHIP OF ADULT,

CONSERVATORSHIP OF ADULT OR MINOR, OR ORDER INSTEAD OF

GUARDIANSHIP OR CONSERVATORSHIP FOR ADULT. This form may, but need not be, used to petition for guardianship of an adult or conservatorship, or to petition for a protective arrangement ~~n-order-in~~stead-lieu of guardianship or conservatorship for an adult.

Petition for Guardianship or Protective Arrangement Instead of Guardianship for Adult,

or for a Conservatorship ~~an~~-or Protective Arrangement Instead of Conservatorship for

Minor or Adult

State of:

County of:

Name and address of attorney representing petitioner, if applicable:

Note to petitioner: This form can be used to petition for a guardian, conservator, or both, or a ~~protective order in lieu of~~protective arrangement instead of either a guardianship or conservatorship.

A court may appoint a guardian or ~~issue order a protective order in lieu of~~protective arrangement instead of guardianship if ~~an individual a person~~ lacks the ability to meet essential requirements for physical health, safety, or self-care because (1) the ~~person~~ individual is unable to receive and evaluate information or make or communicate decisions even with appropriate decision-making support and technological assistance, or (2) because the ~~person's individual's~~ own will has been overcome by deception and control exerted by another person; and the ~~individual respondent's~~ identified needs cannot be met by less restrictive means.

A court may appoint a conservator or ~~issue order a protective order in lieu of~~protective arrangement instead of conservatorship if ~~a person an individual~~ is unable to manage property and financial affairs because (1) of a limitation in the ability to receive and evaluate information or make or communicate decisions even with the use of appropriate technological assistance and appropriate decision-making support, (2) the ~~person's individual's~~ own will has been overcome by deception and control exerted by another person, or (3) the ~~person individual~~ is missing, detained, or unable to return to the United States; and the individual has property that is likely to be wasted or dissipated unless management is provided, or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money for such purpose.

A court may also order a protective arrangement restricting access to an individual or an individual's property by a person who the court finds: (1) through fraud, coercion, duress, or the use of deception and control, caused the individual to suffer physical, psychological, or financial harm; and (2) would otherwise pose a serious risk of substantial physical, psychological, or financial harm to the individual or the individual's property.

1. Information about the person filing this petition (“the “petitioner”).

- a. Name:
- b. Principal residence:
- c. Current street address (if different):
- d. Relationship to respondent:
- e. Interest in this petition:
- e. How, if at all, would the protective arrangement sought benefit the petitioner?
- f. Telephone number (optional):

2. Information about the individual person alleged to need protection (“the “respondent””). Provide the following information to the extent known.

- a. Name:
- b. Age:

- 1 c. Principal residence:
2 d. Current street address (if different):
3 e. If petitioner anticipates the respondent moving, or seeks to move the respondent,
4 proposed new address:
5 f. Does the respondent need an interpreter, ~~or~~ translator, or other form of support to
6 communicate with the court or understand court proceedings? If so, please
7 explain.
8 g. Telephone number (optional):
9

10 **3. People who are required to be notified of this petition.** ~~Provide~~ State the name and
11 address of any of the people listed in Appendix A.
12

13 **4. Existing agents.** ~~Provide~~ State the name and address of any person who has been
14 appointed as an agent ~~pursuant under~~ to a [power of attorney for finances] ~~or or~~ [power of
15 attorney for health care] that the individual person has not revoked, or who has been
16 appointed as the person individual's representative for payment of benefits benefits
17 payments. -
18

19 **5. ~~Powers~~ Action requested.** State whether the petitioner is seeking appointment of a
20 guardian or conservator or a protective arrangement instead of an appointment.
21

22 **6a. Order requested.** If seeking a protective arrangement instead of an appointment, state
23 the transaction or other action you would want the court to order. [Skip this section if
24 seeking an appointment].
25

26 **6b. Appointment requested.** If seeking appointment of a guardian or conservator, sState the
27 powers that petitioner requests the court grant to a guardian or conservator. [Skip this
28 section if not seeking an appointment]., or the protective order sought.
29

30 **76. State why the appointment or protective arrangement sought is necessary.** Include a
31 description of the nature and extent of the respondent's alleged need.
32

