

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 24-0435.09 Chelsea Princell x4335

SENATE BILL 24-136

SENATE SPONSORSHIP

Gardner and Ginal, Bridges, Cutter, Gonzales, Kolker, Michaelson Jenet, Priola, Roberts

HOUSE SPONSORSHIP

Young and Weinberg,

Senate Committees

Judiciary
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE "UNIFORM GUARDIANSHIP, CONSERVATORSHIP,**
102 **AND OTHER PROTECTIVE ARRANGEMENTS ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Colorado Commission on Uniform State Laws. The bill repeals the "Uniform Guardianship and Protective Proceedings Act" and enacts the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act", drafted by the uniform law commission.

The bill provides guidance for guardians and conservators and clarifies how appointees must make decisions on behalf of a person under

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
Amended 3rd Reading
May 2, 2024

SENATE
Amended 2nd Reading
May 1, 2024

guardianship or conservatorship.

The bill encourages the use of protective arrangements and less restrictive alternatives instead of conservatorship or guardianship if a person's needs can be met with support services and technology.

The bill expands the procedural rights for respondents to ensure that guardianships and conservatorships are only imposed when necessary.

The bill provides for expanded monitoring of guardians and conservators to ensure compliance with fiduciary duties and prevent exploitation.

The bill provides for visitation and communication rights for individuals subject to guardianship or conservatorship. This includes a limitation on a guardian's ability to prevent communication, visitation, or interactions between a person subject to guardianship and a third party.

The bill provides for protections to prevent exploitation of vulnerable individuals by allowing the court to restrict access to the respondent or the respondent's property by a specified person without imposing a guardianship or conservatorship.

The bill prohibits courts from establishing full guardianship or conservatorship if a limited guardianship or conservatorship would meet the respondent's needs, requires a petitioner seeking full guardianship or conservatorship to provide support to justify full guardianship or conservatorship, and requires courts to provide findings to support the imposition of full guardianship or conservatorship.

The bill updates provisions concerning minors subject to guardianship and provides for involvement of a minor in decisions that involve the minor.

The bill provides guidance for property management for individuals subject to guardianship.

The bill contains model forms for petitioners and respondents to use when filing petitions and notice with the court.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 14.7 to
3 title 15 as follows:

4 **ARTICLE 14.7**

5 **Uniform Guardianship, Conservatorship,**
6 **and Other Protective Arrangements Act**

7 **PART 1**

1 GENERAL PROVISIONS

2 **15-14.7-101. Short title.** THIS ARTICLE 14.7 MAY BE CITED AS THE
3 "UNIFORM GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE
4 ARRANGEMENTS ACT".

5 **15-14.7-102. Definitions.** AS USED IN THIS ARTICLE 14.7, UNLESS
6 THE CONTEXT OTHERWISE REQUIRES:

7 (1) "ADULT" MEANS AN INDIVIDUAL AT LEAST EIGHTEEN YEARS OF
8 AGE OR AN EMANCIPATED INDIVIDUAL UNDER EIGHTEEN YEARS OF AGE.

9 (2) "ADULT SUBJECT TO CONSERVATORSHIP" MEANS AN ADULT FOR
10 WHOM A CONSERVATOR HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE
11 14.7.

12 (3) "ADULT SUBJECT TO GUARDIANSHIP" MEANS AN ADULT FOR
13 WHOM A GUARDIAN HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE
14 14.7.

15 (4) "CLAIM" INCLUDES A CLAIM AGAINST AN INDIVIDUAL OR
16 CONSERVATORSHIP ESTATE, WHETHER ARISING IN CONTRACT, TORT, OR
17 OTHERWISE.

18 (5) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO
19 MAKE DECISIONS WITH RESPECT TO THE PROPERTY OR FINANCIAL AFFAIRS
20 OF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP. THE TERM _____
21 INCLUDES, BUT IS NOT LIMITED TO, A CO-CONSERVATOR OR A SPECIAL
22 CONSERVATOR APPOINTED PURSUANT TO SECTION 15-14.7-512.

23 (6) "CONSERVATORSHIP ESTATE" MEANS THE PROPERTY SUBJECT
24 TO CONSERVATORSHIP PURSUANT TO THIS ARTICLE 14.7.

25 _____ (7) "DELEGATEE" MEANS ANY PERSON, INCLUDING A
26 PROFESSIONAL SERVICE PROVIDER, TO WHOM A GUARDIAN OR
27 CONSERVATOR HAS DELEGATED ONE OR MORE OF THE POWERS DETAILED

1 IN SECTIONS 15-14.7-210, 15-14.7-314, 15-14.7-414, OR 15-14.7-421 AND
2 IS SUBJECT TO THE DUTIES AND LIMITATIONS OF THE GUARDIAN OR
3 CONSERVATOR UNDER THIS ACT.

4 (8) "FULL CONSERVATORSHIP" MEANS A CONSERVATORSHIP THAT
5 GRANTS THE CONSERVATOR ALL POWERS AVAILABLE PURSUANT TO THIS
6 ARTICLE 14.7.

7 (9) "FULL GUARDIANSHIP" MEANS A GUARDIANSHIP THAT GRANTS
8 THE GUARDIAN ALL POWERS AVAILABLE PURSUANT TO THIS ARTICLE 14.7.

9 (10) "GUARDIAN" MEANS A PERSON APPOINTED BY THE COURT TO
10 MAKE DECISIONS WITH RESPECT TO THE PERSONAL AFFAIRS OF AN
11 INDIVIDUAL. THE TERM INCLUDES A CO-GUARDIAN BUT DOES NOT INCLUDE
12 A GUARDIAN AD LITEM.

13 (11) "GUARDIAN AD LITEM" MEANS A PERSON APPOINTED TO
14 INFORM THE COURT ABOUT, AND TO REPRESENT, THE NEEDS AND BEST
15 INTEREST OF AN INDIVIDUAL.

16 (12) "INDIVIDUAL SUBJECT TO CONSERVATORSHIP" MEANS AN
17 ADULT OR MINOR FOR WHOM A CONSERVATOR HAS BEEN APPOINTED
18 PURSUANT TO THIS ARTICLE 14.7.

19 (13) "INDIVIDUAL SUBJECT TO GUARDIANSHIP" MEANS AN ADULT
20 OR MINOR FOR WHOM A GUARDIAN HAS BEEN APPOINTED PURSUANT TO
21 THIS ARTICLE 14.7.

22 (14) "LESS RESTRICTIVE ALTERNATIVE" MEANS AN APPROACH TO
23 MEETING AN INDIVIDUAL'S NEEDS WHICH RESTRICTS FEWER RIGHTS OF THE
24 INDIVIDUAL THAN WOULD THE APPOINTMENT OF A GUARDIAN OR
25 CONSERVATOR. THE TERM INCLUDES SUPPORTED DECISION-MAKING,
26 APPROPRIATE TECHNOLOGICAL ASSISTANCE, APPOINTMENT OF A
27 REPRESENTATIVE PAYEE, AND APPOINTMENT OF AN AGENT BY THE

1 INDIVIDUAL, INCLUDING APPOINTMENT UNDER A POWER OF ATTORNEY FOR
2 HEALTH CARE OR POWER OF ATTORNEY FOR FINANCES.

3 (15) "LETTERS OF OFFICE" MEANS A RECORD ISSUED BY A COURT
4 CERTIFYING A GUARDIAN'S OR CONSERVATOR'S AUTHORITY TO ACT.

5 (16) "LIMITED CONSERVATORSHIP" MEANS A CONSERVATORSHIP
6 THAT GRANTS THE CONSERVATOR LESS THAN ALL POWERS AVAILABLE
7 PURSUANT TO THIS ARTICLE 14.7, GRANTS POWERS OVER ONLY CERTAIN
8 PROPERTY, OR OTHERWISE RESTRICTS THE POWERS OF THE CONSERVATOR.

9 (17) "LIMITED GUARDIANSHIP" MEANS A GUARDIANSHIP THAT
10 GRANTS THE GUARDIAN LESS THAN ALL POWERS AVAILABLE PURSUANT TO
11 THIS ARTICLE 14.7 OR OTHERWISE RESTRICTS THE POWERS OF THE
12 GUARDIAN.

13 (18) "MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY"
14 MEANS A PERSON WHO THE RESPONDENT ADULT HAS IDENTIFIED AND
15 TRUSTS TO ENGAGE IN THE SUPPORTED DECISION-MAKING PROCESS
16 CONCERNING THE RESPONDENT ADULT AND WHO UNDERSTANDS THE
17 RESPONDENT ADULT'S DESIRES AND PERSONAL VALUES.

18 (19) "MINOR" MEANS AN UNEMANCIPATED INDIVIDUAL UNDER
19 EIGHTEEN YEARS OF AGE.

20 (20) "MINOR SUBJECT TO CONSERVATORSHIP" MEANS A MINOR FOR
21 WHOM A CONSERVATOR HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE
22 14.7.

23 (21) "MINOR SUBJECT TO GUARDIANSHIP" MEANS A MINOR FOR
24 WHOM A GUARDIAN HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE
25 14.7.

26 (22) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE
27 NOT BEEN TERMINATED.

1 (23) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR
2 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR
3 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER
4 LEGAL ENTITY.

5 (24) "PERSON INTERESTED IN THE WELFARE OF" MEANS AN
6 INTERESTED PERSON WITH REGARD TO THE WELL-BEING OF AN INDIVIDUAL
7 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, OR OF A RESPONDENT
8 IN A GUARDIANSHIP, CONSERVATORSHIP OR PROTECTIVE ARRANGEMENT
9 PROCEEDING, WHO, WITH RESPECT TO THE MATTER UNDER
10 CONSIDERATION, HAS A RELEVANT CONCERN THAT THE RELIEF REQUESTED
11 IN THE MATTER OR OUTCOME OF THE MATTER IS REQUIRED FOR THE
12 PROTECTION OF THE INDIVIDUAL'S HEALTH, SAFETY, WELFARE, OR ESTATE,
13 OR MAY HAVE A HARMFUL EFFECT ON THE INDIVIDUAL'S HEALTH, SAFETY,
14 WELFARE, OR ESTATE.

15 (25) "PROPERTY" INCLUDES TANGIBLE AND INTANGIBLE PROPERTY.

16 (26) "PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP"
17 MEANS A COURT ORDER ENTERED PURSUANT TO SECTION 15-14.7-503.

18 (27) "PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP"
19 MEANS A COURT ORDER ENTERED PURSUANT TO SECTION 15-14.7-502.

20 (28) "PROTECTIVE ARRANGEMENT UNDER PART 5 OF THIS ARTICLE
21 14.7" MEANS A COURT ORDER ENTERED PURSUANT TO SECTION
22 15-14.7-502 OR 15-14.7-503.

23 (29) "RECORD", USED AS A NOUN, MEANS INFORMATION THAT IS
24 INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC
25 OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

26 (30) "RESPONDENT" MEANS AN INDIVIDUAL FOR WHOM
27 APPOINTMENT OF A GUARDIAN OR CONSERVATOR OR A PROTECTIVE

1 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR CONSERVATORSHIP IS
2 SOUGHT.

3 (31) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR
4 ADOPT A RECORD:

5 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

6 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD
7 AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

8 (32) "STANDBY GUARDIAN" MEANS A PERSON APPOINTED BY THE
9 COURT PURSUANT TO SECTION 15-14.7-207.

10 (33) "STATE" MEANS A STATE OF THE UNITED STATES, THE
11 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
12 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
13 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY
14 RECOGNIZED INDIAN TRIBE.

15 (34) "SUPPORTED DECISION MAKING" MEANS ASSISTANCE FROM
16 ONE OR MORE PERSONS OF AN INDIVIDUAL'S CHOOSING IN UNDERSTANDING
17 THE NATURE AND CONSEQUENCES OF POTENTIAL PERSONAL AND
18 FINANCIAL DECISIONS, WHICH ENABLES THE INDIVIDUAL TO MAKE THE
19 DECISIONS, AND IN COMMUNICATING A DECISION ONCE MADE IF
20 CONSISTENT WITH THE INDIVIDUAL'S WISHES. THE TERM MAY INCLUDE
21 SUPPORTED DECISION-MAKING AGREEMENTS, AS PROVIDED IN PART 8 OF
22 ARTICLE 14 OF THIS TITLE15.

23 **15-14.7-103. Supplemental principles of law and equity**
24 **applicable.** UNLESS DISPLACED BY A PARTICULAR PROVISION OF THIS
25 ARTICLE 14.7, THE PRINCIPLES OF LAW AND EQUITY SUPPLEMENT ITS
26 PROVISIONS.

27 **15-14.7-104. Subject matter jurisdiction.** (1) EXCEPT TO THE

1 EXTENT JURISDICTION IS PRECLUDED BY THE "UNIFORM CHILD-CUSTODY
2 JURISDICTION AND ENFORCEMENT ACT" PURSUANT TO ARTICLE 13 OF
3 TITLE 14, THE COURT HAS JURISDICTION OVER A GUARDIANSHIP FOR A
4 MINOR DOMICILED OR PRESENT IN THIS STATE. THE COURT HAS
5 JURISDICTION OVER A CONSERVATORSHIP OR PROTECTIVE ARRANGEMENT
6 INSTEAD OF CONSERVATORSHIP FOR A MINOR DOMICILED OR HAVING
7 PROPERTY IN THIS STATE.

8 (2) THE COURT HAS JURISDICTION OVER A GUARDIANSHIP,
9 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT PURSUANT TO PART
10 5 OF THIS ARTICLE 14.7 FOR AN ADULT AS PROVIDED IN THE "UNIFORM
11 ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION
12 ACT" PURSUANT TO ARTICLE 14.5 OF TITLE 15.

13 (3) AFTER NOTICE IS GIVEN IN A PROCEEDING FOR A
14 GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT
15 PURSUANT TO PART 5 OF THIS ARTICLE 14.7 AND UNTIL TERMINATION OF
16 THE PROCEEDING, THE COURT IN WHICH THE PETITION IS FILED HAS:

17 (a) EXCLUSIVE JURISDICTION TO DETERMINE THE NEED FOR THE
18 GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT;

19 (b) EXCLUSIVE JURISDICTION TO DETERMINE HOW PROPERTY OF
20 THE RESPONDENT MUST BE MANAGED, EXPENDED, OR DISTRIBUTED TO OR
21 FOR THE USE OF THE RESPONDENT, AN INDIVIDUAL WHO IS DEPENDENT IN
22 FACT ON THE RESPONDENT, OR OTHER CLAIMANT;

23 (c) NONEXCLUSIVE JURISDICTION TO DETERMINE THE VALIDITY OF
24 A CLAIM AGAINST THE RESPONDENT OR PROPERTY OF THE RESPONDENT OR
25 A QUESTION OF TITLE CONCERNING THE PROPERTY; AND

26 (d) IF A GUARDIAN OR CONSERVATOR IS APPOINTED, EXCLUSIVE
27 JURISDICTION OVER ISSUES RELATED TO ADMINISTRATION OF THE

1 GUARDIANSHIP OR CONSERVATORSHIP.

2 (e) A COURT THAT APPOINTS A GUARDIAN OR CONSERVATOR, OR
3 AUTHORIZES A PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF THIS
4 ARTICLE 14.7, HAS EXCLUSIVE AND CONTINUING JURISDICTION OVER THE
5 PROCEEDING UNTIL THE COURT TERMINATES THE PROCEEDING OR THE
6 APPOINTMENT OR PROTECTIVE ARRANGEMENT EXPIRES BY ITS TERMS.

7 **15-14.7-105. Transfer of proceeding.** (1) THIS SECTION DOES
8 NOT APPLY TO A GUARDIANSHIP OR CONSERVATORSHIP FOR AN ADULT
9 WHO IS SUBJECT TO THE TRANSFER PROVISIONS PURSUANT TO PART 3 OF
10 ARTICLE 14.5 OF TITLE 15 OF THE "UNIFORM ADULT GUARDIANSHIP AND
11 PROTECTIVE PROCEEDINGS JURISDICTION ACT".

12 (2) AFTER APPOINTMENT OF A GUARDIAN OR CONSERVATOR, THE
13 COURT THAT MADE THE APPOINTMENT MAY TRANSFER THE PROCEEDING
14 TO A COURT IN ANOTHER COUNTY IN THIS STATE OR ANOTHER STATE IF
15 TRANSFER IS IN THE BEST INTEREST OF THE INDIVIDUAL SUBJECT TO THE
16 GUARDIANSHIP OR CONSERVATORSHIP.

17 (3) IF A PROCEEDING FOR A GUARDIANSHIP OR CONSERVATORSHIP
18 IS PENDING IN ANOTHER STATE OR A FOREIGN COUNTRY AND A PETITION
19 FOR GUARDIANSHIP OR CONSERVATORSHIP FOR THE SAME INDIVIDUAL IS
20 FILED IN A COURT IN THIS STATE, THE COURT SHALL NOTIFY THE COURT IN
21 THE OTHER STATE OR FOREIGN COUNTRY AND, AFTER CONSULTATION WITH
22 THAT COURT, ASSUME OR DECLINE JURISDICTION, WHICHEVER IS IN THE
23 BEST INTEREST OF THE RESPONDENT.

24 (4) A GUARDIAN OR CONSERVATOR APPOINTED IN ANOTHER STATE
25 OR COUNTRY MAY PETITION THE COURT FOR APPOINTMENT AS A GUARDIAN
26 OR CONSERVATOR IN THIS STATE FOR THE SAME INDIVIDUAL IF
27 JURISDICTION IN THIS STATE IS OR WILL BE ESTABLISHED. THE

1 APPOINTMENT MAY BE MADE ON PROOF OF APPOINTMENT IN THE OTHER
2 STATE OR FOREIGN COUNTRY AND PRESENTATION OF A CERTIFIED COPY OF
3 THE PART OF THE COURT RECORD IN THE OTHER STATE OR COUNTRY
4 SPECIFIED BY THE COURT IN THIS STATE.

5 (5) NOTICE OF HEARING ON A PETITION PURSUANT TO SUBSECTION
6 (4) OF THIS SECTION, TOGETHER WITH A COPY OF THE PETITION, MUST BE
7 GIVEN TO THE RESPONDENT, IF THE RESPONDENT IS AT LEAST TWELVE
8 YEARS OF AGE AT THE TIME OF THE HEARING, AND TO THE PERSONS THAT
9 WOULD BE ENTITLED TO NOTICE IF THE PROCEDURES FOR APPOINTMENT OF
10 A GUARDIAN OR CONSERVATOR PURSUANT TO THIS ARTICLE 14.7 WERE
11 APPLICABLE. THE COURT SHALL MAKE THE APPOINTMENT UNLESS IT
12 DETERMINES THE APPOINTMENT WOULD NOT BE IN THE BEST INTEREST OF
13 THE RESPONDENT.

14 (6) NOT LATER THAN FOURTEEN DAYS AFTER APPOINTMENT
15 PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE GUARDIAN OR
16 CONSERVATOR SHALL GIVE A COPY OF THE ORDER OF APPOINTMENT TO
17 THE INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, IF THE
18 INDIVIDUAL IS AT LEAST TWELVE YEARS OF AGE, AND TO ALL PERSONS
19 GIVEN NOTICE OF THE HEARING ON THE PETITION.

20 **15-14.7-106. Venue.** (1) VENUE FOR A GUARDIANSHIP
21 PROCEEDING FOR A MINOR IS IN:

22 (a) THE COUNTY IN WHICH THE MINOR RESIDES OR IS PRESENT AT
23 THE TIME THE PROCEEDING COMMENCES; OR

24 (b) THE COUNTY IN WHICH ANOTHER PROCEEDING CONCERNING
25 THE CUSTODY OR PARENTAL RIGHTS OF THE MINOR IS PENDING.

26 (2) VENUE FOR A GUARDIANSHIP PROCEEDING OR PROTECTIVE
27 ARRANGEMENT INSTEAD OF GUARDIANSHIP FOR AN ADULT IS IN:

- 1 (a) THE COUNTY IN WHICH THE RESPONDENT RESIDES;
- 2 (b) IF THE RESPONDENT HAS BEEN ADMITTED TO AN INSTITUTION
3 BY COURT ORDER, THE COUNTY IN WHICH THE COURT IS LOCATED; OR
- 4 (c) IF THE PROCEEDING IS FOR APPOINTMENT OF AN EMERGENCY
5 GUARDIAN FOR AN ADULT, THE COUNTY IN WHICH THE RESPONDENT IS
6 PRESENT ON THE DATE THE PETITION IS FILED OR THE COUNTY IN WHICH
7 THE RESPONDENT RESIDES IF THE COURT DETERMINES THAT THE COUNTY
8 IN WHICH THE RESPONDENT RESIDES IS THE MOST APPROPRIATE VENUE.

9 (3) VENUE FOR A CONSERVATORSHIP PROCEEDING OR PROTECTIVE
10 ARRANGEMENT INSTEAD OF CONSERVATORSHIP IS IN:

11 (a) THE COUNTY IN WHICH THE RESPONDENT RESIDES, WHETHER
12 OR NOT A GUARDIAN HAS BEEN APPOINTED IN ANOTHER COUNTY OR OTHER
13 JURISDICTION; OR

14 (b) IF THE RESPONDENT DOES NOT RESIDE IN THIS STATE, IN ANY
15 COUNTY IN WHICH PROPERTY OF THE RESPONDENT IS LOCATED.

16 (4) IF PROCEEDINGS PURSUANT TO THIS ARTICLE 14.7 ARE
17 BROUGHT IN MORE THAN ONE COUNTY, THE COURT OF THE COUNTY IN
18 WHICH THE FIRST PROCEEDING IS BROUGHT HAS THE EXCLUSIVE RIGHT TO
19 PROCEED UNLESS THE COURT DETERMINES VENUE IS PROPERLY IN
20 ANOTHER COURT OR THE INTEREST OF JUSTICE OTHERWISE REQUIRES
21 TRANSFER OF THE PROCEEDING.

22 **15-14.7-107. Practice in court.** (1) EXCEPT AS OTHERWISE
23 PROVIDED IN THIS ARTICLE 14.7, THE RULES OF EVIDENCE AND CIVIL
24 PROCEDURE, INCLUDING RULES CONCERNING APPELLATE REVIEW, GOVERN
25 A PROCEEDING PURSUANT TO THIS ARTICLE 14.7.

26 (2) IF PROCEEDINGS FOR A GUARDIANSHIP, CONSERVATORSHIP, OR
27 PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF THIS ARTICLE 14.7

1 FOR THE SAME INDIVIDUAL ARE COMMENCED OR PENDING IN THE SAME
2 COURT, THE PROCEEDINGS MAY BE CONSOLIDATED.

3 **15-14.7-108. Letters of office.** (1) THE COURT SHALL ISSUE
4 LETTERS OF OFFICE TO A GUARDIAN ON FILING BY THE GUARDIAN OF AN
5 ACKNOWLEDGMENT OF RESPONSIBILITIES THAT INCLUDES A STATEMENT
6 THAT THE NOMINEE ACKNOWLEDGES AND UNDERSTANDS THAT IF THE
7 NOMINEE FAILS TO FILE REQUIRED REPORTS WITH THE COURT OR FAILS TO
8 RESPOND TO AN ORDER OF THE COURT TO SHOW CAUSE WHY THE NOMINEE
9 SHOULD NOT BE HELD IN CONTEMPT OF COURT, THE LAWS OF THIS STATE
10 AUTHORIZE THE COURT TO ACCESS DATA AND RECORDS OF STATE
11 AGENCIES IN ORDER TO OBTAIN CONTACT INFORMATION FOR THE NOMINEE.

12 (2) THE COURT SHALL ISSUE LETTERS OF OFFICE TO A
13 CONSERVATOR ON FILING BY THE CONSERVATOR OF AN
14 ACKNOWLEDGMENT OF RESPONSIBILITIES THAT INCLUDES:

15 (a) A STATEMENT THAT THE NOMINEE ACKNOWLEDGES AND
16 UNDERSTANDS THAT IF THE NOMINEE FAILS TO FILE REQUIRED REPORTS
17 WITH THE COURT OR FAILS TO RESPOND TO AN ORDER OF THE COURT TO
18 SHOW CAUSE WHY THE NOMINEE SHOULD NOT BE HELD IN CONTEMPT OF
19 COURT, THE LAWS OF THIS STATE AUTHORIZE THE COURT TO ACCESS DATA
20 AND RECORDS OF STATE AGENCIES IN ORDER TO OBTAIN CONTACT
21 INFORMATION FOR THE NOMINEE; AND

22 (b) FILING OF ANY REQUIRED BOND OR COMPLIANCE WITH ANY
23 OTHER ASSET PROTECTION ARRANGEMENT REQUIRED BY THE COURT.

24 **15-14.7-109. Effect of acceptance of appointment.** UPON THE
25 FILING OF AN ACCEPTANCE OF APPOINTMENT, A GUARDIAN OR
26 CONSERVATOR SUBMITS TO PERSONAL JURISDICTION OF THE COURT IN THIS
27 STATE IN ANY PROCEEDING RELATING TO THE GUARDIANSHIP OR

1 CONSERVATORSHIP.

2 **15-14.7-110. Co-guardian and co-conservator.** (1) AT ANY
3 TIME, THE COURT MAY APPOINT A CO-GUARDIAN OR CO-CONSERVATOR TO
4 SERVE IMMEDIATELY OR WHEN A DESIGNATED EVENT OCCURS. AT LEAST
5 ONE OF THE CO-GUARDIANS OR CO-CONSERVATORS APPOINTED BY THE
6 COURT MUST BE A FIDUCIARY, AS DEFINED IN SECTION 15-1-103.

7 (2) A CO-GUARDIAN OR CO-CONSERVATOR APPOINTED TO SERVE
8 IMMEDIATELY MAY ACT WHEN THAT CO-GUARDIAN OR CO-CONSERVATOR
9 COMPLIES WITH SECTION 15-14.7-108.

10 (3) A CO-GUARDIAN OR CO-CONSERVATOR APPOINTED TO SERVE
11 WHEN A DESIGNATED EVENT OCCURS MAY ACT WHEN:

12 (a) THE EVENT OCCURS; AND

13 (b) THE CO-GUARDIAN OR CO-CONSERVATOR COMPLIES WITH
14 SECTION 15-14.7-108.

15 (4) UNLESS AN ORDER OF APPOINTMENT PURSUANT TO SUBSECTION
16 (1) OF THIS SECTION OR SUBSEQUENT ORDER STATES OTHERWISE,
17 CO-GUARDIANS OR CO-CONSERVATORS MUST MAKE DECISIONS JOINTLY.

18 **15-14.7-111. Judicial appointment of successor guardian or**
19 **successor conservator.** (1) AT ANY TIME, THE COURT MAY APPOINT A
20 SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR TO SERVE
21 IMMEDIATELY OR WHEN A DESIGNATED EVENT OCCURS.

22 (2) A PERSON ENTITLED PURSUANT TO SECTION 15-14.7-202 OR
23 15-14.7-302 TO PETITION THE COURT TO APPOINT A GUARDIAN MAY
24 PETITION THE COURT TO APPOINT A SUCCESSOR GUARDIAN. A PERSON
25 ENTITLED PURSUANT TO SECTION 15-14.7-402 TO PETITION THE COURT TO
26 APPOINT A CONSERVATOR MAY PETITION THE COURT TO APPOINT A
27 SUCCESSOR CONSERVATOR.

1 (3) A SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR
2 APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS MAY ACT AS
3 GUARDIAN OR CONSERVATOR WHEN:

4 (a) THE EVENT OCCURS; AND

5 (b) THE SUCCESSOR COMPLIES WITH SECTION 15-14.7-108.

6 (4) A SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR HAS
7 THE PREDECESSOR'S POWERS UNLESS OTHERWISE PROVIDED BY THE
8 COURT.

9 **15-14.7-112. Effect of death, removal, or resignation of**

10 **guardian or conservator.** (1) APPOINTMENT OF A GUARDIAN OR
11 CONSERVATOR TERMINATES ON THE DEATH OR REMOVAL OF THE
12 GUARDIAN OR CONSERVATOR, OR WHEN THE COURT APPROVES A
13 RESIGNATION OF THE GUARDIAN OR CONSERVATOR PURSUANT TO
14 SUBSECTION (2) OF THIS SECTION.

15 (2) A GUARDIAN OR CONSERVATOR MUST PETITION THE COURT TO
16 RESIGN. THE PETITION MAY INCLUDE A REQUEST THAT THE COURT APPOINT
17 A SUCCESSOR. RESIGNATION OF A GUARDIAN OR CONSERVATOR IS
18 EFFECTIVE ON THE DATE THE RESIGNATION IS APPROVED BY THE COURT.

19 (3) DEATH, REMOVAL, OR RESIGNATION OF A GUARDIAN OR
20 CONSERVATOR DOES NOT AFFECT LIABILITY FOR A PREVIOUS ACT OR THE
21 OBLIGATION TO ACCOUNT FOR:

22 (a) AN ACTION TAKEN ON BEHALF OF THE INDIVIDUAL SUBJECT TO
23 GUARDIANSHIP OR CONSERVATORSHIP; OR

24 (b) THE INDIVIDUAL'S FUNDS OR OTHER PROPERTY.

25 **15-14.7-113. Notice of hearing generally.** (1) EXCEPT AS
26 OTHERWISE PROVIDED IN SECTIONS 15-14.7-203, 15-14.7-207,
27 15-14.7-303, 15-14.7-403, AND 15-14.7-505, IF NOTICE OF A HEARING

1 PURSUANT TO THIS ARTICLE 14.7 IS REQUIRED, THE MOVANT MUST GIVE
2 NOTICE, IN ACCORDANCE WITH SECTION 15-10-401, OF THE DATE, TIME,
3 AND PLACE OF THE HEARING TO THE PERSON TO BE NOTIFIED UNLESS
4 OTHERWISE ORDERED BY THE COURT FOR GOOD CAUSE. EXCEPT AS
5 OTHERWISE PROVIDED IN THIS ARTICLE 14.7, NOTICE MUST BE PROVIDED
6 IN COMPLIANCE WITH COLORADO RULES OF PROBATE PROCEDURE AT
7 LEAST FOURTEEN DAYS BEFORE THE HEARING.

8 (2) PROOF OF NOTICE OF A HEARING PURSUANT TO THIS ARTICLE
9 14.7 MUST BE MADE BEFORE OR AT THE HEARING AND FILED IN THE
10 PROCEEDING.

11 (3) NOTICE OF A HEARING PURSUANT TO THIS ARTICLE 14.7 MUST
12 BE IN AT LEAST SIXTEEN-POINT FONT, IN PLAIN LANGUAGE, AND, TO THE
13 EXTENT FEASIBLE, IN A LANGUAGE IN WHICH THE PERSON TO BE NOTIFIED
14 IS PROFICIENT.

15 **15-14.7-114. Waiver of notice.** (1) EXCEPT AS OTHERWISE
16 PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PERSON MAY WAIVE
17 NOTICE PURSUANT TO THIS ARTICLE 14.7 IN A RECORD SIGNED BY THE
18 PERSON OR PERSON'S ATTORNEY AND FILED IN THE PROCEEDING.

19 (2) A RESPONDENT, INDIVIDUAL SUBJECT TO GUARDIANSHIP,
20 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, OR INDIVIDUAL SUBJECT TO
21 A PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF THIS ARTICLE 14.7
22 MAY NOT WAIVE NOTICE PURSUANT TO THIS ARTICLE 14.7.

23 **15-14.7-115. Guardian ad litem.** AT ANY TIME, THE COURT MAY
24 APPOINT A GUARDIAN AD LITEM FOR AN INDIVIDUAL IF THE COURT
25 DETERMINES THE INDIVIDUAL'S INTEREST OTHERWISE WOULD NOT BE
26 ADEQUATELY REPRESENTED. IF NO CONFLICT OF INTEREST EXISTS, A
27 GUARDIAN AD LITEM MAY BE APPOINTED TO REPRESENT MULTIPLE

1 INDIVIDUALS OR INTERESTS. THE GUARDIAN AD LITEM MAY NOT BE THE
2 SAME INDIVIDUAL AS THE ATTORNEY REPRESENTING THE RESPONDENT.
3 THE COURT SHALL STATE THE DUTIES OF THE GUARDIAN AD LITEM AND
4 THE REASONS FOR THE APPOINTMENT.

5 **15-14.7-116. Request for notice.** (1) A PERSON MAY FILE A
6 REQUEST FOR NOTICE WITH THE COURT PURSUANT TO THIS ARTICLE 14.7
7 IF THE PERSON IS:

- 8 (a) NOT OTHERWISE ENTITLED TO NOTICE; AND
- 9 (b) INTERESTED IN THE WELFARE OF A RESPONDENT, THE
10 INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, OR THE
11 INDIVIDUAL SUBJECT TO A PROTECTIVE ARRANGEMENT PURSUANT TO PART
12 5 OF THIS ARTICLE 14.7.

13 (2) A REQUEST PURSUANT TO SUBSECTION (1) OF THIS SECTION
14 MUST INCLUDE A STATEMENT SHOWING THE INTEREST OF THE PERSON
15 MAKING THE REQUEST AND THE ADDRESS OF THE PERSON OR AN ATTORNEY
16 FOR THE PERSON TO WHOM NOTICE IS TO BE GIVEN.

17 (3) IF THE COURT RECEIVES A REQUEST PURSUANT TO SUBSECTION
18 (1) OF THIS SECTION, THE COURT MUST SERVE NOTICE OF THE RECEIPT TO
19 THE GUARDIAN OR CONSERVATOR, IF ONE HAS BEEN APPOINTED, OR THE
20 RESPONDENT AND THE RESPONDENT'S ATTORNEY IF NO GUARDIAN OR
21 CONSERVATOR HAS BEEN APPOINTED, AND ANY OTHER PERSON THE COURT
22 DETERMINES.

23 (4) IF THE COURT DOES NOT RECEIVE AN OBJECTION TO THE
24 REQUEST FOR NOTICE WITHIN FOURTEEN DAYS AFTER THE REQUEST IS
25 FILED, THE COURT MAY APPROVE OR DENY THE REQUEST FOR GOOD CAUSE.
26 IF THE COURT RECEIVES AN OBJECTION TO THE REQUEST FOR NOTICE
27 WITHIN FOURTEEN DAYS AFTER THE REQUEST IS FILED THE COURT MUST

1 HOLD A HEARING BEFORE GRANTING APPROVAL OR DENIAL OF THE
2 REQUEST.

3 **15-14.7-117. Disclosure of bankruptcy or criminal history.**

4 (1) A PETITION FOR APPOINTMENT OF A GUARDIAN OR CONSERVATOR
5 MUST BE FILED WITH AN ACCEPTANCE OF APPOINTMENT SIGNED BY THE
6 PERSON NOMINATED FOR APPOINTMENT AS A GUARDIAN OR CONSERVATOR
7 THAT DISCLOSES TO THE COURT WHETHER THE PERSON:

8 (a) IS OR HAS BEEN A DEBTOR IN A BANKRUPTCY, INSOLVENCY, OR
9 RECEIVERSHIP PROCEEDING; ___

10 (b) HAS BEEN CONVICTED OF, PLED NOLO CONTENDERE TO, OR
11 RECEIVED A DEFERRED SENTENCE FOR A FELONY OR MISDEMEANOR, AND
12 IF SO, THE NAME OF THE STATE AND COURT ISSUING THE ORDER;

13 (c) HAS HAD A TEMPORARY CIVIL PROTECTION ORDER, TEMPORARY
14 RESTRAINING ORDER, PERMANENT CIVIL PROTECTION ORDER, OR
15 PERMANENT RESTRAINING ORDER ISSUED AGAINST THE PERSON IN THIS
16 STATE OR ANOTHER STATE AT ANY TIME;

17 (d) HAS A CIVIL JUDGMENT ENTERED AGAINST THEM AND, IF SO,
18 THE NAME OF THE COURT GRANTING THE JUDGMENT; AND

19 (e) HAS BEEN RELIEVED OF ANY COURT-APPOINTED
20 RESPONSIBILITIES AND, IF SO, THE NAME OF THE COURT RELIEVING THE
21 PERSON.

22 (2) IN SUPPORT OF THE STATEMENT SET FORTH IN THE ACCEPTANCE
23 OF THE OFFICE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
24 PERSON SHALL:

25 (a) OBTAIN, AND ATTACH TO THE ACCEPTANCE OF OFFICE, A
26 NAME-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE
27 COLORADO BUREAU OF INVESTIGATION. THE PERSON IS RESPONSIBLE FOR

1 THE COST OF THE NAME-BASED CRIMINAL HISTORY RECORD CHECK; AND

2 (b) OBTAIN, AND ATTACH TO THE ACCEPTANCE OF OFFICE, A
3 CURRENT CREDIT REPORT OF THE PERSON. THE PERSON IS RESPONSIBLE
4 FOR THE COST OF THE CREDIT REPORT.

5 (3) THE REQUIREMENTS IN SUBSECTIONS (1) AND (2) OF THIS
6 SECTION DO NOT APPLY TO THE FOLLOW PEOPLE:

7 (a) A PUBLIC ADMINISTRATOR NOMINATED AS A GUARDIAN OR
8 CONSERVATOR;

9 (b) A TRUST COMPANY NOMINATED AS A GUARDIAN OR
10 CONSERVATOR;

11 (c) A BANK NOMINATED AS A GUARDIAN OR CONSERVATOR;

12 (d) A CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, OR OTHER
13 FINANCIAL INSTITUTION NOMINATED AS A GUARDIAN OR CONSERVATOR
14 PURSUANT TO STATE LAW;

15 (e) A STATE OR COUNTY AGENCY NOMINATED AS A GUARDIAN OR
16 CONSERVATOR PURSUANT TO STATE LAW;

17 (f) A PARENT RESIDING WITH THE PARENT'S CHILD WHO IS
18 NOMINATED AS A GUARDIAN OR CONSERVATOR OF THE PARENT'S CHILD;
19 OR

20 (g) ANY OTHER PERSON OR ENTITY THAT THE COURT, WITH GOOD
21 CAUSE SHOWN, DETERMINES THAT THE REQUIREMENTS DO NOT APPLY TO.

22 (4) A GUARDIAN OR CONSERVATOR THAT ENGAGES OR
23 ANTICIPATES ENGAGING ANOTHER PERSON THE GUARDIAN OR
24 CONSERVATOR KNOWS HAS BEEN CONVICTED OF A FELONY, A CRIME
25 INVOLVING DISHONESTY, NEGLIGENCE, VIOLENCE, OR USE OF PHYSICAL FORCE,
26 OR OTHER CRIME RELEVANT TO THE FUNCTIONS THE OTHER PERSON IS
27 BEING ENGAGED TO PERFORM PROMPTLY MUST DISCLOSE THAT

1 KNOWLEDGE TO THE COURT.

2 (5) IF A CONSERVATOR ENGAGES OR ANTICIPATES ENGAGING
3 ANOTHER PERSON TO MANAGE FINANCES OF THE INDIVIDUAL SUBJECT TO
4 CONSERVATORSHIP AND KNOWS THE OTHER PERSON IS OR HAS BEEN A
5 DEBTOR IN A BANKRUPTCY, INSOLVENCY, OR RECEIVERSHIP PROCEEDING,
6 THE CONSERVATOR PROMPTLY SHALL DISCLOSE THAT KNOWLEDGE TO THE
7 COURT.

8 **15-14.7-118. Multiple nominations.** IF A RESPONDENT OR OTHER
9 PERSON MAKES MORE THAN ONE NOMINATION OF A GUARDIAN OR
10 CONSERVATOR, THE LATEST IN TIME GOVERNS.

11 **15-14.7-119. (Reserved)**

12 **15-14.7-120. (Reserved)**

13 **15-14.7-121. Liability of guardian or conservator for act of**
14 **individual subject to guardianship or conservatorship.** A GUARDIAN
15 OR CONSERVATOR IS NOT PERSONALLY LIABLE TO ANOTHER PERSON
16 SOLELY BECAUSE OF THE GUARDIANSHIP OR CONSERVATORSHIP FOR AN
17 ACT OR OMISSION OF THE INDIVIDUAL SUBJECT TO GUARDIANSHIP OR
18 CONSERVATORSHIP.

19 **15-14.7-122. Petition after appointment for instruction or**
20 **ratification.** (1) A GUARDIAN OR CONSERVATOR MAY PETITION THE
21 COURT FOR INSTRUCTION CONCERNING FIDUCIARY RESPONSIBILITY OR
22 RATIFICATION OF A PARTICULAR ACT RELATED TO THE GUARDIANSHIP OR
23 CONSERVATORSHIP.

24 (2) ON NOTICE AND HEARING ON A PETITION PURSUANT TO
25 SUBSECTION (1) OF THIS SECTION, THE COURT MAY GIVE INSTRUCTION AND
26 ISSUE AN APPROPRIATE ORDER.

27 **15-14.7-123. Use of delegatee by guardian.** (1) A GUARDIAN

1 MAY NOT DELEGATE ALL OF THE DUTIES OR POWERS TO AN DELEGATEE OR
2 ANOTHER GUARDIAN, BUT A GUARDIAN MAY OTHERWISE DELEGATE THE
3 PERFORMANCE OF FUNCTIONS TO A QUALIFIED PERSON OF COMPARABLE
4 SKILLS.