33 ~~8.7.~~ **8. State all alternative less restrictive approaches to meeting means of meeting**
34 **the respondent's alleged need that have been considered or implemented.** Less
35 restrictive approaches could include decision-making support, technological assistance,
36 or the appointment of an agent by the respondent including appointment under a [power
37 of attorney for health-care] or power of attorney for finances. If no alternatives means
38 have have been tried, state the reason they have not been tried why not.
39

40 **9. Explain why alternative less restrictive means approaches are not sufficient will not**
41 **to meet the respondent's alleged need.**
42

43 ~~8. State all alternative means of meeting the respondent's alleged need that have been~~
44 ~~considered or implemented.~~ ~~If no alternative means have been tried, state the reason~~
45 ~~they have not been tried.~~
46

1 **109.** Provide a general statement of the respondent's property ~~and with~~ an estimate of its
2 value. Include any real property such as a house or land, insurance or pension, and the
3 source and amount of any other anticipated income or receipts. As part of this statement,
4 indicate, if known, how the property is held (for example, is it jointly owned?).
5

6 ~~110. State the address at which the petitioner proposes the respondent will live if this~~
7 ~~petition is granted.~~
8

9 **1121.** For petitions seeking appointment of a conservator: (skip this section if not asking for
10 appointment of a conservator)

11 a. If seeking appointment of a conservator with all powers permissible under this
12 ~~S~~state's law, explain why appointment of a conservator with fewer powers (ie., a
13 "limited conservatorship") or other protective arrangement instead of
14 conservatorship will not meet the individual's alleged needs ~~order is~~
15 inappropriate.
16

17 b. If seeking a limited conservatorship, state the property the petitioner requests be
18 placed under the conservator's control and any proposed limitation on the
19 conservator's powers and duties.
20

21 c. State the name and address of any proposed conservator and the reason why the
22 proposed conservator should be selected.
23

24 d. State the name and address of any person nominated as conservator by the
25 respondent if the respondent has attained [12] years of age.
26

27 e. If ~~alleging the petition alleges~~ a limitation in the respondent's ability to receive
28 and evaluate information, provide a brief description of the nature and extent of
29 the respondent's alleged limitation.
30

31 f. If ~~the petition alleges~~ alleging that the respondent is missing, detained, or unable to
32 return to the United States, state the relevant circumstances, including the time
33 and nature of the disappearance or detention and a description of any search or
34 inquiry concerning the respondent's whereabouts.
35

36 **12.** For petitions seeking appointment of a guardian: (skip this section if not asking for
37 appointment of a guardian)

38 a. If seeking appointment of a guardian with all powers permissible under this
39 ~~s~~State's law, explain why appointment of a guardian with fewer powers (ie., a
40 "limited guardianship") or other protective order is inappropriate.
41

42 b. If seeking a limited guardianship, state the powers the petitioner requests be
43 granted to the guardian.
44

45 c. State the name and address of any proposed guardian and the reason why the
46 proposed guardian should be selected.

- d. State the name and address of any person nominated as guardian by the respondent, or by the respondent's parent or spouse [or domestic partner] in a will or other signed writing.

13. **LawyerAttorney.** If petitioner is represented by ~~a lawyer~~an attorney in this matter, state the name, address, and telephone number of the ~~lawyer~~attorney.

VERIFICATION AND ACKNOWLEDGMENT

I declare under penalty of perjury under the laws of this state that the information above is true and correct to the best of my knowledge.

Signature of Petitioner

Date

Signature of Petitioner's Attorney if
Petitioner is Represented by Counsel

Date

APPENDIX A:

People whose name and address must be listed in Section 3 of this petition.

- The respondent's spouse [or domestic partner], or if the respondent is not married [and does not have a domestic partner], any adult with whom the respondent has shared household responsibilities in the past six months;
- The respondent's adult children, or, if the respondent has none, the respondent's parents and adult brothers and sisters, or if the respondent has none, one or more adults nearest in kinship to the respondent who can be found;
- The respondent's adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship within two years of this petition;
- Any person responsible for the care or custody of the respondent;
- Any lawyer-attorney currently representing the respondent;
- Any representative payee for the respondent, ~~representative payee appointed by the Social Security Administration;~~
- ~~Any~~ guardian or conservator acting for a respondent in this state or another jurisdiction;
- ~~Any elsewhere,~~ trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;
- ~~Any~~ Veterans Administration fiduciary for the respondent;
- ~~Any person that the respondent has designated as~~ ~~or an~~ agent ~~designated~~ under a power of attorney for finances;
- ~~Any person that the respondent has designated as agent under a~~ [power of attorney for health care];
- ~~whether for health care or property, in which the respondent is identified as the principal;~~
- Any person known to have routinely provided the individual with decision-making support within six months of this petition.
- Any person nominated as guardian or conservator by the respondent; and

- A-ny person nominated as guardian by the respondent's parent or spouse [or domestic partner]in a will or other signed writing.