5 (2) THE GUARDIAN SHALL EXERCISE REASONABLE CARE, SKILL,
6 AND CAUTION IN:

7 (a) SELECTING A DELEGATEE;

8 (b) ESTABLISHING THE SCOPE AND TERMS OF A DELEGATION,
9 CONSISTENT WITH THE PURPOSES AND TERMS OF THE GUARDIANSHIP;

10 (c) PERIODICALLY REVIEWING A DELEGATEE'S OVERALL
11 PERFORMANCE AND COMPLIANCE WITH THE TERMS OF THE DELEGATION;

12 AND

13 (d) REDRESSING AN ACTION OR DECISION OF A DELEGATEE THAT
14 WOULD CONSTITUTE A BREACH OF FIDUCIARY DUTY OR IMPROPER
15 CONDUCT, IF PERFORMED BY THE GUARDIAN.

16 (3) A GUARDIAN WHO COMPLIES WITH SUBSECTIONS (1) AND (2) OF
17 THIS SECTION IS NOT LIABLE TO THE INDIVIDUAL SUBJECT TO
18 GUARDIANSHIP OR TO THE ESTATE OR TO THE INDIVIDUAL SUBJECT TO
19 GUARDIANSHIP'S SUCCESSORS FOR THE DECISIONS OR ACTIONS OF THE
20 DELEGATEE TO WHOM A FUNCTION WAS DELEGATED.

21 (4) IN PERFORMING A DELEGATED FUNCTION, A DELEGATEE SHALL
22 EXERCISE REASONABLE CARE TO COMPLY WITH THE TERMS OF THE
23 DELEGATION.

24 (5) BY ACCEPTING A DELEGATION FROM A GUARDIAN SUBJECT TO
25 THE LAWS OF THIS STATE, A DELEGATEE SUBMITS TO THE JURISDICTION OF
26 THE COURTS OF THIS STATE.

27 **15-14.7-124. Use of delegatee by conservator. (1) A**

1 CONSERVATOR MAY NOT DELEGATE THE ENTIRE ADMINISTRATION OF THE
2 ESTATE TO A DELEGATEE OR ANOTHER CONSERVATOR, BUT A
3 CONSERVATOR MAY OTHERWISE DELEGATE THE PERFORMANCE OF
4 FUNCTIONS THAT A PRUDENT TRUSTEE OF COMPARABLE SKILLS MAY
5 DELEGATE UNDER SIMILAR CIRCUMSTANCES.

6 (2) THE CONSERVATOR SHALL EXERCISE REASONABLE CARE, SKILL,
7 AND CAUTION IN:

8 (a) SELECTING A DELEGATEE;

9 (b) ESTABLISHING THE SCOPE AND TERMS OF A DELEGATION,
10 CONSISTENT WITH THE PURPOSES AND TERMS OF A CONSERVATORSHIP;

11 (c) PERIODICALLY REVIEWING A DELEGATEE'S OVERALL
12 PERFORMANCE AND COMPLIANCE WITH THE TERMS OF THE DELEGATION;

13 AND

14 (d) REDRESSING AN ACTION OR DECISION OF A DELEGATEE THAT
15 WOULD CONSTITUTE A BREACH OF TRUST IF PERFORMED BY THE
16 CONSERVATOR.

17 (3) A CONSERVATOR WHO COMPLIES WITH SUBSECTIONS (1) AND
18 (2) OF THIS SECTION IS NOT LIABLE TO THE PROTECTED PERSON OR TO THE
19 ESTATE OR TO THE PROTECTED PERSON'S SUCCESSORS FOR THE DECISIONS
20 OR ACTIONS OF THE DELEGATEE TO WHOM A FUNCTION WAS DELEGATED.

21 (4) IN PERFORMING A DELEGATED FUNCTION, A DELEGATEE SHALL
22 EXERCISE REASONABLE CARE TO COMPLY WITH THE TERMS OF THE
23 DELEGATION.

24 (5) BY ACCEPTING A DELEGATION FROM A CONSERVATOR SUBJECT
25 TO THE LAWS OF THIS STATE, A DELEGATEE SUBMITS TO THE JURISDICTION
26 OF THE COURTS OF THIS STATE.

27 **15-14.7-125. Temporary substitute guardian or conservator.**

1 (1) THE COURT MAY APPOINT A TEMPORARY SUBSTITUTE GUARDIAN FOR
2 AN INDIVIDUAL SUBJECT TO GUARDIANSHIP FOR A PERIOD NOT EXCEEDING
3 SIX MONTHS IF:

4 (a) A PROCEEDING TO REMOVE A GUARDIAN FOR THE INDIVIDUAL
5 IS PENDING; OR

6 (b) THE COURT FINDS A GUARDIAN IS NOT EFFECTIVELY
7 PERFORMING THE GUARDIAN'S DUTIES AND THE WELFARE OF THE
8 INDIVIDUAL REQUIRES IMMEDIATE ACTION.

9 (2) THE COURT MAY APPOINT A TEMPORARY SUBSTITUTE
10 CONSERVATOR FOR AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP FOR A
11 PERIOD NOT EXCEEDING SIX MONTHS IF:

12 (a) A PROCEEDING TO REMOVE A CONSERVATOR FOR THE
13 INDIVIDUAL IS PENDING; OR

14 (b) THE COURT FINDS THAT A CONSERVATOR FOR THE INDIVIDUAL
15 IS NOT EFFECTIVELY PERFORMING THE CONSERVATOR'S DUTIES AND THE
16 WELFARE OF THE INDIVIDUAL OR THE CONSERVATORSHIP ESTATE
17 REQUIRES IMMEDIATE ACTION.

18 (3) EXCEPT AS OTHERWISE ORDERED BY THE COURT, A TEMPORARY
19 SUBSTITUTE GUARDIAN OR TEMPORARY SUBSTITUTE CONSERVATOR
20 APPOINTED PURSUANT TO THIS SECTION HAS THE POWERS STATED IN THE
21 ORDER OF APPOINTMENT OF THE GUARDIAN OR CONSERVATOR. THE
22 AUTHORITY OF THE EXISTING GUARDIAN OR CONSERVATOR IS SUSPENDED
23 FOR AS LONG AS THE TEMPORARY SUBSTITUTE GUARDIAN OR
24 CONSERVATOR HAS AUTHORITY.

25 (4) THE COURT SHALL GIVE NOTICE, PURSUANT TO SECTION
26 15-10-401, OF APPOINTMENT OF A TEMPORARY SUBSTITUTE GUARDIAN OR
27 TEMPORARY SUBSTITUTE CONSERVATOR, NO LATER THAN FIVE DAYS

1 AFTER THE APPOINTMENT, TO:

2 (a) THE INDIVIDUAL SUBJECT TO GUARDIANSHIP OR
3 CONSERVATORSHIP;

4 (b) THE AFFECTED GUARDIAN OR CONSERVATOR; AND

5 (c) IN THE CASE OF A MINOR, EACH PARENT OF THE MINOR AND ANY
6 PERSON CURRENTLY HAVING CARE OR CUSTODY OF THE MINOR.

7 (5) THE COURT MAY REMOVE A TEMPORARY SUBSTITUTE
8 GUARDIAN OR TEMPORARY SUBSTITUTE CONSERVATOR AT ANY TIME. THE
9 TEMPORARY SUBSTITUTE GUARDIAN OR TEMPORARY SUBSTITUTE
10 CONSERVATOR SHALL MAKE ANY REPORT THE COURT REQUIRES.

11 **15-14.7-126. Registration of order - effect.** (1) IF A GUARDIAN
12 HAS BEEN APPOINTED IN ANOTHER STATE FOR AN INDIVIDUAL, AND A
13 PETITION FOR GUARDIANSHIP FOR THE INDIVIDUAL IS NOT PENDING IN THIS
14 STATE, THE GUARDIAN APPOINTED IN THE OTHER STATE, AFTER GIVING
15 NOTICE TO THE APPOINTING COURT, MAY REGISTER THE GUARDIANSHIP
16 ORDER IN THIS STATE BY FILING AS A FOREIGN JUDGMENT, IN A COURT OF
17 AN APPROPRIATE COUNTY OF THIS STATE, CERTIFIED COPIES OF THE ORDER
18 AND LETTERS OF OFFICE.

19 (2) IF A CONSERVATOR HAS BEEN APPOINTED IN ANOTHER STATE
20 FOR AN INDIVIDUAL, AND A PETITION FOR CONSERVATORSHIP FOR THE
21 INDIVIDUAL IS NOT PENDING IN THIS STATE, THE CONSERVATOR APPOINTED
22 FOR THE INDIVIDUAL IN THE OTHER STATE, AFTER GIVING NOTICE TO THE
23 APPOINTING COURT, MAY REGISTER THE CONSERVATORSHIP IN THIS STATE
24 BY FILING AS A FOREIGN JUDGMENT, IN A COURT OF A COUNTY IN WHICH
25 PROPERTY BELONGING TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP
26 IS LOCATED, CERTIFIED COPIES OF THE ORDER OF CONSERVATORSHIP,
27 LETTERS OF OFFICE, AND ANY BOND OR OTHER ASSET PROTECTION

1 ARRANGEMENT REQUIRED BY THE COURT.

2 (3) ON REGISTRATION PURSUANT TO THIS SECTION OF A
3 GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM ANOTHER STATE, THE
4 GUARDIAN OR CONSERVATOR MAY EXERCISE IN THIS STATE ALL POWERS
5 AUTHORIZED IN THE ORDER EXCEPT AS PROHIBITED BY THIS ARTICLE 14.7
6 AND LAW OF THIS STATE OTHER THAN THIS ARTICLE 14.7. IF THE
7 GUARDIAN OR CONSERVATOR IS NOT A RESIDENT OF THIS STATE, THE
8 GUARDIAN OR CONSERVATOR MAY MAINTAIN AN ACTION OR PROCEEDING
9 IN THIS STATE SUBJECT TO ANY CONDITION IMPOSED BY THIS STATE ON AN
10 ACTION OR PROCEEDING BY A NONRESIDENT PARTY.

11 (4) THE COURT MAY GRANT ANY RELIEF AVAILABLE PURSUANT TO
12 THIS ARTICLE 14.7 AND LAW OF THIS STATE OTHER THAN THIS ARTICLE
13 14.7 TO ENFORCE AN ORDER REGISTERED PURSUANT TO THIS SECTION.

14 **15-14.7-127. Grievance against guardian or conservator.**

15 (1) AN INDIVIDUAL WHO IS SUBJECT TO GUARDIANSHIP OR
16 CONSERVATORSHIP, OR PERSON INTERESTED IN THE WELFARE OF AN
17 INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, WHO
18 REASONABLY BELIEVES THE GUARDIAN OR CONSERVATOR IS BREACHING
19 THE GUARDIAN'S OR CONSERVATOR'S FIDUCIARY DUTY OR OTHERWISE
20 ACTING IN A MANNER INCONSISTENT WITH THIS ARTICLE 14.7 MAY FILE A
21 GRIEVANCE IN A RECORD WITH THE COURT.

22 (2) SUBJECT TO SUBSECTION (3) OF THIS SECTION, AFTER
23 RECEIVING A GRIEVANCE PURSUANT TO SUBSECTION (1) OF THIS SECTION,
24 THE COURT:

25 (a) SHALL REVIEW THE GRIEVANCE AND, IF NECESSARY TO
26 DETERMINE THE APPROPRIATE RESPONSE, COURT RECORDS RELATED TO
27 THE GUARDIANSHIP OR CONSERVATORSHIP; AND

1 **15-14.7-202. Petition for appointment of guardian for a minor.**

2 (1) A PERSON INTERESTED IN THE WELFARE OF A MINOR, INCLUDING THE
3 MINOR, MAY PETITION FOR APPOINTMENT OF A GUARDIAN FOR THE MINOR.

4 (2) A PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION
5 MUST STATE THE PETITIONER'S NAME; PRINCIPAL RESIDENCE; CURRENT
6 STREET ADDRESS, IF DIFFERENT; RELATIONSHIP TO THE MINOR; INTEREST
7 IN THE APPOINTMENT; THE NAME AND ADDRESS OF ANY ATTORNEY
8 REPRESENTING THE PETITIONER; AND, TO THE EXTENT KNOWN, THE
9 FOLLOWING:

10 (a) THE MINOR'S NAME; AGE; PRINCIPAL RESIDENCE; CURRENT
11 STREET ADDRESS, IF DIFFERENT; AND, IF DIFFERENT, ADDRESS OF THE
12 DWELLING IN WHICH IT IS PROPOSED THE MINOR WILL RESIDE IF THE
13 APPOINTMENT IS MADE;

14 (b) THE NAME AND CURRENT STREET ADDRESS OF EACH OF THE
15 MINOR'S PARENTS;

16 (c) THE NAME AND ADDRESS, IF KNOWN, OF EACH PERSON THAT
17 HAD PRIMARY CARE OR CUSTODY OF THE MINOR FOR AT LEAST SIXTY DAYS
18 DURING THE TWO YEARS IMMEDIATELY BEFORE THE FILING OF THE
19 PETITION OR FOR AT LEAST SEVEN HUNDRED AND THIRTY DAYS DURING
20 THE FIVE YEARS IMMEDIATELY BEFORE THE FILING OF THE PETITION;

21 (d) THE NAME AND ADDRESS OF ANY ATTORNEY FOR THE MINOR
22 AND ANY ATTORNEY FOR EACH PARENT OF THE MINOR;

23 (e) THE REASON GUARDIANSHIP IS SOUGHT AND WOULD BE IN THE
24 BEST INTEREST OF THE MINOR;

25 (f) THE NAME AND ADDRESS OF ANY PROPOSED GUARDIAN AND
26 THE REASON THE PROPOSED GUARDIAN SHOULD BE SELECTED;

27 (g) IF THE MINOR HAS PROPERTY OTHER THAN PERSONAL EFFECTS,

1 A GENERAL STATEMENT OF THE MINOR'S PROPERTY WITH AN ESTIMATE OF
2 ITS VALUE;

3 (h) WHETHER THE MINOR NEEDS AN INTERPRETER, TRANSLATOR,
4 OR OTHER FORM OF SUPPORT TO COMMUNICATE EFFECTIVELY WITH THE
5 COURT OR UNDERSTAND COURT PROCEEDINGS;

6 (i) WHETHER ANY PARENT OF THE MINOR NEEDS AN INTERPRETER,
7 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE
8 EFFECTIVELY WITH THE COURT OR UNDERSTAND COURT PROCEEDINGS;
9 AND

10 (j) WHETHER ANY OTHER PROCEEDING CONCERNING THE CARE OR
11 CUSTODY OF THE MINOR IS PENDING IN ANY COURT IN THIS STATE OR
12 ANOTHER JURISDICTION.

13 **15-14.7-203. Notice of hearing for appointment of guardian**
14 **for minor.** (1) IF A PETITION IS FILED PURSUANT TO SECTION 15-14.7-202,
15 THE COURT SHALL SCHEDULE A HEARING AND THE PETITIONER SHALL:

16 (a) SERVE NOTICE OF THE DATE, TIME, AND PLACE OF THE
17 HEARING, TOGETHER WITH A COPY OF THE PETITION, PERSONALLY ON EACH
18 OF THE FOLLOWING WHO IS NOT THE PETITIONER:

19 (I) THE MINOR, IF THE MINOR WILL BE TWELVE YEARS OF AGE OR
20 OLDER AT THE TIME OF THE HEARING;

21 (II) EACH PARENT OF THE MINOR OR, IF THERE IS NONE, THE ADULT
22 NEAREST IN KINSHIP WHO CAN BE FOUND WITH REASONABLE DILIGENCE;

23 (III) ANY ADULT WITH WHOM THE MINOR RESIDES;

24 (IV) EACH PERSON WHO HAD PRIMARY CARE OR CUSTODY OF THE
25 MINOR FOR AT LEAST SIXTY DAYS DURING THE TWO YEARS IMMEDIATELY
26 BEFORE THE FILING OF THE PETITION OR FOR AT LEAST SEVEN HUNDRED
27 AND THIRTY DAYS DURING THE FIVE YEARS IMMEDIATELY BEFORE THE

1 FILING OF THE PETITION; AND
2 (V) ANY OTHER PERSON THE COURT DETERMINES SHOULD RECEIVE
3 PERSONAL SERVICE OF NOTICE; AND
4 (b) SERVE NOTICE PURSUANT TO SECTION 15-14.7-113 OF THE
5 DATE, TIME, AND PLACE OF THE HEARING, TOGETHER WITH A COPY OF THE
6 PETITION, TO:
7 (I) ANY PERSON NOMINATED FOR GUARDIANSHIP BY THE MINOR,
8 IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER;
9 (II) ANY NOMINEE OF A PARENT;
10 (III) EACH GRANDPARENT AND ADULT SIBLING OF THE MINOR;
11 (IV) ANY GUARDIAN OR CONSERVATOR ACTING FOR THE MINOR IN
12 ANY JURISDICTION; AND
13 (V) ANY OTHER PERSON THE COURT DETERMINES.
14 (2) NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION MUST
15 INCLUDE A STATEMENT OF THE RIGHT TO REQUEST APPOINTMENT OF AN
16 ATTORNEY FOR THE MINOR OR OBJECT TO APPOINTMENT OF A GUARDIAN
17 AND A DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF
18 APPOINTMENT OF A GUARDIAN.
19 (3) THE COURT SHALL NOT GRANT A PETITION FOR GUARDIANSHIP
20 OF A MINOR IF NOTICE SUBSTANTIALLY COMPLYING WITH SUBSECTION
21 (1)(a) OF THIS SECTION IS NOT SERVED ON:
22 (a) THE MINOR, IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER;
23 AND
24 (b) EACH PARENT OF THE MINOR, UNLESS THE COURT FINDS BY
25 CLEAR AND CONVINCING EVIDENCE THAT THE PARENT CANNOT WITH DUE
26 DILIGENCE BE LOCATED AND SERVED OR THE PARENT WAIVED, IN A
27 RECORD, THE RIGHT TO NOTICE.

1 (4) IF A PETITIONER IS UNABLE TO SERVE NOTICE PURSUANT TO
2 SUBSECTION (1)(a) OF THIS SECTION ON A PARENT OF A MINOR OR ALLEGES
3 THAT THE PARENT WAIVED, IN A RECORD, THE RIGHT TO NOTICE PURSUANT
4 TO THIS SECTION, THE COURT SHALL APPOINT A VISITOR WHO SHALL:

5 (a) INTERVIEW THE PETITIONER AND THE MINOR;

6 (b) IF THE PETITIONER ALLEGES THE PARENT CANNOT BE LOCATED,
7 ASCERTAIN WHETHER THE PARENT CANNOT BE LOCATED WITH DUE
8 DILIGENCE; AND

9 (c) INVESTIGATE ANY OTHER MATTER RELATING TO THE PETITION
10 THE COURT DIRECTS.

11 **15-14.7-204. Attorney for minor or parent.** (1) THE COURT
12 SHALL APPOINT AN ATTORNEY TO REPRESENT A MINOR WHO IS THE
13 SUBJECT OF A PROCEEDING PURSUANT TO SECTION 15-14.7-202 IF:

14 (a) REQUESTED BY THE MINOR AND THE MINOR IS TWELVE YEARS
15 OF AGE OR OLDER;

16 (b) RECOMMENDED BY A GUARDIAN AD LITEM; OR

17 (c) THE COURT DETERMINES THE MINOR NEEDS REPRESENTATION.

18 (2) AN ATTORNEY APPOINTED PURSUANT TO SUBSECTION (1) OF
19 THIS SECTION SHALL:

20 (a) MAKE A REASONABLE EFFORT TO ASCERTAIN THE MINOR'S
21 WISHES;

22 (b) ADVOCATE FOR THE MINOR'S WISHES TO THE EXTENT
23 REASONABLY ASCERTAINABLE; AND

24 (c) IF THE MINOR'S WISHES ARE NOT REASONABLY ASCERTAINABLE,
25 ADVOCATE FOR THE MINOR'S BEST INTEREST.

26 (3) A MINOR WHO IS THE SUBJECT OF A PROCEEDING PURSUANT TO
27 SECTION 15-14.7-202 MAY RETAIN AN ATTORNEY TO REPRESENT THE

1 MINOR IN THE PROCEEDING.

2 (4) A PARENT OF A MINOR WHO IS THE SUBJECT OF A PROCEEDING
3 PURSUANT TO SECTION 15-14.7-202 MAY RETAIN AN ATTORNEY TO
4 REPRESENT THE PARENT IN THE PROCEEDING.

5 **15-14.7-205. Attendance and participation at hearing for**
6 **appointment of guardian for minor.** (1) THE COURT SHALL REQUIRE A
7 MINOR WHO IS THE SUBJECT OF A HEARING PURSUANT TO SECTION
8 15-14.7-203 TO ATTEND THE HEARING AND ALLOW THE MINOR TO
9 PARTICIPATE IN THE HEARING UNLESS THE COURT DETERMINES, BY CLEAR
10 AND CONVINCING EVIDENCE PRESENTED AT THE HEARING OR A SEPARATE
11 HEARING, THAT:

12 (a) THE MINOR CONSISTENTLY AND REPEATEDLY REFUSED TO
13 ATTEND THE HEARING AFTER BEING FULLY INFORMED OF THE RIGHT TO
14 ATTEND AND, IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER, THE
15 POTENTIAL CONSEQUENCES OF FAILING TO DO SO;

16 (b) THERE IS NO PRACTICABLE WAY FOR THE MINOR TO ATTEND
17 THE HEARING;

18 (c) THE MINOR LACKS THE ABILITY OR MATURITY TO PARTICIPATE
19 MEANINGFULLY IN THE HEARING; OR

20 (d) ATTENDANCE WOULD BE HARMFUL TO THE MINOR.

21 (2) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, THE
22 PERSON PROPOSED TO BE APPOINTED AS GUARDIAN FOR A MINOR SHALL
23 ATTEND A HEARING PURSUANT TO SECTION 15-14.7-203.

24 (3) EACH PARENT OF A MINOR WHO IS THE SUBJECT OF A HEARING
25 PURSUANT TO SECTION 15-14.7-203 HAS THE RIGHT TO ATTEND THE
26 HEARING.

27 (4) A PERSON MAY REQUEST PERMISSION TO PARTICIPATE IN A

1 HEARING PURSUANT TO SECTION 15-14.7-203. THE COURT MAY GRANT THE
2 REQUEST, WITH OR WITHOUT HEARING, ON DETERMINING THAT IT IS IN THE
3 BEST INTEREST OF THE MINOR WHO IS THE SUBJECT OF THE HEARING. THE
4 COURT MAY IMPOSE APPROPRIATE CONDITIONS ON THE PERSON'S
5 PARTICIPATION.

6 **15-14.7-206. Order of appointment; priority of nominee;**
7 **limited guardianship for minor - definitions.** (1) AFTER A HEARING
8 PURSUANT TO SECTION 15-14.7-203, THE COURT MAY APPOINT A
9 GUARDIAN FOR A MINOR, IF APPOINTMENT IS PROPER PURSUANT TO
10 SECTION 15-14.7-201, DISMISS THE PROCEEDING, OR TAKE OTHER
11 APPROPRIATE ACTION CONSISTENT WITH THIS ARTICLE 14.7 OR LAW OF
12 THIS STATE OTHER THAN THIS ARTICLE 14.7.

13 (2) IN APPOINTING A GUARDIAN PURSUANT TO SUBSECTION (1) OF
14 THIS SECTION, THE FOLLOWING RULES APPLY:

15 (a) THE COURT SHALL APPOINT A PERSON NOMINATED AS
16 GUARDIAN BY A PARENT OF THE MINOR IN A WILL OR OTHER RECORD
17 UNLESS THE COURT FINDS THE APPOINTMENT IS CONTRARY TO THE BEST
18 INTEREST OF THE MINOR;

19 (b) IF MULTIPLE PARENTS HAVE NOMINATED DIFFERENT PERSONS
20 TO SERVE AS GUARDIAN, THE COURT SHALL APPOINT THE NOMINEE WHOSE
21 APPOINTMENT IS IN THE BEST INTEREST OF THE MINOR, UNLESS THE COURT
22 FINDS THAT APPOINTMENT OF NONE OF THE NOMINEES IS IN THE BEST
23 INTEREST OF THE MINOR; AND

24 (c) IF A GUARDIAN IS NOT APPOINTED PURSUANT TO SUBSECTION
25 (2)(a) OR (2)(b) OF THIS SECTION, THE COURT SHALL APPOINT THE PERSON
26 NOMINATED BY THE MINOR IF THE MINOR IS TWELVE YEARS OF AGE OR
27 OLDER UNLESS THE COURT FINDS THAT APPOINTMENT IS CONTRARY TO THE

1 BEST INTEREST OF THE MINOR. IN THAT CASE, THE COURT SHALL APPOINT
2 AS GUARDIAN A PERSON WHOSE APPOINTMENT IS IN THE BEST INTEREST OF
3 THE MINOR.

4 (3) IN THE INTEREST OF MAINTAINING OR ENCOURAGING
5 INVOLVEMENT BY A MINOR'S PARENT IN THE MINOR'S LIFE, DEVELOPING
6 SELF-RELIANCE OF THE MINOR, OR FOR OTHER GOOD CAUSE, THE COURT,
7 AT THE TIME OF APPOINTMENT OF A GUARDIAN FOR THE MINOR OR LATER,
8 ON ITS OWN OR ON MOTION OF THE MINOR OR OTHER INTERESTED PERSON,
9 MAY CREATE A LIMITED GUARDIANSHIP BY LIMITING THE POWERS
10 OTHERWISE GRANTED TO THE GUARDIAN PURSUANT TO THIS PART 2.
11 FOLLOWING THE SAME PROCEDURE, THE COURT MAY GRANT ADDITIONAL
12 POWERS OR WITHDRAW POWERS PREVIOUSLY GRANTED.

13 (4) THE COURT, AS PART OF AN ORDER APPOINTING A GUARDIAN
14 FOR A MINOR, SHALL STATE RIGHTS RETAINED BY ANY PARENT OF THE
15 MINOR, WHICH MAY INCLUDE CONTACT OR VISITATION WITH THE MINOR;
16 DECISION-MAKING REGARDING THE MINOR'S HEALTH CARE, EDUCATION,
17 OR OTHER MATTER; OR ACCESS TO A RECORD REGARDING THE MINOR.

18 (5) AN ORDER GRANTING A GUARDIANSHIP FOR A MINOR MUST
19 STATE THAT EACH PARENT OF THE MINOR IS ENTITLED TO NOTICE THAT:

20 (a) THE GUARDIAN HAS DELEGATED CUSTODY OF THE MINOR
21 SUBJECT TO GUARDIANSHIP;

22 (b) THE COURT HAS MODIFIED OR LIMITED THE POWERS OF THE
23 GUARDIAN; OR

24 (c) THE COURT HAS REMOVED THE GUARDIAN.

25 (6) AN ORDER GRANTING A GUARDIANSHIP FOR A MINOR MUST
26 IDENTIFY ANY PERSON IN ADDITION TO A PARENT OF THE MINOR WHO IS
27 ENTITLED TO NOTICE OF THE EVENTS LISTED IN SUBSECTION (5) OF THIS

1 SECTION.

2 (7) (a) FOR PURPOSES OF THIS SUBSECTION (7) ONLY, "MINOR"
3 MEANS AN UNMARRIED INDIVIDUAL WHO HAS NOT ATTAINED TWENTY-ONE
4 YEARS OF AGE.

5 (b) THE COURT MAY ENTER AN ORDER APPOINTING A GUARDIAN OF
6 A MINOR, AS DEFINED IN SUBSECTION (7)(a) OF THIS SECTION, AND A
7 DETERMINATION OF WHETHER THE MINOR SHALL BE REUNIFIED WITH A
8 PARENT OR PARENTS, OF WHEN THE REQUIREMENTS OF SUBSECTION (2) OF
9 THIS SECTION ARE MET, OF WHETHER THE ORDER IS IN THE MINOR'S BEST
10 INTERESTS, AND:

11 (I) THE MINOR HAS NOT ATTAINED TWENTY-ONE YEARS OF AGE;

12 (II) THE MINOR IS RESIDING WITH AND DEPENDENT UPON A
13 CAREGIVER; AND

14 (III) A REQUEST IS MADE FOR FINDINGS FROM THE COURT TO
15 ESTABLISH THE MINOR'S ELIGIBILITY FOR CLASSIFICATION AS A SPECIAL
16 IMMIGRANT JUVENILE PURSUANT TO 8 U.S.C. SEC. 1101 (a)(27)(J).

17 (c) IF A REQUEST IS MADE FOR FINDINGS ESTABLISHING THE
18 MINOR'S ELIGIBILITY FOR CLASSIFICATION AS A SPECIAL IMMIGRANT
19 JUVENILE UNDER FEDERAL LAW AND THE COURT DETERMINES THERE IS
20 SUFFICIENT EVIDENCE TO SUPPORT THE FINDINGS, THE COURT SHALL
21 ENTER AN ORDER, INCLUDING FACTUAL FINDINGS AND CONCLUSIONS OF
22 LAW, DETERMINING THAT:

23 (I) THE MINOR HAS BEEN PLACED UNDER THE CUSTODY OF AN
24 INDIVIDUAL APPOINTED BY THE COURT THROUGH THE APPOINTMENT OF A
25 GUARDIAN;

26 (II) REUNIFICATION OF THE MINOR WITH ONE OR BOTH PARENTS IS
27 NOT VIABLE DUE TO ABUSE, NEGLECT, ABANDONMENT, OR A SIMILAR BASIS

1 FOUND PURSUANT TO STATE LAW. FOR PURPOSES OF THIS SUBSECTION
2 (7)(c)(II), "ABANDONMENT" INCLUDES, BUT IS NOT LIMITED TO, THE DEATH
3 OF ONE OR BOTH PARENTS.

4 (III) IT IS NOT IN THE BEST INTERESTS OF THE MINOR TO BE
5 RETURNED TO THE MINOR'S OR PARENTS' PREVIOUS COUNTRY OF
6 NATIONALITY OR COUNTRY OF LAST HABITUAL RESIDENCE.

7 **15-14.7-207. Standby guardian for minor.** (1) A STANDBY
8 GUARDIAN APPOINTED PURSUANT TO THIS SECTION MAY ACT AS
9 GUARDIAN, WITH ALL DUTIES AND POWERS OF A GUARDIAN PURSUANT TO
10 SECTIONS 15-14.7-209 AND 15-14.7-210, WHEN NO PARENT OF THE MINOR
11 IS WILLING OR ABLE TO EXERCISE THE DUTIES AND POWERS GRANTED TO
12 THE GUARDIAN.

13 (2) A PARENT OF A MINOR, IN A SIGNED RECORD, MAY NOMINATE
14 A PERSON TO BE APPOINTED BY THE COURT AS STANDBY GUARDIAN FOR
15 THE MINOR. THE PARENT, IN THE SIGNED RECORD, MAY STATE DESIRED
16 LIMITATIONS ON THE POWERS TO BE GRANTED TO THE STANDBY
17 GUARDIAN. THE PARENT, IN A SIGNED RECORD, MAY REVOKE OR AMEND
18 THE NOMINATION AT ANY TIME BEFORE THE COURT APPOINTS A STANDBY
19 GUARDIAN.

20 (3) THE COURT MAY APPOINT A STANDBY GUARDIAN FOR A MINOR
21 ON:

22 (a) PETITION BY A PARENT OF THE MINOR OR A PERSON NOMINATED
23 PURSUANT TO SUBSECTION (2) OF THIS SECTION; AND

24 (b) FINDING THAT NO PARENT OF THE MINOR LIKELY WILL BE ABLE
25 OR WILLING TO CARE FOR OR MAKE DECISIONS WITH RESPECT TO THE
26 MINOR NOT LATER THAN TWO YEARS AFTER THE APPOINTMENT.

27 (4) A PETITION PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION

1 MUST INCLUDE THE SAME INFORMATION REQUIRED PURSUANT TO SECTION
2 15-14.7-202 FOR THE APPOINTMENT OF A GUARDIAN FOR A MINOR.

3 (5) UPON FILING A PETITION PURSUANT TO SUBSECTION (3)(a) OF
4 THIS SECTION, THE PETITIONER SHALL:

5 (a) SERVE A COPY OF THE PETITION PERSONALLY ON:

6 (I) THE MINOR, IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER,
7 AND THE MINOR'S ATTORNEY, IF ANY;

8 (II) EACH PARENT OF THE MINOR;

9 (III) THE PERSON NOMINATED AS STANDBY GUARDIAN; AND

10 (IV) ANY OTHER PERSON THE COURT DETERMINES; AND

11 (b) INCLUDE WITH THE COPY OF THE PETITION SERVED PURSUANT
12 TO SUBSECTION (5)(a) OF THIS SECTION A STATEMENT OF THE RIGHT TO
13 REQUEST APPOINTMENT OF AN ATTORNEY FOR THE MINOR OR TO OBJECT
14 TO APPOINTMENT OF THE STANDBY GUARDIAN AND A DESCRIPTION OF THE
15 NATURE, PURPOSE, AND CONSEQUENCES OF APPOINTMENT OF A STANDBY
16 GUARDIAN.

17 (6) A PERSON ENTITLED TO NOTICE PURSUANT TO SUBSECTION (5)
18 OF THIS SECTION, NOT LATER THAN SIXTY DAYS AFTER SERVICE OF THE
19 PETITION AND STATEMENT, MAY OBJECT TO APPOINTMENT OF THE
20 STANDBY GUARDIAN BY FILING AN OBJECTION WITH THE COURT AND
21 GIVING NOTICE OF THE OBJECTION TO EACH OTHER PERSON ENTITLED TO
22 NOTICE PURSUANT TO SUBSECTION (5) OF THIS SECTION.

23 (7) IF AN OBJECTION IS FILED PURSUANT TO SUBSECTION (6) OF
24 THIS SECTION, THE COURT SHALL HOLD A HEARING TO DETERMINE
25 WHETHER A STANDBY GUARDIAN SHOULD BE APPOINTED AND, IF SO, THE
26 PERSON WHO SHOULD BE APPOINTED. IF NO OBJECTION IS FILED, THE
27 COURT MAY MAKE THE APPOINTMENT.

1 (8) THE COURT SHALL NOT GRANT A PETITION FOR A STANDBY
2 GUARDIAN OF THE MINOR IF NOTICE SUBSTANTIALLY COMPLYING WITH
3 SUBSECTION (5) OF THIS SECTION IS NOT SERVED ON:

4 (a) THE MINOR, IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER;
5 AND

6 (b) EACH PARENT OF THE MINOR, UNLESS THE COURT FINDS BY
7 CLEAR-AND-CONVINCING EVIDENCE THAT THE PARENT, IN A RECORD,
8 WAIVED THE RIGHT TO NOTICE OR CANNOT BE LOCATED AND SERVED WITH
9 DUE DILIGENCE.

10 (9) IF A PETITIONER IS UNABLE TO SERVE NOTICE PURSUANT TO
11 SUBSECTION (5) ON A PARENT OF THE MINOR OR ALLEGES THAT A PARENT
12 OF THE MINOR WAIVED THE RIGHT TO NOTICE PURSUANT TO THIS SECTION,
13 THE COURT SHALL APPOINT A VISITOR WHO SHALL:

14 (a) INTERVIEW THE PETITIONER AND THE MINOR;

15 (b) IF THE PETITIONER ALLEGES THE PARENT CANNOT BE LOCATED
16 AND SERVED, ASCERTAIN WHETHER THE PARENT CANNOT BE LOCATED
17 WITH DUE DILIGENCE; AND

18 (c) INVESTIGATE ANY OTHER MATTER RELATING TO THE PETITION
19 THE COURT DIRECTS.

20 (10) IF THE COURT FINDS PURSUANT TO SUBSECTION (3) OF THIS
21 SECTION THAT A STANDBY GUARDIAN SHOULD BE APPOINTED, THE
22 FOLLOWING RULES APPLY:

23 (a) THE COURT SHALL APPOINT THE PERSON NOMINATED PURSUANT
24 TO SUBSECTION (2) OF THIS SECTION UNLESS THE COURT FINDS THE
25 APPOINTMENT IS CONTRARY TO THE BEST INTEREST OF THE MINOR; AND

26 (b) IF THE PARENTS HAVE NOMINATED DIFFERENT PERSONS TO
27 SERVE AS STANDBY GUARDIAN, THE COURT SHALL APPOINT THE NOMINEE

1 WHOSE APPOINTMENT IS IN THE BEST INTEREST OF THE MINOR, UNLESS THE
2 COURT FINDS THAT APPOINTMENT OF NONE OF THE NOMINEES IS IN THE
3 BEST INTEREST OF THE MINOR.

4 (11) AN ORDER APPOINTING A STANDBY GUARDIAN PURSUANT TO
5 THIS SECTION MUST STATE THAT EACH PARENT OF THE MINOR IS ENTITLED
6 TO NOTICE, AND IDENTIFY ANY OTHER PERSON ENTITLED TO NOTICE, IF:

7 (a) THE STANDBY GUARDIAN ASSUMES THE DUTIES AND POWERS
8 OF THE GUARDIAN;

9 (b) THE GUARDIAN DELEGATES CUSTODY OF THE MINOR;

10 (c) THE COURT MODIFIES OR LIMITS THE POWERS OF THE
11 GUARDIAN; OR

12 (d) THE COURT REMOVES THE GUARDIAN.

13 (12) BEFORE ASSUMING THE DUTIES AND POWERS OF A GUARDIAN,
14 A STANDBY GUARDIAN SHALL FILE WITH THE COURT AN ACCEPTANCE OF
15 APPOINTMENT AS GUARDIAN AND GIVE NOTICE, PURSUANT TO SECTION
16 15-10-401, OF THE ACCEPTANCE TO:

17 (a) EACH PARENT OF THE MINOR, UNLESS THE PARENT, IN A
18 RECORD, WAIVED THE RIGHT TO NOTICE OR CANNOT BE LOCATED AND
19 SERVED WITH DUE DILIGENCE;

20 (b) THE MINOR, IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER;
21 AND

22 (c) ANY PERSON, OTHER THAN THE PARENT, HAVING CARE OR
23 CUSTODY OF THE MINOR.

24 (13) A PERSON THAT RECEIVES NOTICE PURSUANT TO SUBSECTION
25 (12) OF THIS SECTION OR ANY OTHER PERSON INTERESTED IN THE WELFARE
26 OF THE MINOR MAY FILE WITH THE COURT AN OBJECTION TO THE STANDBY
27 GUARDIAN'S ASSUMPTION OF DUTIES AND POWERS OF A GUARDIAN. THE

1 COURT SHALL HOLD A HEARING IF THE OBJECTION SUPPORTS A
2 REASONABLE BELIEF THAT THE CONDITIONS FOR ASSUMPTION OF DUTIES
3 AND POWERS HAVE NOT BEEN SATISFIED.

4 **15-14.7-208. Emergency guardian for minor.** (1) ON ITS OWN,
5 OR ON PETITION BY A PERSON INTERESTED IN A MINOR'S WELFARE, THE
6 COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR THE MINOR IF THE
7 COURT FINDS:

8 (a) APPOINTMENT OF AN EMERGENCY GUARDIAN IS LIKELY TO
9 PREVENT SUBSTANTIAL HARM TO THE MINOR'S HEALTH, SAFETY, OR
10 WELFARE; AND

11 (b) NO OTHER PERSON APPEARS TO HAVE AUTHORITY AND
12 WILLINGNESS TO ACT IN THE CIRCUMSTANCES.

13 (2) THE DURATION OF AUTHORITY OF AN EMERGENCY GUARDIAN
14 FOR A MINOR MUST NOT EXCEED SIXTY DAYS AND THE EMERGENCY
15 GUARDIAN MAY EXERCISE ONLY THE POWERS SPECIFIED IN THE ORDER OF
16 APPOINTMENT. THE EMERGENCY GUARDIAN'S AUTHORITY MAY BE
17 EXTENDED ONCE FOR NOT MORE THAN SIXTY DAYS IF THE COURT FINDS
18 THAT THE CONDITIONS FOR APPOINTMENT OF AN EMERGENCY GUARDIAN
19 DESCRIBED IN SUBSECTION (1) OF THIS SECTION CONTINUE.

20 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS
21 SECTION, REASONABLE NOTICE OF THE DATE, TIME, AND PLACE OF A
22 HEARING ON A PETITION FOR APPOINTMENT OF AN EMERGENCY GUARDIAN
23 FOR A MINOR MUST BE GIVEN TO:

24 (a) THE MINOR, IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER;

25 (b) ANY ATTORNEY APPOINTED PURSUANT TO SECTION
26 15-14.7-204;

27 (c) EACH PARENT OF THE MINOR;

1 (d) ANY PERSON, OTHER THAN A PARENT, WHO HAS CARE OR
2 CUSTODY OF THE MINOR; AND

3 (e) ANY OTHER PERSON THE COURT DETERMINES.

4 (4) THE COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR A
5 MINOR WITHOUT NOTICE PURSUANT TO SUBSECTION (3) OF THIS SECTION
6 AND WITHOUT A HEARING ONLY IF THE COURT FINDS FROM AN AFFIDAVIT
7 OR TESTIMONY THAT THE MINOR'S HEALTH, SAFETY, OR WELFARE WILL BE
8 SUBSTANTIALLY HARMED BEFORE A HEARING WITH NOTICE ON THE
9 APPOINTMENT CAN BE HELD. IF THE COURT APPOINTS AN EMERGENCY
10 GUARDIAN WITHOUT NOTICE TO AN UNREPRESENTED MINOR OR THE
11 ATTORNEY FOR A REPRESENTED MINOR, NOTICE OF THE APPOINTMENT
12 MUST BE GIVEN NOT LATER THAN FORTY-EIGHT HOURS AFTER THE
13 APPOINTMENT TO THE INDIVIDUALS LISTED IN SUBSECTION (3) OF THIS
14 SECTION. NOT LATER THAN FIVE DAYS AFTER THE APPOINTMENT, THE
15 COURT SHALL HOLD A HEARING ON THE APPROPRIATENESS OF THE
16 APPOINTMENT.