SECTION 604. MODEL ORDER DENYING GUARDIANSHIP OF ADULT, CONSERVATORSHIP OF ADULT. This form may, but need not be, used by the court to deny a petition for a guardian or conservator for an adult.

Order Denying Guardianship ~~and~~/or Conservatorship of Adult

State of:

County of:

Court:

File Number:

Date:

In the Matter of:

Judge:

This is a matter is before the court on a petition for an appointment of a [GUARDIAN/CONSERVATOR/GUARDIAN AND CONSERVATOR] for [RESPONDENT'S NAME]. The court has read the petition and held a hearing to determine whether the court should enter the order requested in the petition.

VENUE, JURISDICTION, and NOTICE.

~~This court findss that it:~~

~~it has jurisdiction over Respondent and over this issue, that this court is a proper venue, and that notice was properly served.~~

~~it does not have jurisdiction over Respondent.~~

~~this court is not a proper venue.~~

~~notice was not properly served.~~

NOTICE.

~~There is clear and convincing evidence that the respondent was given proper notice of the hearing on the petition.~~

~~There is not clear and convincing evidence that the respondent was given proper notice of the hearing on the petition.~~

HEARING.

~~No hearing was held.~~

 A hearing was held

on: _____

At the hearing, respondent was:

1 ___ present, in person.
2 ___ present, through the use of audio-visual technology.
3 ___ not present and there was clear and convincing evidence that respondent refused to attend
4 the hearing.
5 ___ not present and there was clear and convincing evidence that (1) it was ~~(1) either~~
6 impossible or impracticable for respondent to attend, and (2) ~~that~~ respondent would have
7 no ability to participate in the hearing.
8

9 At the hearing, respondent was:

10 ___ represented by the following

11 attorney~~counsel~~: _____.

12 ___ not represented by ~~counsel~~ an attorney.
13

14 **VENUE, JURISDICTION, and NOTICE.**

15 ~~This court finds that it has jurisdiction over Respondent and over this issue, that this court is a~~
16 ~~proper venue, and that notice was properly served.~~
17

18 **COURT'S FINDINGS AS TO RESPONDENT'S ABILITIES AND NEEDS.**

19 This court ~~finds that~~ reviewed the following evidence with regard to the Respondent's abilities
20 and needs:

21 [LIST]
22

23 Based on this evidence, this Court finds that there is not clear and convincing evidence to
24 support an appointment. ~~Specifically, this Court finds that:~~

25 ~~[PROVIDE A DETAILED EXPLANATION OF THE PERSON'S FUNCTIONAL ABILITIES~~
26 ~~AND LIMITATIONS AND THE EVIDENCE AS TO THOSE ABILITIES AND~~
27 ~~LIMITATIONS]~~
28

29 **APPOINTMENT.**

30 ___ This court appoints _____ to serve as guardian and directs
31 issuance of letters of guardianship.

32 ___ This court appoints _____ to serve as conservator and
33 directs issuance of letters of conservatorship.
34

35 **FOR ORDERS APPOINTING A GUARDIAN: LIMITATIONS AND POWERS.**
36

37 **This guardianship is:**

38 ___ **Limited**, and the appointee is granted the following powers:

39 ___ make decisions about the respondent's custody and residence

40 ___ make decisions about the respondent's training and education

41 ___ consent to medical or other professional care, counsel, treatment, or
42 service

43 ___ other: _____

44 ___ **Full**, meaning that the appointee is granted all powers permissible under state law
45 except those required specific court authorization unless that authorization is

1 granted below. [Under this state's law, a plenary guardian does not have the
2 authority to _____.]

3
4 **Special authorizations. In addition to the powers granted above, the appointee may:**

5
6 [List any powers to be granted that require specific court authorization such as the power
7 to move the protected person outside the state or consent to adoption]:
8

9 **Right to marry.**

10 _____ Respondent retains the right to marry.