17 (5) APPOINTMENT OF AN EMERGENCY GUARDIAN PURSUANT TO
18 THIS SECTION, WITH OR WITHOUT NOTICE, IS NOT A DETERMINATION THAT
19 A BASIS EXISTS FOR APPOINTMENT OF A GUARDIAN PURSUANT TO SECTION
20 15-14.7-201.

21 (6) THE COURT MAY REMOVE AN EMERGENCY GUARDIAN
22 APPOINTED PURSUANT TO THIS SECTION AT ANY TIME. THE EMERGENCY
23 GUARDIAN SHALL MAKE ANY REPORT THE COURT REQUIRES.

24 **15-14.7-209. Duties of guardian for minor.** (1) A GUARDIAN
25 FOR A MINOR IS A FIDUCIARY. EXCEPT AS OTHERWISE LIMITED BY THE
26 COURT, A GUARDIAN FOR A MINOR HAS THE DUTIES AND RESPONSIBILITIES
27 OF A PARENT REGARDING THE MINOR'S SUPPORT, CARE, EDUCATION,

1 HEALTH, SAFETY, AND WELFARE. A GUARDIAN SHALL ACT IN THE MINOR'S
2 BEST INTEREST AND EXERCISE REASONABLE CARE, DILIGENCE, AND
3 PRUDENCE.

4 (2) A GUARDIAN FOR A MINOR SHALL:

5 (a) BE PERSONALLY ACQUAINTED WITH THE MINOR AND MAINTAIN
6 SUFFICIENT CONTACT WITH THE MINOR TO KNOW THE MINOR'S ABILITIES,
7 LIMITATIONS, NEEDS, OPPORTUNITIES, AND PHYSICAL AND MENTAL
8 HEALTH;

9 (b) TAKE REASONABLE CARE OF THE MINOR'S PERSONAL EFFECTS
10 AND BRING A PROCEEDING FOR A CONSERVATORSHIP OR PROTECTIVE
11 ARRANGEMENT INSTEAD OF CONSERVATORSHIP IF NECESSARY TO PROTECT
12 OTHER PROPERTY OF THE MINOR;

13 (c) EXPEND FUNDS OF THE MINOR THAT HAVE BEEN RECEIVED BY
14 THE GUARDIAN FOR THE MINOR'S CURRENT NEEDS FOR SUPPORT, CARE,
15 EDUCATION, HEALTH, SAFETY, AND WELFARE;

16 (d) CONSERVE ANY FUNDS OF THE MINOR NOT EXPENDED
17 PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION FOR THE MINOR'S
18 FUTURE NEEDS, BUT IF A CONSERVATOR IS APPOINTED FOR THE MINOR, PAY
19 THE FUNDS AT LEAST QUARTERLY TO THE CONSERVATOR TO BE
20 CONSERVED FOR THE MINOR'S FUTURE NEEDS;

21 (e) REPORT THE CONDITION OF THE MINOR AND ACCOUNT FOR
22 FUNDS AND OTHER PROPERTY OF THE MINOR IN THE GUARDIAN'S
23 POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL, AS REQUIRED BY
24 COURT RULE OR ORDERED BY THE COURT ON APPLICATION OF A PERSON
25 INTERESTED IN THE MINOR'S WELFARE;

26 (f) INFORM THE COURT OF ANY CHANGE IN THE MINOR'S DWELLING
27 OR ADDRESS; AND

1 (g) IN DETERMINING WHAT IS IN THE MINOR'S BEST INTEREST, TAKE
2 INTO ACCOUNT THE MINOR'S PREFERENCES TO THE EXTENT ACTUALLY
3 KNOWN OR REASONABLY ASCERTAINABLE BY THE GUARDIAN.

4 **15-14.7-210. Powers of guardian for minor.** (1) EXCEPT AS
5 OTHERWISE LIMITED BY COURT ORDER, A GUARDIAN OF A MINOR HAS THE
6 POWERS A PARENT OTHERWISE WOULD HAVE REGARDING THE MINOR'S
7 SUPPORT, CARE, EDUCATION, HEALTH, SAFETY, AND WELFARE.

8 (2) EXCEPT AS OTHERWISE LIMITED BY COURT ORDER, A GUARDIAN
9 FOR A MINOR MAY:

10 (a) APPLY FOR AND RECEIVE FUNDS AND BENEFITS OTHERWISE
11 PAYABLE FOR THE SUPPORT OF THE MINOR TO THE MINOR'S PARENT,
12 GUARDIAN, OR CUSTODIAN PURSUANT TO A STATUTORY SYSTEM OF
13 BENEFITS OR INSURANCE OR ANY PRIVATE CONTRACT, DEVISE, TRUST,
14 CONSERVATORSHIP, OR CUSTODIANSHIP;

15 (b) UNLESS INCONSISTENT WITH A COURT ORDER ENTITLED TO
16 RECOGNITION IN THIS STATE, TAKE CUSTODY OF THE MINOR AND
17 ESTABLISH THE MINOR'S PLACE OF DWELLING AND, ON AUTHORIZATION OF
18 THE COURT, ESTABLISH OR MOVE THE MINOR'S DWELLING OUTSIDE THIS
19 STATE;

20 (c) IF THE MINOR IS NOT SUBJECT TO CONSERVATORSHIP,
21 COMMENCE A PROCEEDING, INCLUDING AN ADMINISTRATIVE PROCEEDING,
22 OR TAKE OTHER APPROPRIATE ACTION TO COMPEL A PERSON TO SUPPORT
23 THE MINOR OR MAKE A PAYMENT FOR THE BENEFIT OF THE MINOR;

24 (d) CONSENT TO HEALTH OR OTHER CARE, TREATMENT, OR
25 SERVICE FOR THE MINOR; OR

26 (e) TO THE EXTENT REASONABLE, DELEGATE TO THE MINOR
27 RESPONSIBILITY FOR A DECISION AFFECTING THE MINOR'S WELL-BEING.

1 (3) THE COURT MAY AUTHORIZE A GUARDIAN FOR A MINOR TO
2 CONSENT TO THE ADOPTION OF THE MINOR IF THE MINOR DOES NOT HAVE
3 A PARENT.

4 (4) A GUARDIAN FOR A MINOR MAY CONSENT TO THE MARRIAGE OF
5 THE MINOR IF AUTHORIZED BY THE COURT.

6 **15-14.7-211. Removal of guardian for minor; termination of**
7 **guardianship - appointment of successor.** (1) GUARDIANSHIP
8 PURSUANT TO THIS ARTICLE 14.7 FOR A MINOR TERMINATES:

9 (a) UPON THE MINOR'S DEATH, ADOPTION, EMANCIPATION, OR
10 ATTAINMENT OF MAJORITY; OR

11 (b) WHEN THE COURT FINDS THAT THE STANDARD DESCRIBED IN
12 SECTION 15-14.7-201 FOR APPOINTMENT OF A GUARDIAN IS NOT SATISFIED,
13 UNLESS THE COURT FINDS THAT:

14 (I) TERMINATION OF THE GUARDIANSHIP WOULD BE HARMFUL TO
15 THE MINOR; AND

16 (II) THE MINOR'S INTEREST IN THE CONTINUATION OF THE
17 GUARDIANSHIP OUTWEIGHS THE INTEREST OF ANY PARENT OF THE MINOR
18 IN RESTORATION OF THE PARENT'S RIGHT TO MAKE DECISIONS FOR THE
19 MINOR.

20 (2) A MINOR SUBJECT TO GUARDIANSHIP OR A PERSON INTERESTED
21 IN THE WELFARE OF THE MINOR MAY PETITION THE COURT TO TERMINATE
22 THE GUARDIANSHIP, MODIFY THE GUARDIANSHIP, REMOVE THE GUARDIAN
23 AND APPOINT A SUCCESSOR GUARDIAN, OR REMOVE A STANDBY GUARDIAN
24 AND APPOINT A DIFFERENT STANDBY GUARDIAN.

25 (3) A PETITIONER PURSUANT TO SUBSECTION (2) OF THIS SECTION
26 SHALL GIVE NOTICE, PURSUANT TO SECTION 15-10-401, OF THE HEARING
27 ON THE PETITION TO THE MINOR, IF THE MINOR IS TWELVE YEARS OF AGE

1 OR OLDER AND IS NOT THE PETITIONER; THE GUARDIAN; EACH PARENT OF
2 THE MINOR; AND ANY OTHER PERSON THE COURT DETERMINES.

3 (4) THE COURT SHALL FOLLOW THE PRIORITIES IN SECTION
4 15-14.7-206 WHEN SELECTING A SUCCESSOR GUARDIAN FOR A MINOR.

5 (5) NO LATER THAN THIRTY DAYS AFTER APPOINTMENT OF A
6 SUCCESSOR GUARDIAN FOR A MINOR, THE COURT SHALL GIVE NOTICE,
7 PURSUANT TO SECTION 15-10-401, OF THE APPOINTMENT TO THE MINOR
8 SUBJECT TO GUARDIANSHIP, IF THE MINOR IS TWELVE YEARS OF AGE OR
9 OLDER; EACH PARENT OF THE MINOR; AND ANY OTHER PERSON THE COURT
10 DETERMINES.

11 (6) WHEN TERMINATING A GUARDIANSHIP FOR A MINOR PURSUANT
12 TO THIS SECTION, THE COURT MAY ISSUE AN ORDER PROVIDING FOR
13 TRANSITIONAL ARRANGEMENTS THAT WILL ASSIST THE MINOR WITH A
14 TRANSITION OF CUSTODY AND IS IN THE BEST INTEREST OF THE MINOR.

15 (7) A GUARDIAN FOR A MINOR WHO IS REMOVED SHALL
16 COOPERATE WITH A SUCCESSOR GUARDIAN TO FACILITATE TRANSITION OF
17 THE GUARDIAN'S RESPONSIBILITIES AND PROTECT THE BEST INTEREST OF
18 THE MINOR.

19 PART 3

20 GUARDIANSHIP OF ADULT

21 **15-14.7-301. Basis for appointment of guardian for adult.**

22 (1) ON PETITION AND AFTER NOTICE AND HEARING, THE COURT MAY:

23 (a) APPOINT A GUARDIAN FOR AN ADULT IF THE COURT FINDS BY
24 CLEAR AND CONVINCING EVIDENCE THAT:

25 (I) THE RESPONDENT LACKS THE ABILITY TO MEET ESSENTIAL
26 REQUIREMENTS FOR HEALTH, SAFETY, OR WELFARE BECAUSE THE
27 RESPONDENT IS UNABLE TO RECEIVE AND EVALUATE INFORMATION OR

1 MAKE OR COMMUNICATE DECISIONS, EVEN WITH APPROPRIATE SUPPORTIVE
2 SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
3 DECISION-MAKING; AND

4 (II) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
5 PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP OR OTHER LESS
6 RESTRICTIVE ALTERNATIVE; OR

7 (b) WITH APPROPRIATE FINDINGS, TREAT THE PETITION AS ONE FOR
8 A CONSERVATORSHIP PURSUANT TO PART 4 OF THIS ARTICLE 14.7 OR
9 PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF THIS ARTICLE 14.7,
10 ISSUE ANY APPROPRIATE ORDER, OR DISMISS THE PROCEEDING.

11 (2) THE COURT SHALL GRANT A GUARDIAN APPOINTED PURSUANT
12 TO SUBSECTION (1) OF THIS SECTION ONLY THOSE POWERS NECESSITATED
13 BY THE DEMONSTRATED NEEDS AND LIMITATIONS OF THE RESPONDENT
14 AND ISSUE ORDERS THAT WILL ENCOURAGE DEVELOPMENT OF THE
15 RESPONDENT'S MAXIMUM SELF-DETERMINATION AND INDEPENDENCE. THE
16 COURT MAY NOT ESTABLISH A FULL GUARDIANSHIP IF A LIMITED
17 GUARDIANSHIP, PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP,
18 OR OTHER LESS RESTRICTIVE ALTERNATIVES WOULD MEET THE NEEDS OF
19 THE RESPONDENT.

20 **15-14.7-302. Petition for appointment of guardian for adult.**

21 (1) A PERSON INTERESTED IN AN ADULT'S WELFARE, INCLUDING THE
22 ADULT FOR WHOM THE ORDER IS SOUGHT, MAY PETITION FOR
23 APPOINTMENT OF A GUARDIAN FOR THE ADULT.

24 (2) A PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION
25 MUST STATE THE PETITIONER'S NAME; PRINCIPAL RESIDENCE; CURRENT
26 STREET ADDRESS, IF DIFFERENT; RELATIONSHIP TO THE RESPONDENT;
27 INTEREST IN THE APPOINTMENT; THE NAME AND ADDRESS OF ANY

1 ATTORNEY REPRESENTING THE PETITIONER; AND, TO THE EXTENT KNOWN,
2 THE FOLLOWING:

3 (a) THE RESPONDENT'S NAME; AGE; PRINCIPAL RESIDENCE;
4 CURRENT STREET ADDRESS, IF DIFFERENT; AND, IF DIFFERENT, ADDRESS OF
5 THE DWELLING IN WHICH IT IS PROPOSED THE RESPONDENT WILL RESIDE IF
6 THE PETITION IS GRANTED;

7 (b) THE NAME AND ADDRESS OF THE RESPONDENT'S:

8 (I) SPOUSE OR DOMESTIC PARTNER OR, IF THE RESPONDENT HAS
9 NONE, AN ADULT WITH WHOM THE RESPONDENT HAS SHARED HOUSEHOLD
10 RESPONSIBILITIES FOR MORE THAN SIX MONTHS IN THE TWELVE-MONTH
11 PERIOD IMMEDIATELY BEFORE THE FILING OF THE PETITION;

12 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
13 SIBLING OF THE RESPONDENT; AND

14 (III) ADULT STEPCHILDREN WHOM THE RESPONDENT ACTIVELY
15 PARENTED DURING THE STEPCHILDREN'S MINOR YEARS AND WITH WHOM
16 THE RESPONDENT HAD AN ONGOING RELATIONSHIP IN THE TWO-YEAR
17 PERIOD IMMEDIATELY BEFORE THE FILING OF THE PETITION;

18 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
19 FOLLOWING, IF APPLICABLE:

20 (I) A PERSON RESPONSIBLE FOR CARE OF THE RESPONDENT;

21 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;

22 (III) ANY REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
23 SECURITY ADMINISTRATION FOR THE RESPONDENT;

24 (IV) A GUARDIAN OR CONSERVATOR ACTING FOR THE RESPONDENT
25 IN THIS STATE OR IN ANOTHER JURISDICTION;

26 (V) A TRUSTEE OR CUSTODIAN OF A TRUST OR CUSTODIANSHIP OF
27 WHICH THE RESPONDENT IS A BENEFICIARY;

1 (VI) ANY FIDUCIARY FOR THE RESPONDENT APPOINTED BY THE
2 DEPARTMENT OF VETERANS AFFAIRS;

3 (VII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
4 HEALTH CARE IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;

5 (VIII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
6 FINANCES IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;

7 (IX) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT;

8 (X) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT'S
9 PARENT OR SPOUSE OR DOMESTIC PARTNER IN A WILL OR OTHER SIGNED
10 RECORD;

11 (XI) A PROPOSED GUARDIAN AND THE REASON THE PROPOSED
12 GUARDIAN SHOULD BE SELECTED; AND

13 (XII) A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY.

14 (d) THE REASON A GUARDIANSHIP IS NECESSARY, INCLUDING A
15 BRIEF DESCRIPTION OF:

16 (I) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
17 NEED;

18 (II) ANY PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP
19 OR OTHER LESS RESTRICTIVE ALTERNATIVES FOR MEETING THE
20 RESPONDENT'S ALLEGED NEED WHICH HAVE BEEN CONSIDERED OR
21 IMPLEMENTED;

22 (III) IF NO PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP
23 OR OTHER LESS RESTRICTIVE ALTERNATIVES HAVE BEEN CONSIDERED OR
24 IMPLEMENTED, THE REASON THEY HAVE NOT BEEN CONSIDERED OR
25 IMPLEMENTED; AND

26 (IV) THE REASON A PROTECTIVE ARRANGEMENT INSTEAD OF
27 GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE IS INSUFFICIENT

1 TO MEET THE RESPONDENT'S ALLEGED NEED;

2 (e) WHETHER THE PETITIONER SEEKS A LIMITED GUARDIANSHIP OR
3 FULL GUARDIANSHIP;

4 (f) IF THE PETITIONER SEEKS A FULL GUARDIANSHIP, THE REASON
5 A LIMITED GUARDIANSHIP OR PROTECTIVE ARRANGEMENT INSTEAD OF
6 GUARDIANSHIP IS NOT APPROPRIATE;

7 (g) IF A LIMITED GUARDIANSHIP IS REQUESTED, THE POWERS TO BE
8 GRANTED TO THE GUARDIAN;

9 (h) THE NAME AND CURRENT ADDRESS, IF KNOWN, OF ANY PERSON
10 WITH WHOM THE PETITIONER SEEKS TO LIMIT THE RESPONDENT'S
11 CONTACT;

12 (i) IF THE RESPONDENT HAS PROPERTY OTHER THAN PERSONAL
13 EFFECTS, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY, WITH
14 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
15 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS;
16 AND

17 (j) WHETHER THE RESPONDENT NEEDS AN INTERPRETER,
18 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE
19 EFFECTIVELY WITH THE COURT OR UNDERSTAND COURT PROCEEDINGS.

20 **15-14.7-303. Notice of hearing for appointment of guardian**
21 **for adult.** (1) ON FILING OF A PETITION PURSUANT TO SECTION
22 15-14.7-302 FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT, THE
23 COURT SHALL SET A DATE, TIME, AND PLACE FOR HEARING THE PETITION.

24 (2) A COPY OF A PETITION DESCRIBED IN SECTION 15-14.7-302 AND
25 NOTICE OF A HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON
26 THE RESPONDENT. THE NOTICE MUST INFORM THE RESPONDENT OF THE
27 RESPONDENT'S RIGHTS AT THE HEARING, INCLUDING THE RIGHT TO AN

1 ATTORNEY AND TO ATTEND THE HEARING. THE NOTICE MUST INCLUDE A
2 DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF
3 GRANTING THE PETITION. THE COURT MAY NOT GRANT THE PETITION IF
4 NOTICE SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (2) IS NOT
5 SERVED ON THE RESPONDENT.

6 (3) IN A PROCEEDING ON A PETITION DESCRIBED IN SECTION
7 15-14.7-302, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
8 SECTION MUST BE GIVEN TO THE PERSONS REQUIRED TO BE LISTED IN THE
9 PETITION PURSUANT TO SECTION 15-14.7-302 (2)(a) TO (2)(c) AND ANY
10 OTHER PERSON INTERESTED IN THE RESPONDENT'S WELFARE THE COURT
11 DETERMINES. FAILURE TO GIVE NOTICE, PURSUANT TO SECTION 15-10-401,
12 PURSUANT TO THIS SUBSECTION (3) DOES NOT PRECLUDE THE COURT FROM
13 APPOINTING A GUARDIAN.

14 (4) IF A PETITION FILED PURSUANT TO SECTION 15-14.7-302 DOES
15 NOT INCLUDE THE NAME OF AT LEAST ONE PERSON DESCRIBED IN SECTION
16 15-14.7-302, THE PETITIONER MUST SEARCH WITH REASONABLE DILIGENCE
17 FOR AN ADULT RELATIVE OF THE RESPONDENT AND, IF AN ADULT RELATIVE
18 IS FOUND, GIVE THE ADULT RELATIVE NOTICE, IN ACCORDANCE WITH
19 SECTION 15-10-401, THAT A PETITION FOR GUARDIANSHIP OF THE
20 RESPONDENT HAS BEEN FILED AND GIVE NOTICE OF A HEARING ON THE
21 PETITION. THE NOTICE SENT TO THE ADULT RELATIVE OF THE RESPONDENT
22 MUST NOT INCLUDE A COPY OF THE PETITION. FAILURE TO GIVE NOTICE
23 PURSUANT TO THIS SUBSECTION (4) DOES NOT PRECLUDE THE COURT FROM
24 APPOINTING A GUARDIAN.

25 (5) AFTER THE APPOINTMENT OF A GUARDIAN, NOTICE OF A
26 HEARING ON A PETITION FOR AN ORDER PURSUANT TO THIS PART 3,
27 TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO:

- 1 (a) THE ADULT SUBJECT TO GUARDIANSHIP;
2 (b) THE GUARDIAN; AND
3 (c) ANY OTHER PERSON THE COURT DETERMINES.