11 _____ Respondent does not have the right to marry. The court's decision to remove the
12 respondent's right to marry is supported by the following findings:
13

14 **Right to vote.**

15 _____ Respondent retains the right to vote.

16 _____ Respondent does not have the right to vote. The court's decision to remove the
17 respondent's right to vote is supported by the following findings":
18

19 **FOR ORDERS APPOINTING A CONSERVATOR.**

20 **This conservatorship is:**

21 _____ **Limited**, and the appointee is granted the following powers:

22 _____ institute and maintain proceedings to compel another person to support
23 _____ respondent

24 _____ institute and maintain proceedings to protect respondent's property

25 _____ apply for, receive, and manage the respondent's money and property

26 _____ apply for, receive, and manage the respondent's money and property with
27 the exception of: _____ [specify particular property or
28 accounts or a monthly amount of income]

29 _____ other: _____
30

31 _____ **Full**, meaning that the appointee is granted all powers permissible under state law
32 except those required specific court authorization unless that authorization is granted
33 below. [Under this state's law, a plenary guardian does not have the authority to
34 _____].
35

36 **Special authorizations. In addition to the powers granted above, the appointee may:**

37
38 [List any powers to be granted that require specific court authorization such as (1) the
39 ability to make gifts other than those of de minimus value; (2) sell real property,
40 encumber an interest in real property, or surrender the primary residence of a person
41 subject to conservatorship; (3) convey, release, or disclaim contingent and expectant
42 interests in property, including marital property rights and any right of survivorship
43 incident to joint tenancy or tenancy by the entireties; (4) (4) exercise or release a power
44 of appointment; (5) create a revocable or irrevocable trust of property of the estate,
45 whether or not the trust extends beyond the duration of the conservatorship, or revoke or
46 amend a trust revocable by the person subject to conservatorship; (6) exercise rights to

elect options and change beneficiaries under insurance policies and annuities or surrender the policies and annuities for their cash value; 7) exercise any right to an elective share in the estate of the deceased spouse [or domestic partner] of the person subject to conservatorship and to renounce or disclaim any interest by testate or intestate succession or by transfer inter vivos; (8) give preferential treatment to creditors that provide property or services used to meet the basic living and care need of the person subject to conservatorship where such preferential treatment would be otherwise impermissible under Section 431(d); and [(9) make, modify, amend, or revoke the will of the person subject to conservatorship as the power to move the protected person outside the state or consent to adoption]

BOND.

_____ Before the issuance of letters, the appointee must file a bond in the amount of: \$_____

_____ Before the issuance of letters, the appointee must: _____

_____ This Court finds that no bond or other or special arrangement is necessary to protect the interests of the protected person.

INVENTORY AND PLAN.

If the appointee is appointed as a Conservator, the appointee is instructed to:

- Within 60 days after appointment, file with this court a plan for protecting, managing, expending, and distributing the assets of the protected person's estate.
- Within 60 days after appointment, file with this court a detailed inventory of the estate subject to the conservatorship, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

If the appointee is appointed as Guardian, the appointed is instructed to:

- Within 90 days after appointment, file with this court a plan shall submit a plan to the court identifying: (1) the living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the person subject to guardianship; (2) social or educational activities the guardian expects to facilitate on behalf of the person subject to guardianship; (3) persons, if any, with whom the person subject to guardianship has a relationship and any plans the guardian has for facilitating visits with those persons; (4) the anticipated nature and frequency of the guardian's visits and communication with the person subject to guardianship; (5) goals for the person subject to guardianship, including any goals related to the restoration of the person's rights, and how the guardian anticipates achieving those goals; and (6) whether the person subject to guardianship already has a plan in place and, if so, whether the guardian's plan is consistent with the person's plan.

NOTIFICATION OF THE COURT.

The appointee shall immediately notify the court in writing of:

- Any change in his/own address.
- Any change in the protected person's custodial dwelling or address.