4 **15-14.7-304. Appointment and role of visitor.** (1) ON RECEIPT
5 OF A PETITION DESCRIBED IN SECTION 15-14.7-302 FOR APPOINTMENT OF
6 A GUARDIAN FOR AN ADULT, THE COURT SHALL APPOINT A VISITOR. THE
7 COURT SHALL DISCLOSE IN THE ORDER APPOINTING THE VISITOR THE
8 SPECIFIC TRAINING OR EXPERIENCE THE VISITOR HAS WITH RESPECT TO THE
9 TYPE OF ABILITIES, LIMITATIONS, AND NEEDS OF THE RESPONDENT
10 ALLEGED IN THE PETITION AND THE BASIS FOR FEES TO BE PAID TO THE
11 VISITOR.

12 (2) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
13 SECTION SHALL INTERVIEW THE RESPONDENT IN PERSON AND, IN A
14 MANNER THE RESPONDENT IS BEST ABLE TO UNDERSTAND:

15 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE
16 PETITION; THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING; THE
17 RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION; AND THE
18 GENERAL POWERS AND DUTIES OF A GUARDIAN;

19 (b) DETERMINE THE RESPONDENT'S VIEWS ABOUT THE
20 APPOINTMENT SOUGHT BY THE PETITIONER, INCLUDING VIEWS ABOUT A
21 PROPOSED GUARDIAN, THE GUARDIAN'S PROPOSED POWERS AND DUTIES,
22 AND THE SCOPE AND DURATION OF THE PROPOSED GUARDIANSHIP;

23 (c) INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHT TO
24 EMPLOY AND CONSULT WITH AN ATTORNEY AT THE RESPONDENT'S
25 EXPENSE AND THE RIGHT TO REQUEST A COURT-APPOINTED ATTORNEY;
26 AND

27 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF

1 THE PROCEEDING, INCLUDING RESPONDENT'S ATTORNEY FEES, MAY BE
2 PAID FROM THE RESPONDENT'S ASSETS.

3 (3) THE VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
4 SECTION SHALL:

5 (a) INTERVIEW THE PETITIONER AND PROPOSED GUARDIAN, IF ANY;

6 (b) VISIT THE RESPONDENT'S PRESENT DWELLING AND ANY
7 DWELLING IN WHICH IT IS REASONABLY BELIEVED THE RESPONDENT WILL
8 LIVE IF THE APPOINTMENT IS MADE;

9 (c) OBTAIN INFORMATION FROM ANY PHYSICIAN OR OTHER PERSON
10 KNOWN TO HAVE TREATED, ADVISED, OR ASSESSED THE RESPONDENT'S
11 RELEVANT PHYSICAL OR MENTAL CONDITION; AND

12 (d) INVESTIGATE THE ALLEGATIONS IN THE PETITION AND ANY
13 OTHER MATTER RELATING TO THE PETITION THE COURT DIRECTS.

14 (4) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
15 SECTION PROMPTLY SHALL FILE A REPORT IN A RECORD WITH THE COURT,
16 WHICH MUST INCLUDE:

17 (a) A RECOMMENDATION WHETHER AN ATTORNEY SHOULD BE
18 APPOINTED TO REPRESENT THE RESPONDENT IF AN ATTORNEY HAS NOT
19 ALREADY BEEN APPOINTED PURSUANT TO SECTION 15-14.7-305;

20 (b) A SUMMARY OF SELF-CARE AND INDEPENDENT-LIVING TASKS
21 THE RESPONDENT CAN MANAGE WITHOUT ASSISTANCE OR WITH EXISTING
22 SUPPORTS; COULD MANAGE WITH THE ASSISTANCE OF APPROPRIATE
23 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
24 DECISION-MAKING; AND CANNOT MANAGE;

25 (c) A RECOMMENDATION REGARDING THE APPROPRIATENESS OF
26 GUARDIANSHIP, INCLUDING WHETHER A PROTECTIVE ARRANGEMENT
27 INSTEAD OF GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE

1 FOR MEETING THE RESPONDENT'S NEEDS IS AVAILABLE, AND:

2 (I) IF A GUARDIANSHIP IS RECOMMENDED, WHETHER IT SHOULD BE
3 FULL OR LIMITED; AND

4 (II) IF A LIMITED GUARDIANSHIP IS RECOMMENDED, THE POWERS
5 TO BE GRANTED TO THE GUARDIAN;

6 (d) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED
7 GUARDIAN AND WHETHER THE RESPONDENT APPROVES OR DISAPPROVES
8 OF THE PROPOSED GUARDIAN;

9 (e) A STATEMENT WHETHER THE PROPOSED DWELLING MEETS THE
10 RESPONDENT'S NEEDS AND WHETHER THE RESPONDENT HAS EXPRESSED A
11 PREFERENCE AS TO RESIDENCE;

12 (f) A RECOMMENDATION WHETHER A PROFESSIONAL EVALUATION
13 PURSUANT TO SECTION 15-14.7-306 IS NECESSARY;

14 (g) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO ATTEND
15 A HEARING AT THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD;

16 (h) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
17 PARTICIPATE IN A HEARING AND WHICH IDENTIFIES ANY TECHNOLOGY OR
18 OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE RESPONDENT'S
19 ABILITY TO PARTICIPATE; AND

20 (i) ANY OTHER MATTER THE COURT DIRECTS.

21 **15-14.7-305. Appointment and role of attorney for adult.**

22 (1) THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT THE
23 RESPONDENT IN A PROCEEDING FOR APPOINTMENT OF A GUARDIAN FOR AN
24 ADULT IF:

25 (a) THE RESPONDENT REQUESTS AN APPOINTMENT;

26 (b) THE VISITOR RECOMMENDS AN APPOINTMENT; OR

27 (c) THE COURT DETERMINES THE RESPONDENT NEEDS

1 REPRESENTATION.

2 (2) AN ATTORNEY REPRESENTING THE RESPONDENT IN A
3 PROCEEDING FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT SHALL:

4 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
5 WISHES;

6 (b) ADVOCATE FOR THE RESPONDENT'S WISHES TO THE EXTENT
7 REASONABLY ASCERTAINABLE; AND

8 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
9 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
10 RESTRICTIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT WITH THE
11 RESPONDENT'S INTERESTS.

12 **15-14.7-306. Professional evaluation.** (1) AT OR BEFORE A
13 HEARING ON A PETITION FOR A GUARDIANSHIP FOR AN ADULT, THE COURT
14 SHALL ORDER A PROFESSIONAL EVALUATION OF THE RESPONDENT:

15 (a) IF THE RESPONDENT REQUESTS THE EVALUATION; OR

16 (b) IF THE COURT FINDS THAT ADDITIONAL INFORMATION MAY
17 ASSIST THE COURT IN DETERMINING THE RESPONDENT'S NEEDS AND
18 ABILITIES.

19 (2) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
20 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED
21 BY A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
22 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE
23 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND
24 LIMITATIONS AND WILL NOT BE ADVANTAGED OR DISADVANTAGED BY A
25 DECISION TO GRANT THE PETITION OR OTHERWISE HAVE A CONFLICT OF
26 INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION PROMPTLY
27 SHALL FILE REPORT IN A RECORD WITH THE COURT. UNLESS OTHERWISE

1 DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

2 (a) A DESCRIPTION OF THE NATURE, TYPE, AND EXTENT OF THE
3 RESPONDENT'S COGNITIVE AND FUNCTIONAL ABILITIES AND LIMITATIONS;

4 (b) AN EVALUATION OF THE RESPONDENT'S MENTAL AND PHYSICAL
5 CONDITION AND, IF APPROPRIATE, EDUCATIONAL POTENTIAL, ADAPTIVE
6 BEHAVIOR, AND SOCIAL SKILLS;

7 (c) A PROGNOSIS FOR IMPROVEMENT AND RECOMMENDATION FOR
8 THE APPROPRIATE TREATMENT, SUPPORT, OR HABILITATION PLAN; AND

9 (d) THE DATE OF THE EXAMINATION ON WHICH THE REPORT IS
10 BASED.

11 (3) THE RESPONDENT MAY DECLINE TO PARTICIPATE IN AN
12 EVALUATION ORDERED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

13 **15-14.7-307. Attendance and rights at hearing.** (1) EXCEPT AS
14 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A HEARING
15 PURSUANT TO SECTION 15-14.7-303 MAY NOT PROCEED UNLESS THE
16 RESPONDENT ATTENDS THE HEARING. IF IT IS NOT REASONABLY FEASIBLE
17 FOR THE RESPONDENT TO ATTEND A HEARING AT THE LOCATION COURT
18 PROCEEDINGS TYPICALLY ARE HELD, THE COURT SHALL HOLD A
19 HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY, OR AT THE
20 COURT'S DISCRETION, HOLD THE HEARING AT AN ALTERNATIVE LOCATION
21 WHERE THE RESPONDENT CAN ATTEND USING REAL-TIME AUDIO-VISUAL
22 TECHNOLOGY.

23 (2) A HEARING PURSUANT TO SECTION 15-14.7-303 MAY PROCEED
24 WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS BY CLEAR
25 AND CONVINCING EVIDENCE THAT:

26 (a) THE RESPONDENT HAS REFUSED TO ATTEND THE HEARING
27 AFTER HAVING BEEN FULLY INFORMED OF THE RIGHT TO ATTEND AND THE

1 POTENTIAL CONSEQUENCES OF FAILING TO DO SO; OR

2 (b) THERE IS NO PRACTICABLE WAY FOR THE RESPONDENT TO
3 ATTEND AND PARTICIPATE IN THE HEARING EVEN WITH APPROPRIATE
4 SUPPORTIVE SERVICES AND TECHNOLOGICAL ASSISTANCE.

5 (3) THE RESPONDENT MAY BE ASSISTED IN A HEARING PURSUANT
6 TO SECTION 15-14.7-303 BY A PERSON OR PERSONS OF THE RESPONDENT'S
7 CHOOSING, ASSISTIVE TECHNOLOGY, OR AN INTERPRETER OR TRANSLATOR,
8 OR A COMBINATION OF THESE SUPPORTS. IF ASSISTANCE WOULD
9 FACILITATE THE RESPONDENT'S PARTICIPATION IN THE HEARING BUT IS NOT
10 OTHERWISE AVAILABLE TO THE RESPONDENT, THE COURT SHALL MAKE
11 REASONABLE EFFORTS TO PROVIDE IT.

12 (4) THE RESPONDENT HAS A RIGHT TO CHOOSE AN ATTORNEY TO
13 REPRESENT THE RESPONDENT AT A HEARING PURSUANT TO SECTION
14 15-14.7-303.

15 (5) AT A HEARING HELD PURSUANT TO SECTION 15-14.7.5-303, THE
16 RESPONDENT MAY:

17 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
18 DOCUMENTS;

19 (b) EXAMINE WITNESSES, INCLUDING ANY COURT-APPOINTED
20 EVALUATOR AND THE VISITOR; AND

21 (c) OTHERWISE PARTICIPATE IN THE HEARING.

22 (6) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, A
23 PROPOSED GUARDIAN SHALL ATTEND A HEARING HELD PURSUANT TO
24 SECTION 15-14.7-303.

25 (7) A HEARING HELD PURSUANT TO SECTION 15-14.7-303 MUST BE
26 CLOSED ON REQUEST OF THE RESPONDENT OR A SHOWING OF GOOD CAUSE.

27 (8) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING

1 HELD PURSUANT TO SECTION 15-14.7-303. THE COURT MAY GRANT THE
2 REQUEST, WITH OR WITHOUT A HEARING, ON DETERMINING THAT THE BEST
3 INTEREST OF THE RESPONDENT WILL BE SERVED. THE COURT SHALL
4 CONSIDER THE PREFERENCES AND OPINIONS OF THE RESPONDENT PRIOR TO
5 GRANTING A REQUEST TO PARTICIPATE IN THE HEARING. THE COURT MAY
6 IMPOSE APPROPRIATE CONDITIONS ON THE PERSON'S PARTICIPATION.

7 **15-14.7-308. Confidentiality of records.** THE COURT SHALL
8 COMPLY WITH THE ADMINISTRATIVE RULES PROMULGATED BY THE
9 JUDICIAL DEPARTMENT CONCERNING THE CONFIDENTIALITY OF COURT
10 RECORDS.

11 **15-14.7-309. Who may be guardian for adult - order of**
12 **priority.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
13 SECTION, THE COURT, IN APPOINTING A GUARDIAN FOR AN ADULT, SHALL
14 CONSIDER PERSONS QUALIFIED TO BE GUARDIAN IN THE FOLLOWING ORDER
15 OF PRIORITY:

16 (a) A GUARDIAN, OTHER THAN A TEMPORARY OR EMERGENCY
17 GUARDIAN, CURRENTLY ACTING FOR THE RESPONDENT IN ANOTHER
18 JURISDICTION;

19 (b) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT,
20 INCLUDING THE RESPONDENT'S MOST RECENT NOMINATION MADE IN A
21 POWER OF ATTORNEY;

22 (c) AN AGENT APPOINTED BY THE RESPONDENT UNDER A POWER OF
23 ATTORNEY FOR HEALTH CARE;

24 (d) A SPOUSE OR DOMESTIC PARTNER OF THE RESPONDENT; AND

25 (e) A FAMILY MEMBER OR OTHER INDIVIDUAL WHO HAS SHOWN
26 SPECIAL CARE AND CONCERN FOR THE RESPONDENT.

27 (2) IF TWO OR MORE PERSONS HAVE EQUAL PRIORITY PURSUANT TO

1 SUBSECTION (1) OF THIS SECTION, THE COURT SHALL SELECT AS GUARDIAN
2 THE PERSON THE COURT CONSIDERS BEST QUALIFIED. IN DETERMINING THE
3 BEST QUALIFIED PERSON, THE COURT SHALL CONSIDER THE PERSON'S
4 RELATIONSHIP WITH THE RESPONDENT, THE PERSON'S SKILLS, THE
5 EXPRESSED WISHES OF THE RESPONDENT, THE EXTENT TO WHICH THE
6 PERSON AND THE RESPONDENT HAVE SIMILAR VALUES AND PREFERENCES,
7 AND THE LIKELIHOOD THE PERSON WILL BE ABLE TO PERFORM THE DUTIES
8 OF A GUARDIAN SUCCESSFULLY.

9 (3) THE COURT, ACTING IN THE BEST INTEREST OF THE
10 RESPONDENT, MAY DECLINE TO APPOINT AS GUARDIAN A PERSON HAVING
11 PRIORITY PURSUANT TO SUBSECTION (1) OF THIS SECTION AND APPOINT A
12 PERSON HAVING A LOWER PRIORITY OR NO PRIORITY.

13 (4) UNLESS THE PERSON HAS PRIORITY TO SERVE PURSUANT TO
14 SUBSECTION (1) OF THIS SECTION, A PERSON WHO PROVIDES PAID SERVICES
15 TO THE RESPONDENT, OR AN INDIVIDUAL WHO IS EMPLOYED BY A PERSON
16 WHO PROVIDES PAID SERVICES TO THE RESPONDENT OR IS THE SPOUSE,
17 DOMESTIC PARTNER, PARENT, OR CHILD OF AN INDIVIDUAL WHO PROVIDES
18 OR IS EMPLOYED TO PROVIDE PAID SERVICES TO THE RESPONDENT, MAY
19 NOT BE APPOINTED AS GUARDIAN UNLESS:

20 (a) THE INDIVIDUAL IS RELATED TO THE RESPONDENT BY BLOOD,
21 MARRIAGE, OR ADOPTION; OR

22 (b) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
23 THE PERSON IS THE BEST QUALIFIED PERSON AVAILABLE FOR APPOINTMENT
24 AND THE APPOINTMENT IS IN THE BEST INTEREST OF THE RESPONDENT.

25 (5) AN OWNER, OPERATOR, OR EMPLOYEE OF A LONG-TERM CARE
26 FACILITY AT WHICH THE RESPONDENT IS RECEIVING CARE MAY NOT BE
27 APPOINTED AS GUARDIAN UNLESS THE OWNER, OPERATOR, OR EMPLOYEE

1 IS RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR ADOPTION.

2 **15-14.7-310. Order of appointment for guardian.** (1) A COURT
3 ORDER APPOINTING A GUARDIAN FOR AN ADULT MUST:

4 (a) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
5 EVIDENCE ESTABLISHED THAT THE IDENTIFIED NEEDS OF THE RESPONDENT
6 CANNOT BE MET BY A PROTECTIVE ARRANGEMENT INSTEAD OF
7 GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE, INCLUDING
8 USE OF APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE,
9 OR SUPPORTED DECISION-MAKING;

10 (b) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
11 EVIDENCE ESTABLISHED THE RESPONDENT WAS GIVEN PROPER NOTICE OF
12 THE HEARING ON THE PETITION;

13 (c) STATE WHETHER THE ADULT SUBJECT TO GUARDIANSHIP
14 RETAINS THE RIGHT TO VOTE AND, IF THE ADULT DOES NOT RETAIN THE
15 RIGHT TO VOTE, INCLUDE FINDINGS THAT SUPPORT REMOVING THAT RIGHT,
16 WHICH MUST INCLUDE A FINDING THAT THE ADULT CANNOT
17 COMMUNICATE, WITH OR WITHOUT SUPPORT, A SPECIFIC DESIRE TO
18 PARTICIPATE IN THE VOTING PROCESS; AND

19 (d) STATE WHETHER THE ADULT SUBJECT TO GUARDIANSHIP
20 RETAINS THE RIGHT TO MARRY AND, IF THE ADULT DOES NOT RETAIN THE
21 RIGHT TO MARRY, INCLUDE FINDINGS THAT SUPPORT REMOVING THAT
22 RIGHT.

23 (2) AN ADULT SUBJECT TO GUARDIANSHIP RETAINS THE RIGHT TO
24 VOTE UNLESS THE ORDER DESCRIBED IN SUBSECTION (1) OF THIS SECTION
25 INCLUDES THE STATEMENT REQUIRED BY SUBSECTION (1)(c) OF THIS
26 SECTION. AN ADULT SUBJECT TO GUARDIANSHIP RETAINS THE RIGHT TO
27 MARRY UNLESS THE ORDER DESCRIBED IN SUBSECTION (1) OF THIS SECTION

1 INCLUDES THE FINDINGS REQUIRED BY SUBSECTION (1)(d) OF THIS
2 SECTION.

3 (3) A COURT ORDER ESTABLISHING A FULL GUARDIANSHIP FOR AN
4 ADULT MUST STATE THE BASIS FOR GRANTING A FULL GUARDIANSHIP AND
5 INCLUDE SPECIFIC FINDINGS THAT SUPPORT THE CONCLUSION THAT A
6 LIMITED GUARDIANSHIP WOULD NOT MEET THE FUNCTIONAL NEEDS OF THE
7 ADULT SUBJECT TO GUARDIANSHIP.

8 (4) A COURT ORDER ESTABLISHING A LIMITED GUARDIANSHIP FOR
9 AN ADULT MUST STATE THE SPECIFIC POWERS GRANTED TO THE GUARDIAN.

10 (5) THE COURT, AS PART OF AN ORDER ESTABLISHING A
11 GUARDIANSHIP FOR AN ADULT, SHALL IDENTIFY ANY PERSON THAT
12 SUBSEQUENTLY IS ENTITLED TO:

13 (a) NOTICE OF THE RIGHTS OF THE ADULT PURSUANT TO SECTION
14 15-14.7-311 (2);

15 (b) NOTICE OF A CHANGE IN THE PRIMARY DWELLING OF THE
16 ADULT;

17 (c) NOTICE THAT THE GUARDIAN HAS DELEGATED:

18 (I) THE POWER TO MANAGE THE CARE OF THE ADULT;

19 (II) THE POWER TO MAKE DECISIONS ABOUT WHERE THE ADULT
20 LIVES;

21 (III) THE POWER TO MAKE MAJOR MEDICAL DECISIONS ON BEHALF
22 OF THE ADULT;

23 (IV) THE POWER THAT REQUIRES COURT APPROVAL PURSUANT TO
24 SECTION 15-14.7-315; OR

25 (V) SUBSTANTIALLY ALL POWERS OF THE GUARDIAN;

26 (d) NOTICE THAT THE GUARDIAN WILL BE UNAVAILABLE TO VISIT
27 THE ADULT FOR MORE THAN TWO MONTHS OR UNAVAILABLE TO PERFORM

1 THE GUARDIAN'S DUTIES FOR MORE THAN ONE MONTH;

2 (e) A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN SECTION
3 15-14.7-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
4 15-14.7-317;

5 (f) ACCESS TO COURT RECORDS RELATING TO THE GUARDIANSHIP;

6 (g) NOTICE OF THE DEATH OR SIGNIFICANT CHANGE IN THE
7 CONDITION OF THE ADULT;

8 (h) NOTICE THAT THE COURT HAS LIMITED OR MODIFIED THE
9 POWERS OF THE GUARDIAN; AND

10 (i) NOTICE OF THE REMOVAL OF THE GUARDIAN.