- 1 • ~~Any change in the protected person's condition such that the protected person is capable~~
2 ~~of exercising rights previously removed.~~

3
4 **~~NOTIFICATION OF THIRD PARTIES.~~**

5 ~~_____ The appointee shall notify the following people of any change in the protected person's~~
6 ~~primary residence:~~

7
8 ~~_____ The appointee shall provide copies of his/her annual report to the following people:~~

9
10 ~~_____ The appointee shall provide copies of his/her inventory of the protected persons assets to~~
11 ~~the following people:~~

12
13 ~~_____ The appointee shall notify the following people of the death of the protected person or a~~
14 ~~significant change in the protected person's condition.~~

15
16 **~~REVIEW.~~**

17 ~~The appointee shall file an annual report with this court.~~

18
19 ~~_____ In addition the annual review, this matter is set for review within _____ days to determine:~~

20 ~~_____ Compliance with the inventory and plan~~

21 ~~_____ Possible changes in the protected person's abilities~~

22 ~~_____ Other:~~

23
24 ~~_____ No review beyond the annual review is required at this time.~~

25
26
27 **~~COSTS.~~**

28 Costs are:

29 ~~_____ Waived~~

30 ~~_____ Taxed to petitioner~~

31 ~~_____ Taxed to respondent~~

32
33 **~~CAUTION TO APPOINTEE.~~**

34
35 ~~The appointee is bound to exercise all granted powers in accordance with his or her fiduciary~~
36 ~~duty to the person subject to guardianship or conservatorship. Among other things, the appointee~~
37 ~~is required exercise authority only as necessitated by the person's limitations and to encourage~~
38 ~~the person to develop maximum self-reliance and independence including by participating in~~
39 ~~decisions to the extent feasible. Failure to act according to the appointee's fiduciary duty may~~
40 ~~result in personal liability.~~

41
42 **~~SIGNATURE.~~**

43 Signed:

44 Date:

1 **SECTION 605. MODEL ORDER APPOINTING GUARDIANSHIP OF ADULT,**
2 **CONSERVATORSHIP OF ADULT.** This form may, but need not be, used by the court to
3 appoint a guardian for an adult or ~~a~~ conservator.

4 **Order for Guardianship ~~and~~/or Conservatorship of Adult**

5 State of:
6 County of:
7 Court:
8 File Number:
9 Date:
10 In the Matter of:
11 Judge:
12

13 This is a matter ~~is~~ before the court on a petition for an adjudication that a
14 [GUARDIAN/CONSERVATOR/GUARDIAN AND CONSERVATOR] be appointed for
15 [RESPONDENT]. The court has read the petition and held a hearing to determine whether the
16 court should enter the order requested in the petition.
17

18 **NOTICE.**

19 ___ There is clear and convincing evidence that the respondent was given proper notice of the
20 hearing on the petition.
21

22 **HEARING.**

23 A hearing was held on: _____
24

25 At the hearing, respondent was:

- 26 ___ present, in person.
27 ___ present, through the use of audio-visual technology.
28 ___ not present and there was clear and convincing evidence that respondent refused to attend
29 the hearing.
30 ___ not present and there was clear and convincing evidence that (1) it was ~~(1) either~~
31 impossible or impracticable for respondent to attend, and (2) that respondent would have
32 no ability to participate in the hearing.
33

34 At the hearing, respondent was:

- 35 ___ represented by the following
36 ~~counsel~~attorney: _____;
37 ___ not represented by ~~an attorney.~~counsel
38

39 The following other people participated in this case:

40 the following /guardian ad litem: _____

41 the following professional evaluator: _____

42 other: _____

1
2 **VENUE, JURISDICTION, and NOTICE.**

3 This court finds that it has jurisdiction over Respondent and over this issue, -that this court is a
4 proper venue, and that notice was properly served.
5

6 **COURT'S FINDINGS AS TO RESPONDENT'S ABILITIES AND NEEDS.**

7 This court reviewed the following evidence with regard to the Respondent's abilities and needs:
8 [LIST]
9

10 Based on this evidence, this Court finds that there is clear and convincing evidence to support an
11 appointment. Specifically, this Court finds that:

12 [PROVIDE A DETAILED EXPLANATION OF THE PERSON'S FUNCTIONAL
13 ABILITIES AND LIMITATIONS AND THE EVIDENCE AS TO THOSE ABILITIES
14 AND LIMITATIONS]
15