11 (6) A SPOUSE, DOMESTIC PARTNER, AND ADULT CHILDREN OF AN
12 ADULT SUBJECT TO GUARDIANSHIP ARE ENTITLED TO NOTICE PURSUANT TO
13 SUBSECTION (5) OF THIS SECTION UNLESS THE COURT DETERMINES NOTICE
14 WOULD BE CONTRARY TO THE PREFERENCES OR PRIOR DIRECTIONS OF THE
15 ADULT SUBJECT TO GUARDIANSHIP OR NOT IN THE BEST INTEREST OF THE
16 ADULT.

17 **15-14.7-311. Notice of order of appointment - rights.** (1) A
18 GUARDIAN APPOINTED PURSUANT TO SECTION 15-14.7-309 SHALL GIVE
19 THE ADULT SUBJECT TO GUARDIANSHIP AND ALL OTHER PERSONS GIVEN
20 NOTICE PURSUANT TO SECTION 15-14.7-303 A COPY OF THE ORDER OF
21 APPOINTMENT, TOGETHER WITH NOTICE OF THE RIGHT TO REQUEST
22 TERMINATION OR MODIFICATION. THE ORDER AND NOTICE MUST BE GIVEN
23 NOT LATER THAN FOURTEEN DAYS AFTER THE APPOINTMENT.

24 (2) NOT LATER THAN THIRTY DAYS AFTER APPOINTMENT OF A
25 GUARDIAN PURSUANT TO SECTION 15-14.7-309, THE COURT SHALL GIVE TO
26 THE ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN, AND ANY OTHER
27 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-310 (5) OR

1 A SUBSEQUENT ORDER A STATEMENT OF THE RIGHTS OF THE ADULT
2 SUBJECT TO GUARDIANSHIP AND PROCEDURES TO SEEK RELIEF IF THE
3 ADULT IS DENIED THOSE RIGHTS. THE STATEMENT MUST BE IN AT LEAST
4 SIXTEEN-POINT FONT, IN PLAIN LANGUAGE, AND, TO THE EXTENT FEASIBLE,
5 IN A LANGUAGE IN WHICH THE ADULT SUBJECT TO GUARDIANSHIP IS
6 PROFICIENT. THE STATEMENT MUST NOTIFY THE ADULT SUBJECT TO
7 GUARDIANSHIP OF THE RIGHT TO:

8 (a) SEEK TERMINATION OR MODIFICATION OF THE GUARDIANSHIP,
9 OR REMOVAL OF THE GUARDIAN, AND CHOOSE AN ATTORNEY TO
10 REPRESENT THE ADULT IN THESE MATTERS;

11 (b) BE INVOLVED IN DECISIONS AFFECTING THE ADULT, INCLUDING
12 DECISIONS ABOUT THE ADULT'S CARE, DWELLING, ACTIVITIES, OR SOCIAL
13 INTERACTIONS, TO THE EXTENT REASONABLY FEASIBLE;

14 (c) BE INVOLVED IN HEALTH-CARE DECISION-MAKING TO THE
15 EXTENT REASONABLY FEASIBLE AND SUPPORTED IN UNDERSTANDING THE
16 RISKS AND BENEFITS OF HEALTH-CARE OPTIONS TO THE EXTENT
17 REASONABLY FEASIBLE;

18 (d) BE NOTIFIED AT LEAST FOURTEEN DAYS BEFORE A CHANGE IN
19 THE ADULT'S PRIMARY DWELLING OR PERMANENT MOVE TO A NURSING
20 HOME, MENTAL HEALTH INSTITUTION, OR OTHER FACILITY THAT PLACES
21 RESTRICTIONS ON THE INDIVIDUAL'S ABILITY TO LEAVE OR HAVE VISITORS,
22 UNLESS THE CHANGE OR MOVE IS PROPOSED IN THE GUARDIAN'S PLAN
23 PURSUANT TO SECTION 15-14.7-316 OR AUTHORIZED BY THE COURT BY
24 SPECIFIC ORDER;

25 (e) OBJECT TO A CHANGE OR MOVE DESCRIBED IN SUBSECTION
26 (2)(d) OF THIS SECTION AND THE PROCESS FOR OBJECTING;

27 (f) COMMUNICATE, VISIT, OR INTERACT WITH OTHERS, INCLUDING

1 RECEIVING VISITORS AND MAKING OR RECEIVING TELEPHONE CALLS,
2 PERSONAL MAIL, OR ELECTRONIC COMMUNICATIONS, INCLUDING THROUGH
3 SOCIAL MEDIA, UNLESS:

4 (I) THE GUARDIAN HAS BEEN AUTHORIZED BY THE COURT BY
5 SPECIFIC ORDER TO RESTRICT COMMUNICATIONS, VISITS, OR
6 INTERACTIONS;

7 (II) PROTECTIVE ORDER OR PROTECTIVE ARRANGEMENT INSTEAD
8 OF GUARDIANSHIP IS IN EFFECT THAT LIMITS CONTACT BETWEEN THE
9 ADULT AND A PERSON; OR

10 (III) THE GUARDIAN HAS GOOD CAUSE TO BELIEVE RESTRICTION IS
11 NECESSARY BECAUSE INTERACTION WITH A SPECIFIED PERSON POSES A
12 RISK OF SIGNIFICANT PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM TO
13 THE ADULT, AND THE RESTRICTION IS:

14 (A) FOR A PERIOD OF NOT MORE THAN SEVEN BUSINESS DAYS IF
15 THE PERSON HAS A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH
16 THE ADULT; OR

17 (B) FOR A PERIOD OF NOT MORE THAN SIXTY DAYS IF THE PERSON
18 DOES NOT HAVE A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH
19 THE ADULT;

20 (g) RECEIVE A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN
21 SECTION 15-14.7-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
22 15-14.7-317; AND

23 (h) OBJECT TO THE GUARDIAN'S PLAN OR REPORT.

24 **15-14.7-312. Emergency guardian for adult.** (1) ON ITS OWN
25 AFTER A PETITION HAS BEEN FILED PURSUANT TO SECTION 15-14.7-302, OR
26 ON PETITION BY A PERSON INTERESTED IN AN ADULT'S WELFARE, THE
27 COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR THE ADULT IF THE

1 COURT FINDS:

2 (a) APPOINTMENT OF AN EMERGENCY GUARDIAN IS LIKELY TO
3 PREVENT SUBSTANTIAL HARM TO THE ADULT'S HEALTH, SAFETY, OR
4 WELFARE;

5 (b) NO OTHER PERSON APPEARS TO HAVE AUTHORITY AND
6 WILLINGNESS TO ACT IN THE CIRCUMSTANCES; AND

7 (c) THERE IS REASON TO BELIEVE THAT A BASIS FOR APPOINTMENT
8 OF A GUARDIAN PURSUANT TO SECTION 15-14.7-301 EXISTS.

9 (2) THE DURATION OF AUTHORITY OF AN EMERGENCY GUARDIAN
10 FOR AN ADULT MAY NOT EXCEED SIXTY DAYS, AND THE EMERGENCY
11 GUARDIAN MAY EXERCISE ONLY THE POWERS SPECIFIED IN THE ORDER OF
12 APPOINTMENT. THE EMERGENCY GUARDIAN'S AUTHORITY MAY BE
13 EXTENDED ONCE FOR NOT MORE THAN SIXTY DAYS IF THE COURT FINDS
14 THAT THE CONDITIONS FOR APPOINTMENT OF AN EMERGENCY GUARDIAN
15 DESCRIBED IN SUBSECTION (1) OF THIS SECTION CONTINUE.

16 (3) IMMEDIATELY ON FILING OF A PETITION FOR APPOINTMENT OF
17 AN EMERGENCY GUARDIAN FOR AN ADULT, THE COURT SHALL APPOINT AN
18 ATTORNEY TO REPRESENT THE RESPONDENT IN THE PROCEEDING. EXCEPT
19 AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION,
20 REASONABLE NOTICE OF THE DATE, TIME, AND PLACE OF A HEARING ON
21 THE PETITION MUST BE GIVEN TO THE RESPONDENT, THE RESPONDENT'S
22 ATTORNEY, AND ANY OTHER PERSON THE COURT DETERMINES.

23 (4) THE COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR AN
24 ADULT WITHOUT NOTICE TO THE ADULT AND ANY ATTORNEY FOR THE
25 ADULT ONLY IF THE COURT FINDS FROM AN AFFIDAVIT OR TESTIMONY
26 THAT THE RESPONDENT'S HEALTH, SAFETY, OR WELFARE MAY BE
27 SUBSTANTIALLY HARMED BEFORE A HEARING WITH NOTICE ON THE

1 APPOINTMENT CAN BE HELD. IF THE COURT APPOINTS AN EMERGENCY
2 GUARDIAN WITHOUT REASONABLE NOTICE TO THE RESPONDENT OR THE
3 RESPONDENT'S ATTORNEY AND THE RESPONDENT IS NOT PRESENT AT THE
4 HEARING, THE COURT MUST:

5 (a) PERSONALLY SERVE NOTICE OF THE APPOINTMENT NOT LATER
6 THAN FORTY-EIGHT HOURS AFTER THE APPOINTMENT TO:

7 (I) THE RESPONDENT;

8 (II) THE RESPONDENT'S ATTORNEY; AND

9 (III) ANY OTHER PERSON THE COURT DETERMINES; AND

10 (b) HOLD A HEARING ON THE APPROPRIATENESS OF THE
11 APPOINTMENT NOT LATER THAN SEVEN DAYS AFTER THE APPOINTMENT
12 UPON THE REQUEST OF THE RESPONDENT, THE RESPONDENT'S ATTORNEY,
13 A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY, OR A PERSON
14 INTERESTED IN THE WELFARE OF AN INDIVIDUAL SUBJECT TO
15 GUARDIANSHIP OR CONSERVATORSHIP.

16 (5) APPOINTMENT OF AN EMERGENCY GUARDIAN PURSUANT TO
17 THIS SECTION IS NOT A DETERMINATION THAT A BASIS EXISTS FOR
18 APPOINTMENT OF A GUARDIAN PURSUANT TO SECTION 15-14.7-301.

19 (6) THE COURT MAY TERMINATE THE APPOINTMENT OF AN
20 EMERGENCY GUARDIAN APPOINTED PURSUANT TO THIS SECTION AT ANY
21 TIME. THE EMERGENCY GUARDIAN SHALL MAKE ANY REPORT THE COURT
22 REQUIRES.

23 **15-14.7-313. Duties of guardian for adult.** (1) A GUARDIAN FOR
24 AN ADULT IS A FIDUCIARY. EXCEPT AS OTHERWISE LIMITED BY THE COURT,
25 A GUARDIAN FOR AN ADULT SHALL MAKE DECISIONS REGARDING THE
26 SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF THE ADULT
27 SUBJECT TO GUARDIANSHIP TO THE EXTENT NECESSITATED BY THE

1 ADULT'S LIMITATIONS.

2 (2) A GUARDIAN FOR AN ADULT SHALL PROMOTE THE
3 SELF-DETERMINATION OF THE ADULT AND, TO THE EXTENT REASONABLY
4 FEASIBLE, ENCOURAGE THE ADULT TO PARTICIPATE IN DECISIONS, ACT ON
5 THE ADULT'S OWN BEHALF, AND DEVELOP OR REGAIN THE CAPACITY TO
6 MANAGE THE ADULT'S PERSONAL AFFAIRS. IN FURTHERANCE OF THIS DUTY,
7 THE GUARDIAN SHALL:

8 (a) BECOME OR REMAIN PERSONALLY ACQUAINTED WITH THE
9 ADULT AND MAINTAIN SUFFICIENT CONTACT WITH THE ADULT, INCLUDING
10 THROUGH REGULAR VISITATION, TO KNOW THE ADULT'S ABILITIES,
11 LIMITATIONS, NEEDS, OPPORTUNITIES, AND PHYSICAL AND MENTAL
12 HEALTH;

13 (b) TO THE EXTENT REASONABLY FEASIBLE, IDENTIFY THE VALUES
14 AND PREFERENCES OF THE ADULT AND INVOLVE THE ADULT IN DECISIONS
15 AFFECTING THE ADULT, INCLUDING DECISIONS ABOUT THE ADULT'S CARE,
16 DWELLING, ACTIVITIES, OR SOCIAL INTERACTIONS; AND

17 (c) MAKE REASONABLE EFFORTS TO IDENTIFY AND FACILITATE
18 SUPPORTIVE RELATIONSHIPS AND SERVICES FOR THE ADULT.

19 (3) A GUARDIAN FOR AN ADULT AT ALL TIMES SHALL EXERCISE
20 REASONABLE CARE, DILIGENCE, AND PRUDENCE WHEN ACTING ON BEHALF
21 OF OR MAKING DECISIONS FOR THE ADULT. IN FURTHERANCE OF THIS DUTY,
22 THE GUARDIAN SHALL:

23 (a) TAKE REASONABLE CARE OF THE PERSONAL EFFECTS, PETS, AND
24 SERVICE OR SUPPORT ANIMALS OF THE ADULT AND BRING A PROCEEDING
25 FOR A CONSERVATORSHIP OR PROTECTIVE ARRANGEMENT INSTEAD OF
26 CONSERVATORSHIP IF NECESSARY TO PROTECT THE ADULT'S PROPERTY;

27 (b) EXPEND FUNDS AND OTHER PROPERTY OF THE ADULT RECEIVED

1 BY THE GUARDIAN FOR THE ADULT'S CURRENT NEEDS FOR SUPPORT, CARE,
2 EDUCATION, HEALTH, AND WELFARE;

3 (c) CONSERVE ANY FUNDS AND OTHER PROPERTY OF THE ADULT
4 NOT EXPENDED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION FOR THE
5 ADULT'S FUTURE NEEDS, BUT IF A CONSERVATOR HAS BEEN APPOINTED FOR
6 THE ADULT, PAY THE FUNDS AND OTHER PROPERTY AT LEAST QUARTERLY
7 TO THE CONSERVATOR TO BE CONSERVED FOR THE ADULT'S FUTURE
8 NEEDS; AND

9 (d) MONITOR THE QUALITY OF SERVICES, INCLUDING LONG-TERM
10 CARE SERVICES, PROVIDED TO THE ADULT.

11 (4) IN MAKING A DECISION FOR AN ADULT SUBJECT TO
12 GUARDIANSHIP, THE GUARDIAN SHALL MAKE THE DECISION THE GUARDIAN
13 REASONABLY BELIEVES THE ADULT WOULD MAKE IF THE ADULT WERE
14 ABLE, UNLESS DOING SO WOULD UNREASONABLY HARM OR ENDANGER THE
15 WELFARE OR PERSONAL OR FINANCIAL INTERESTS OF THE ADULT. TO
16 DETERMINE THE DECISION THE ADULT SUBJECT TO GUARDIANSHIP WOULD
17 MAKE IF ABLE, THE GUARDIAN SHALL CONSIDER THE ADULT'S PREVIOUS OR
18 CURRENT DIRECTIONS, PREFERENCES, OPINIONS, VALUES, AND ACTIONS, TO
19 THE EXTENT ACTUALLY KNOWN OR REASONABLY ASCERTAINABLE BY THE
20 GUARDIAN.

21 (5) IF A GUARDIAN FOR AN ADULT CANNOT MAKE A DECISION
22 PURSUANT TO SUBSECTION (4) OF THIS SECTION BECAUSE THE GUARDIAN
23 DOES NOT KNOW AND CANNOT REASONABLY DETERMINE THE DECISION
24 THE ADULT PROBABLY WOULD MAKE IF ABLE, OR THE GUARDIAN
25 REASONABLY BELIEVES THE DECISION THE ADULT WOULD MAKE WOULD
26 UNREASONABLY HARM OR ENDANGER THE WELFARE OR PERSONAL OR
27 FINANCIAL INTERESTS OF THE ADULT, THE GUARDIAN SHALL ACT IN

1 ACCORDANCE WITH THE BEST INTEREST OF THE ADULT. IN DETERMINING
2 THE BEST INTEREST OF THE ADULT, THE GUARDIAN SHALL CONSIDER:

3 (a) INFORMATION RECEIVED FROM PROFESSIONALS AND PERSONS
4 WHO DEMONSTRATE SUFFICIENT INTEREST IN THE WELFARE OF THE ADULT;

5 (b) OTHER INFORMATION THE GUARDIAN BELIEVES THE ADULT
6 WOULD HAVE CONSIDERED IF THE ADULT WERE ABLE TO ACT; AND

7 (c) OTHER FACTORS A REASONABLE PERSON IN THE
8 CIRCUMSTANCES OF THE ADULT WOULD CONSIDER, INCLUDING
9 CONSEQUENCES FOR OTHERS.

10 (6) A GUARDIAN FOR AN ADULT IMMEDIATELY SHALL NOTIFY THE
11 COURT IF THE CONDITION OF THE ADULT HAS CHANGED SO THAT THE
12 ADULT IS CAPABLE OF EXERCISING RIGHTS PREVIOUSLY REMOVED.

13 **15-14.7-314. Powers of guardian for adult.** (1) EXCEPT AS
14 LIMITED BY COURT ORDER, A GUARDIAN FOR AN ADULT MAY:

15 (a) APPLY FOR AND RECEIVE FUNDS AND BENEFITS FOR THE
16 SUPPORT OF THE ADULT, UNLESS A CONSERVATOR IS APPOINTED FOR THE
17 ADULT AND THE APPLICATION OR RECEIPT IS WITHIN THE POWERS OF THE
18 CONSERVATOR;

19 (b) UNLESS INCONSISTENT WITH A COURT ORDER, ESTABLISH THE
20 ADULT'S PLACE OF DWELLING;

21 (c) CONSENT TO HEALTH OR OTHER CARE, TREATMENT, OR SERVICE
22 FOR THE ADULT;

23 (d) IF A CONSERVATOR FOR THE ADULT HAS NOT BEEN APPOINTED,
24 COMMENCE A PROCEEDING, INCLUDING AN ADMINISTRATIVE PROCEEDING,
25 OR TAKE OTHER APPROPRIATE ACTION TO COMPEL ANOTHER PERSON TO
26 SUPPORT THE ADULT OR PAY FUNDS FOR THE ADULT'S BENEFIT;

27 (e) TO THE EXTENT REASONABLE, DELEGATE TO THE ADULT

1 RESPONSIBILITY FOR A DECISION AFFECTING THE ADULT'S WELL-BEING;
2 AND

3 (f) RECEIVE PERSONALLY IDENTIFIABLE HEALTH-CARE
4 INFORMATION REGARDING THE ADULT.

5 (2) THE COURT BY SPECIFIC ORDER MAY AUTHORIZE A GUARDIAN
6 FOR AN ADULT TO CONSENT TO THE ADOPTION OF THE ADULT.

7 (3) THE COURT BY SPECIFIC ORDER MAY AUTHORIZE A GUARDIAN
8 FOR AN ADULT TO:

9 (a) CONSENT OR WITHHOLD CONSENT TO THE MARRIAGE OF THE
10 ADULT IF THE ADULT'S RIGHT TO MARRY HAS BEEN REMOVED PURSUANT
11 TO SECTION 15-14.7-310;

12 (b) PETITION FOR DIVORCE, DISSOLUTION, OR ANNULMENT OF
13 MARRIAGE OF THE ADULT OR A DECLARATION OF INVALIDITY OF THE
14 ADULT'S MARRIAGE; OR

15 (c) SUPPORT OR OPPOSE A PETITION FOR DIVORCE, DISSOLUTION,
16 OR ANNULMENT OF MARRIAGE OF THE ADULT OR A DECLARATION OF
17 INVALIDITY OF THE ADULT'S MARRIAGE.

18 (4) IN DETERMINING WHETHER TO AUTHORIZE A POWER PURSUANT
19 TO SUBSECTION (2) OR (3) OF THIS SECTION, THE COURT SHALL CONSIDER
20 WHETHER THE UNDERLYING ACT WOULD BE IN ACCORDANCE WITH THE
21 ADULT'S PREFERENCES, VALUES, AND PRIOR OR CURRENT DIRECTIONS AND
22 WHETHER THE UNDERLYING ACT WOULD BE IN THE ADULT'S BEST
23 INTEREST.

24 (5) IN EXERCISING A GUARDIAN'S POWER PURSUANT TO
25 SUBSECTION (1)(b) OF THIS SECTION TO ESTABLISH THE ADULT'S PLACE OF
26 DWELLING, THE GUARDIAN SHALL:

27 (a) SELECT A RESIDENTIAL SETTING THE GUARDIAN BELIEVES THE

1 ADULT WOULD SELECT IF THE ADULT WERE ABLE, IN ACCORDANCE WITH
2 THE DECISION-MAKING STANDARD DESCRIBED IN SECTION 15-14.7-313. IF
3 THE GUARDIAN DOES NOT KNOW AND CANNOT REASONABLY DETERMINE
4 WHAT SETTING THE ADULT SUBJECT TO GUARDIANSHIP PROBABLY WOULD
5 CHOOSE IF ABLE, OR THE GUARDIAN REASONABLY BELIEVES THE DECISION
6 THE ADULT WOULD MAKE WOULD UNREASONABLY HARM OR ENDANGER
7 THE WELFARE OR PERSONAL OR FINANCIAL INTERESTS OF THE ADULT, THE
8 GUARDIAN SHALL CHOOSE IN ACCORDANCE WITH SECTION 15-14.7-313 A
9 RESIDENTIAL SETTING THAT IS CONSISTENT WITH THE ADULT'S BEST
10 INTEREST.