16 **SPECIFIC FINDINGS SUPPORTING FULL APPOINTMENT, IF APPLICABLE.**

17 [IF THE APPOINTMENT IS OF A FULL GUARDIAN OR FULL CONSERVATOR,
18 CLEARLY STATE THE BASIS FOR THAT APPOINTMENT AND EXPLAIN WHY
19 A LIMITED APPOINTMENT WOULD NOT MEET THE FUNCTIONAL NEEDS OF
20 THE RESPONDENT].
21
22

23 **APPOINTMENT.**

24 ____ This court appoints _____ to serve as guardian and directs
25 issuance of letters of guardianship. This appointment shall continue unless and until the court
26 enters an order terminating the guardianship or revoking the appointment.
27

28 ____ This court appoints _____ to serve as conservator and
29 directs issuance of letters of conservatorship. This appointment shall continue unless and until
30 the court determines that a basis for the appointment does not exist. This appointment shall
31 continue unless and until the court enters an order terminating the conservatorship or revoking
32 the appointment.
33

34 **FOR ORDERS APPOINTING A GUARDIAN: LIMITATIONS AND POWERS.**

35
36 **This guardianship is:**

37 ____ **Limited**, and the appointee is granted the following powers:
38 ____ make decisions about the respondent's custody and residence
39 ____ make decisions about the respondent's training and education
40 ____ consent to medical or other professional care, counsel, treatment, or
41 service
42 ____ other: _____
43

44
45 ____ **Full**, meaning that the appointee is granted all powers permissible under state law
46 except those that required specific court authorization unless that authorization is

1 granted below. [Under this state's law, a ~~plenary~~full guardian does not have the
2 authority to _____.]
3

4 **Special authorizations. In addition to the powers granted above, the appointee may:**
5

6 [List any powers to be granted that require specific court authorization such as the power
7 to move the ~~adult subject to guardianship or individual subject to conservatorship~~
8 ~~protected person~~ outside the state or consent to adoption]:
9

10 **Right to marry.**

11 ____ Respondent retains the right to marry.

12 ____ Respondent does not ~~retain~~have the right to marry. The court's decision to remove the
13 respondent's right to marry is supported by the following findings:
14

15 **Right to vote.**

16 ____ Respondent retains the right to vote.

17 ____ Respondent does not ~~retain~~have the right to vote. The court's decision to remove the
18 respondent's right to vote is supported by the following findings²²:
19

20 **FOR ORDERS APPOINTING A CONSERVATOR.**

21 **This conservatorship is:**

22 ____ **Limited**, and the appointee is granted the following powers:

23 ____ institute and maintain proceedings to compel another person to support
24 respondent

25 ____ institute and maintain proceedings to protect respondent's property

26 ____ apply for, receive, and manage the respondent's money and property

27 ____ apply for, receive, and manage the respondent's money and property with
28 the exception of: _____ [specify particular property or
29 accounts or a monthly amount of income]

30 ____ other: _____
31

32 ____ **Full**, meaning that the appointee is granted all powers permissible under state law
33 except those ~~that~~ required specific court authorization unless that authorization is granted
34 below. [Under this state's law, a ~~plenary~~full guardian does not have the authority to
35 _____].
36

37 **Special authorizations. In addition to the powers granted above, the appointee may:**
38

39 [List any powers to be granted that require specific court authorization such as (1) the
40 ability to make gifts other than those of de minimus value; (2) sell real property,
41 encumber an interest in real property, or surrender the primary residence of a ~~person~~
42 ~~subject to conservatorship~~individual subject to conservatorship; (3) convey, release, or
43 disclaim contingent and expectant interests in property, including marital property rights
44 and any right of survivorship incident to joint tenancy or tenancy by the ~~entireties~~entirety;
45 ~~(4)~~ (4) exercise or release a power of appointment; (5) create a revocable or irrevocable
46 trust of property of the estate, whether or not the trust extends beyond the duration of the

conservatorship, or revoke or amend a trust revocable by the ~~person subject to conservatorship~~individual subject to conservatorship; (6) exercise rights ~~a right to~~ to elect options and change ~~a~~ beneficiaryies under ~~an~~ insurance policy and annuity or surrender the policy and annuity ~~foies and annuities or surrender the policies and annuities for their~~ cash value; (7) exercise any right to an elective share in the estate of the deceased spouse [or domestic partner] of the ~~person subject to conservatorship~~individual subject to conservatorship and ~~to~~ renounce or disclaim any interest by testate or intestate succession or by transfer inter vivos; (8) give preferential treatment to creditors that provide property or services used to meet the basic living and care need of the ~~person subject to conservatorship~~individual subject to conservatorship when ~~re~~ such preferential treatment would be otherwise impermissible under Section 431(d); and [(9) make, modify, amend, or revoke the will of the ~~person subject to conservatorship~~individual subject to conservatorship.~~as the power to move the protected person outside the state or consent to adoption~~]

BOND.

_____ Before the issuance of letters, the appointee must file a bond in the amount of: \$_____

_____ Before the issuance of letters, the appointee must: _____

_____ This Court finds that no bond or other or special arrangement is necessary to protect the interests of the adult subject to guardianship or individual subject to conservatorship~~protected person~~.

INVENTORY AND PLAN.

If the appointee is appointed as a Conservator, the appointee is instructed to:

- ~~Within Not later than~~ 60 days after appointment, file with this court a plan for protecting, managing, expending, and distributing the assets of the ~~protected person's estate~~ of the person subject to conservatorship.
- ~~Within Not later than~~ 60 days after appointment, file with this court a detailed inventory of the estate subject to the conservatorship, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

If the appointee is appointed as Guardian, the appointed is instructed to:

- Within 90 days after appointment, file with this court a plan ~~shall submit a plan to the court~~-identifying: (1) the living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the ~~person subject to guardianship~~adult subject to guardianship; (2) social or educational activities the guardian expects to facilitate on behalf of the ~~person subject to guardianship~~adult subject to guardianship; (3) persons, if any, with whom the ~~person subject to guardianship~~adult subject to guardianship has a relationship and any plans the guardian has for facilitating visits with those persons; (4) the anticipated nature and frequency of the guardian's visits and communication with the ~~person subject to guardianship~~adult subject to guardianship; (5) goals for the ~~person subject to guardianship~~adult subject to guardianship, including any goals related to the restoration of the individual person's rights, and how the guardian anticipates achieving those goals; and (6) whether the ~~person subject to guardianship~~adult subject to

1 guardianship already has a plan in place and, if so, whether the guardian's plan is
2 consistent with the person's-adult's plan.

3 4 **NOTIFICATION OF THE COURT.**

5 The appointee shall immediately notify the court in writing of:

- 6 • Any change in his/ownthe appointee's address.
- 7 • Any change in the protected-person's custodial dwelling or address of the adult subject to
8 guardianship or individual subject to conservatorship.
- 9 • Any change in the protected-person's condition of the adult subject to guardianship that
10 shows that the adult such that the protected person is capable of exercising rights
11 previously removed.

12 13 **NOTIFICATION OF THIRD PARTIES.**

14 ____ The appointee shall notify the following people-individuals of any change in the
15 protected-person's primary residence of the adult subject to guardianship or individual
16 subject to conservatorship:

17
18 ____ The appointee shall provide copies of his/herthe annual report to the following people:

19
20 ____ The appointee shall provide copies of his/herthe inventory of the protected-persons
21 propertyassets of the adult subject to guardianship or individual subject to
22 conservatorship to the following people:

23
24 ____ The appointee shall notify the following individuals people of the death of the adult
25 subject to guardianship or individual subject to conservatorship protected person or a
26 significant change in the protected-person'sindividual's condition.

27 28 **REVIEW.**

29 The appointee shall file an annual report with this court.

30
31 ____ In addition the annual review, this matter is set for review within ____ days to determine:

32 ____ Compliance with the inventory and plan

33 ____ Possible changes in the abilities of the adult subject to guardianship or individual
34 subject to conservatorship protected person's abilities

35 ____ Other:

36
37 ____ No review beyond the annual review is required at this time.

38 39 **COSTS.**

40 Costs are:

41 ____ Waived

42 ____ Taxed to petitioner

43 ____ Taxed to respondent

1 **CAUTION TO APPOINTEE.**

2
3 The appointee is bound to exercise all granted powers in accordance with his or her fiduciary
4 duty to the ~~person subject to guardianship~~ adult subject to guardianship or conservatorship.
5 Among other things, the appointee is required exercise authority only as necessitated by the
6 ~~person's individual's~~ limitations and to encourage the ~~person individual~~ to develop maximum
7 self-reliance and independence including by participating in decisions to the extent feasible.
8 Failure to act according to the appointee's fiduciary duty may result in personal liability.
9

10 **SIGNATURE.**

11 Signed:

12 Date:
13

14 ~~SECTION 606. MODEL NOTIFICATION OF RIGHTS FOR ADULT SUBJECT~~

15 **TO GUARDIANSHIP, CONSERVATORSHIP.** This form may, but need not be, used by to
16 notify an ~~an person subject to guardianship~~ adult subject to guardianship or conservatorship of the
17 ~~person's adult's~~ rights ~~pursuant to under~~ Sections 311 and ~~Section~~ 412.

18 **Notification of Rights**

19
20 You are ~~getting~~ receiving this notice because a guardian, conservator, or both ~~and/or conservator~~
21 has been appointed for you. ~~This notice~~ It tells you about some ~~of the~~ important rights you have.
22 It does not tell you about all ~~your rights~~ of the rights you have. If you have questions about your
23 rights, you can ask an attorney or another person, in ~~have the right to ask an attorney to explain~~
24 ~~your rights to you. You also have the right to ask other people, including your guardian or~~
25 conservator, to help you understand your rights.
26

27 General rights:

28 You have the right to exercise any rights ~~that~~ the court has not ~~given~~ granted to your guardian
29 ~~and/or~~ conservator.
30

31 You also have the right to ask the court to ~~request the court:~~

- 32 • end your guardianship, conservatorship, or both ~~and/or conservatorship;~~
- 33 • increase or decrease the powers granted to your guardian, and/or conservator, or both;
- 34 • make other changes, or make other changes that affect what your guardian or
- 35 conservator can do or how they do it ~~to the terms of this person's appointment;~~ and
- 36 • replace the person who was appointed with someone else.

37 You also have a right to hire an attorney to represent ~~help you do any of these things. you in any~~
38 ~~of the matters listed above.~~
39

40 Additional rights for persons for whom a guardian has been appointed:

41 As an ~~an person subject to guardianship~~ adult subject to guardianship, you have a right to:

42 (1) be involved in decisions affecting you, including decisions about your care, where you live,

- 1 your activities, and your social interactions, to the extent reasonably possible;
- 2 (2) be involved in decisions about your health care to the extent reasonably feasible, and to have
- 3 other people help you understand the risks and benefits of health care options where practicable;
- 4 (3) be notified of change in where you live~~your primary residence~~ or a permanent move to a
- 5 nursing home or other restrictive or secure facility at least 14 days in advance unless the guardian
- 6 has proposed this change in their plan or the court has expressly authorized it;
- 7 (4) ask the court to prevent your guardian~~not allow your guardian to~~ change ~~from e-changing~~ where you
- 8 live or ~~to sell~~selling or surrendering ~~or surrender~~ your primary residence by [insert process for
- 9 asking the court to such a move];
- 10 (5) vote and get married unless the court unless the court order appointing your guardian states
- 11 that you cannot do so;
- 12 (6) receive~~receive~~ a copy of your~~the~~ guardian's report and your~~the~~ guardian's plan; and
- 13 (7) communicate, visit, or interact with other people~~persons~~ (this includes the right to have visitors,
- 14 to make and get ~~and the right to make or receive~~ telephone calls, personal mail, or electronic
- 15 communications) unless:
- 16 • your guardian has been specifically authorized by the court to restrict such
 - 17 communications, visits, or interactions;
 - 18 • ~~a~~ protective order is in effect that limits contact between you and other persons~~people~~; or
 - 19 •
 - 20 • your guardian is restricting you from interacting with someone with whom you do not
 - 21 have a social or family relationship, the restriction is for 60 days or less, and your
 - 22 guardian has good cause to believe the restriction is needed~~necessary~~ to protect you from
 - 23 because interactions with a specified person poses a risk of significant physical,
 - 24 psychological, or financial harm ~~to you~~.
 - 25 •

26

27 Additional rights for persons for whom a conservator has been appointed:

28 As an individual~~person subject to conservatorship~~ adult subject to conservatorship, you have a

29 right to:

- 30 (1) participate in decisions about how your property is managed ~~decision-making about the~~
- 31 ~~management of your property~~ to the extent possible; and
- 32 (2) ~~receive~~ recieve a copy of your ~~the~~ conservator's inventory, report, and plan ~~of~~
- 33 conservatorship.