11 (b) IN SELECTING AMONG RESIDENTIAL SETTINGS, GIVE PRIORITY
12 TO A RESIDENTIAL SETTING IN A LOCATION THAT WILL ALLOW THE ADULT
13 TO INTERACT WITH PERSONS IMPORTANT TO THE ADULT AND MEET THE
14 ADULT'S NEEDS 15-14.7-313;

15 (c) NOT LATER THAN THIRTY DAYS AFTER A CHANGE IN THE
16 DWELLING OF THE ADULT:

17 (I) GIVE NOTICE, PURSUANT TO SECTION 15-10-401, OF THE
18 CHANGE TO THE COURT, THE ADULT, AND ANY PERSON IDENTIFIED AS
19 ENTITLED TO THE NOTICE IN THE COURT ORDER APPOINTING THE GUARDIAN
20 OR A SUBSEQUENT ORDER; AND

21 (II) INCLUDE IN THE NOTICE THE ADDRESS AND NATURE OF THE
22 NEW DWELLING AND STATE WHETHER THE ADULT RECEIVED ADVANCE
23 NOTICE OF THE CHANGE AND WHETHER THE ADULT OBJECTED TO THE
24 CHANGE;

25 (d) ESTABLISH OR MOVE THE PERMANENT PLACE OF DWELLING OF
26 THE ADULT TO A NURSING HOME, MENTAL HEALTH INSTITUTION, OR OTHER
27 FACILITY THAT PLACES RESTRICTIONS ON THE ADULT'S ABILITY TO LEAVE

1 OR HAVE VISITORS ONLY IF:

2 (I) THE ESTABLISHMENT OR MOVE IS IN THE GUARDIAN'S PLAN
3 DESCRIBED IN SECTION 15-14.7-316;

4 (II) THE COURT AUTHORIZES THE ESTABLISHMENT OR MOVE; OR

5 (III) THE GUARDIAN GIVES NOTICE OF THE ESTABLISHMENT OR
6 MOVE AT LEAST FOURTEEN DAYS BEFORE THE ESTABLISHMENT OR MOVE
7 TO THE ADULT AND ALL PERSONS ENTITLED TO NOTICE PURSUANT TO
8 SECTION 15-14.7-310 (5)(b) OR A SUBSEQUENT ORDER, AND NO OBJECTION
9 IS FILED; AND

10 (e) ESTABLISH OR MOVE THE PLACE OF DWELLING OF THE ADULT
11 OUTSIDE THIS STATE ONLY IF CONSISTENT WITH THE GUARDIAN'S PLAN AND
12 AUTHORIZED BY THE COURT BY SPECIFIC ORDER.

13 ==

14 (6) IN EXERCISING A GUARDIAN'S POWER PURSUANT TO SUBSECTION
15 (1)(c) OF THIS SECTION TO MAKE HEALTH-CARE DECISIONS, THE GUARDIAN
16 SHALL:

17 (a) INVOLVE THE ADULT IN DECISION-MAKING TO THE EXTENT
18 REASONABLY FEASIBLE, INCLUDING, WHEN PRACTICABLE, BY
19 ENCOURAGING AND SUPPORTING THE ADULT IN UNDERSTANDING THE RISKS
20 AND BENEFITS OF HEALTH-CARE OPTIONS;

21 (b) DEFER TO A DECISION BY AN AGENT ACTING UNDER A POWER OF
22 ATTORNEY FOR HEALTH CARE EXECUTED BY THE ADULT AND COOPERATE
23 TO THE EXTENT FEASIBLE WITH THE AGENT MAKING THE DECISION; AND

24 (c) TAKE INTO ACCOUNT:

25 (I) THE RISKS AND BENEFITS OF TREATMENT OPTIONS; AND

26 (II) THE CURRENT AND PREVIOUS WISHES AND VALUES OF THE
27 ADULT, IF KNOWN OR REASONABLY ASCERTAINABLE BY THE GUARDIAN.

1 **15-14.7-315. Special limitations on guardian's power.**

2 (1) UNLESS AUTHORIZED BY THE COURT BY SPECIFIC ORDER, A GUARDIAN
3 FOR AN ADULT DOES NOT HAVE THE POWER TO REVOKE OR AMEND A
4 POWER OF ATTORNEY FOR HEALTH CARE OR POWER OF ATTORNEY FOR
5 FINANCES EXECUTED BY THE ADULT PRIOR TO THE APPOINTMENT OF THE
6 GUARDIAN. IF A POWER OF ATTORNEY FOR HEALTH CARE IS IN EFFECT,
7 UNLESS THERE IS A COURT ORDER TO THE CONTRARY, A HEALTH-CARE
8 DECISION OF AN AGENT TAKES PRECEDENCE OVER THAT OF THE GUARDIAN
9 AND THE GUARDIAN SHALL COOPERATE WITH THE AGENT TO THE EXTENT
10 FEASIBLE. IF A POWER OF ATTORNEY FOR FINANCES IS IN EFFECT, UNLESS
11 THERE IS A COURT ORDER TO THE CONTRARY, A DECISION BY THE AGENT
12 WHICH THE AGENT IS AUTHORIZED TO MAKE UNDER THE POWER OF
13 ATTORNEY FOR FINANCES TAKES PRECEDENCE OVER THAT OF THE
14 GUARDIAN AND THE GUARDIAN SHALL COOPERATE WITH THE AGENT TO
15 THE EXTENT FEASIBLE.

16 (2) A GUARDIAN FOR AN ADULT MAY NOT INITIATE THE
17 COMMITMENT OF THE ADULT TO A MENTAL HEALTH INSTITUTION EXCEPT
18 IN ACCORDANCE WITH THE STATE'S PROCEDURE FOR CIVIL COMMITMENT
19 PURSUANT TO SECTION 27-65-106.

20 (3) A GUARDIAN FOR AN ADULT MAY NOT RESTRICT THE ABILITY OF
21 THE ADULT TO COMMUNICATE, VISIT, OR INTERACT WITH OTHERS,
22 INCLUDING RECEIVING VISITORS AND MAKING OR RECEIVING TELEPHONE
23 CALLS, PERSONAL MAIL, OR ELECTRONIC COMMUNICATIONS, INCLUDING
24 THROUGH SOCIAL MEDIA, OR PARTICIPATING IN SOCIAL ACTIVITIES, UNLESS:

25 (a) AUTHORIZED BY THE COURT BY SPECIFIC ORDER;

26 (b) A PROTECTIVE ORDER OR A PROTECTIVE ARRANGEMENT
27 INSTEAD OF GUARDIANSHIP IS IN EFFECT THAT LIMITS CONTACT BETWEEN

1 THE ADULT AND A PERSON; OR

2 (c) THE GUARDIAN HAS GOOD CAUSE TO BELIEVE RESTRICTION IS
3 NECESSARY BECAUSE INTERACTION WITH A SPECIFIED PERSON POSES A RISK
4 OF SUBSTANTIAL PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM TO THE
5 ADULT AND THE RESTRICTION IS:

6 (I) FOR A PERIOD OF NOT MORE THAN SEVEN BUSINESS DAYS IF THE
7 PERSON HAS A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH THE
8 ADULT; OR

9 (II) FOR A PERIOD OF NOT MORE THAN SIXTY DAYS IF THE PERSON
10 DOES NOT HAVE A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH
11 THE ADULT.

12 (4) A GUARDIAN FOR AN ADULT MAY NOT TAKE ANY ACTION THAT
13 WOULD RESULT IN THE SALE OR SURRENDER OF THE LEASE TO THE ADULT'S
14 PRIMARY DWELLING WITHOUT PRIOR APPROVAL FROM THE COURT.

15 **15-14.7-316. Guardian's plan.** (1) A GUARDIAN FOR AN ADULT,
16 NOT LATER THAN SIXTY DAYS AFTER APPOINTMENT AND WHEN THERE IS A
17 SIGNIFICANT CHANGE IN CIRCUMSTANCES, OR THE GUARDIAN SEEKS TO
18 DEVIATE SIGNIFICANTLY FROM THE GUARDIAN'S PLAN, SHALL FILE WITH
19 THE COURT A PLAN FOR THE CARE OF THE ADULT, TOGETHER WITH THE
20 GUARDIAN'S REPORT AS REQUIRED PURSUANT TO SECTION 15-14.7-317.

21 THE PLAN MUST BE BASED ON THE NEEDS OF THE ADULT AND TAKE INTO
22 ACCOUNT THE BEST INTEREST OF THE ADULT AS WELL AS THE ADULT'S
23 PREFERENCES, VALUES, AND PRIOR DIRECTIONS, TO THE EXTENT KNOWN TO
24 OR REASONABLY ASCERTAINABLE BY THE GUARDIAN. THE GUARDIAN
25 SHALL INCLUDE IN THE PLAN:

26 (a) THE LIVING ARRANGEMENT, SERVICES, AND SUPPORTS THE
27 GUARDIAN EXPECTS TO ARRANGE, FACILITATE, OR CONTINUE FOR THE

1 ADULT;

2 (b) SOCIAL AND EDUCATIONAL ACTIVITIES THE GUARDIAN EXPECTS
3 TO FACILITATE ON BEHALF OF THE ADULT;

4 (c) ANY PERSON WITH WHOM THE ADULT HAS A CLOSE PERSONAL
5 RELATIONSHIP OR RELATIONSHIP INVOLVING REGULAR VISITATION AND
6 ANY PLAN THE GUARDIAN HAS FOR FACILITATING VISITS WITH THE PERSON;

7 (d) THE ANTICIPATED NATURE AND FREQUENCY OF THE GUARDIAN'S
8 VISITS AND COMMUNICATION WITH THE ADULT;

9 (e) GOALS FOR THE ADULT, INCLUDING ANY GOAL RELATED TO THE
10 RESTORATION OF THE ADULT'S RIGHTS, AND HOW THE GUARDIAN
11 ANTICIPATES ACHIEVING THE GOALS;

12 (f) WHETHER THE ADULT HAS AN EXISTING PLAN AND, IF SO,
13 WHETHER THE GUARDIAN'S PLAN IS CONSISTENT WITH THE ADULT'S PLAN;
14 AND

15 (g) A STATEMENT OR LIST OF THE AMOUNT THE GUARDIAN
16 PROPOSES TO CHARGE FOR EACH SERVICE THE GUARDIAN ANTICIPATES
17 PROVIDING TO THE ADULT.

18 (2) A GUARDIAN SHALL GIVE NOTICE, PURSUANT TO SECTION
19 15-10-401, OF THE FILING OF THE GUARDIAN'S PLAN PURSUANT TO
20 SUBSECTION (1) OF THIS SECTION, TOGETHER WITH A COPY OF THE PLAN, TO
21 THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON ENTITLED TO NOTICE
22 PURSUANT TO SECTION 15-14.7-310 OR A SUBSEQUENT ORDER, AND ANY
23 OTHER PERSON THE COURT DETERMINES. THE NOTICE MUST INCLUDE A
24 STATEMENT OF THE RIGHT TO OBJECT TO THE PLAN AND BE GIVEN NOT
25 LATER THAN FOURTEEN DAYS AFTER THE FILING.

26 (3) AN ADULT SUBJECT TO GUARDIANSHIP AND ANY PERSON
27 ENTITLED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO RECEIVE

1 NOTICE AND A COPY OF THE GUARDIAN'S PLAN MAY OBJECT TO THE PLAN.

2 (4) THE COURT SHALL REVIEW THE GUARDIAN'S PLAN FILED
3 PURSUANT TO SUBSECTION (1) OF THIS SECTION AND DETERMINE WHETHER
4 TO APPROVE THE PLAN OR REQUIRE A NEW PLAN. IN DECIDING WHETHER TO
5 APPROVE THE PLAN, THE COURT SHALL CONSIDER AN OBJECTION PURSUANT
6 TO SUBSECTION (3) OF THIS SECTION AND WHETHER THE PLAN IS
7 CONSISTENT WITH THE GUARDIAN'S DUTIES AND POWERS PURSUANT TO
8 SECTIONS 15-14.7-313 AND 15-14.7-314. THE COURT MAY NOT APPROVE
9 THE PLAN UNTIL THIRTY DAYS AFTER ITS FILING.

10 (5) AFTER THE GUARDIAN'S PLAN FILED PURSUANT TO THIS SECTION
11 IS APPROVED BY THE COURT, THE GUARDIAN SHALL PROVIDE A COPY OF
12 THE PLAN TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON ENTITLED
13 TO NOTICE PURSUANT TO SECTION 15-14.7-310 OR A SUBSEQUENT ORDER,
14 AND ANY OTHER PERSON THE COURT DETERMINES.

15 **15-14.7-317. Guardian's report - monitoring of guardianship.**

16 (1) A GUARDIAN FOR AN ADULT, NOT LATER THAN SIXTY DAYS AFTER
17 APPOINTMENT AND AT LEAST ANNUALLY THEREAFTER, SHALL FILE WITH
18 THE COURT A REPORT IN A RECORD REGARDING THE CONDITION OF THE
19 ADULT AND ACCOUNTING FOR FUNDS AND OTHER PROPERTY IN THE
20 GUARDIAN'S POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL,
21 TOGETHER WITH THE GUARDIAN'S PLAN AS REQUIRED PURSUANT TO
22 SECTION 15-14.7-316.

23 (2) A REPORT PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST
24 STATE OR CONTAIN:

25 (a) THE MENTAL, PHYSICAL, AND SOCIAL CONDITION OF THE ADULT;

26 (b) THE LIVING ARRANGEMENTS OF THE ADULT DURING THE
27 REPORTING PERIOD;

1 (c) A SUMMARY OF THE SUPPORTED DECISION-MAKING,
2 TECHNOLOGICAL ASSISTANCE, MEDICAL SERVICES, EDUCATIONAL AND
3 VOCATIONAL SERVICES, AND OTHER SUPPORTS AND SERVICES PROVIDED TO
4 THE ADULT AND THE GUARDIAN'S OPINION AS TO THE ADEQUACY OF THE
5 ADULT'S CARE;

6 (d) A SUMMARY OF THE GUARDIAN'S VISITS WITH THE ADULT,
7 INCLUDING THE DATES OF THE VISITS;

8 (e) ACTION TAKEN ON BEHALF OF THE ADULT;

9 (f) THE EXTENT TO WHICH THE ADULT HAS PARTICIPATED IN
10 DECISION-MAKING;

11 (g) IF THE ADULT IS LIVING IN A MENTAL HEALTH INSTITUTION OR
12 LIVING IN A FACILITY THAT PROVIDES THE ADULT WITH HEALTH-CARE OR
13 OTHER PERSONAL SERVICES, WHETHER THE GUARDIAN CONSIDERS THE
14 FACILITY'S CURRENT PLAN FOR SUPPORT, CARE, TREATMENT, OR
15 HABILITATION CONSISTENT WITH THE ADULT'S PREFERENCES, VALUES,
16 PRIOR DIRECTIONS, AND BEST INTEREST;

17 (h) ANYTHING OF MORE THAN DE MINIMIS VALUE WHICH THE
18 GUARDIAN, ANY INDIVIDUAL WHO RESIDES WITH THE GUARDIAN, OR THE
19 SPOUSE, DOMESTIC PARTNER, PARENT, CHILD, OR SIBLING OF THE
20 GUARDIAN HAS RECEIVED FROM AN INDIVIDUAL PROVIDING GOODS OR
21 SERVICES TO THE ADULT;

22 (i) IF THE GUARDIAN DELEGATED A POWER TO AN AGENT, THE
23 POWER DELEGATED AND THE REASON FOR THE DELEGATION;

24 (j) ANY BUSINESS RELATION THE GUARDIAN HAS WITH A PERSON
25 THE GUARDIAN HAS PAID OR WHO HAS BENEFITTED FROM THE PROPERTY OF
26 THE ADULT;

27 (k) A COPY OF THE GUARDIAN'S MOST RECENTLY APPROVED PLAN

1 DESCRIBED IN SECTION 15-14.7-316 AND A STATEMENT WHETHER THE
2 GUARDIAN HAS DEVIATED FROM THE PLAN AND, IF SO, HOW THE GUARDIAN
3 HAS DEVIATED AND WHY;

4 (l) PLANS FOR FUTURE CARE AND SUPPORT OF THE ADULT, IF NOT
5 OTHERWISE PROVIDED IN THE GUARDIAN'S MOST RECENTLY APPROVED
6 PLAN PURSUANT TO SECTION 15-14.7-316;

7 (m) A RECOMMENDATION AS TO THE NEED FOR CONTINUED
8 GUARDIANSHIP AND ANY RECOMMENDED CHANGE IN THE SCOPE OF THE
9 GUARDIANSHIP; AND

10 (n) WHETHER ANY CO-GUARDIAN OR SUCCESSOR GUARDIAN
11 APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS IS ALIVE AND
12 ABLE TO SERVE.

13 (3) THE COURT MAY APPOINT A VISITOR TO REVIEW A REPORT
14 SUBMITTED PURSUANT TO THIS SECTION OR A GUARDIAN'S PLAN SUBMITTED
15 PURSUANT TO SECTION 15-14.7-316, INTERVIEW THE GUARDIAN OR ADULT
16 SUBJECT TO GUARDIANSHIP, OR INVESTIGATE ANY OTHER MATTER
17 INVOLVING THE GUARDIANSHIP.

18 (4) NOTICE OF THE FILING PURSUANT TO THIS SECTION OF A
19 GUARDIAN'S REPORT, TOGETHER WITH A COPY OF THE REPORT, MUST BE
20 GIVEN TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON ENTITLED TO
21 NOTICE PURSUANT TO SECTION 15-14.7-310 OR A SUBSEQUENT ORDER, AND
22 ANY OTHER PERSON THE COURT DETERMINES. THE NOTICE AND REPORT
23 MUST BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE FILING.

24 (5) THE COURT SHALL ESTABLISH PROCEDURES FOR MONITORING
25 A REPORT SUBMITTED PURSUANT TO THIS SECTION AND REVIEW EACH
26 REPORT AT LEAST ANNUALLY TO DETERMINE WHETHER:

27 (a) THE REPORT PROVIDES SUFFICIENT INFORMATION TO ESTABLISH

1 THE GUARDIAN HAS COMPLIED WITH THE GUARDIAN'S DUTIES;

2 (b) THE GUARDIANSHIP SHOULD CONTINUE; AND

3 (c) THE GUARDIAN'S REQUESTED FEES, IF ANY, ARE REASONABLE

4 PURSUANT TO SECTION 15-10-603.

5 (6) IF THE COURT DETERMINES THERE IS REASON TO BELIEVE A

6 GUARDIAN FOR AN ADULT HAS NOT COMPLIED WITH THE GUARDIAN'S

7 DUTIES OR THE GUARDIANSHIP SHOULD BE MODIFIED OR TERMINATED, THE

8 COURT:

9 (a) SHALL NOTIFY THE ADULT, THE GUARDIAN, AND ANY OTHER

10 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-310 OR A

11 SUBSEQUENT ORDER;

12 (b) MAY REQUIRE ADDITIONAL INFORMATION FROM THE GUARDIAN;

13 (c) MAY APPOINT A VISITOR TO INTERVIEW THE ADULT OR

14 GUARDIAN OR INVESTIGATE ANY MATTER INVOLVING THE GUARDIANSHIP;

15 AND

16 (d) CONSISTENT WITH SECTIONS 15-14.7-318 AND 15-14.7-319,

17 MAY HOLD A HEARING TO CONSIDER REMOVAL OF THE GUARDIAN,

18 TERMINATION OF THE GUARDIANSHIP, OR A CHANGE IN THE POWERS

19 GRANTED TO THE GUARDIAN OR TERMS OF THE GUARDIANSHIP.

20 (7) IF THE COURT HAS REASON TO BELIEVE FEES REQUESTED BY A

21 GUARDIAN FOR AN ADULT ARE NOT REASONABLE, THE COURT SHALL HOLD

22 A HEARING, PURSUANT TO SECTION 15-10-604, TO DETERMINE WHETHER

23 TO ADJUST THE REQUESTED FEES.

24 (8) A GUARDIAN FOR AN ADULT MAY PETITION THE COURT FOR

25 APPROVAL OF A REPORT FILED PURSUANT TO THIS SECTION. THE COURT,

26 AFTER REVIEW, MAY APPROVE THE REPORT. IF THE COURT APPROVES THE

27 REPORT, THERE IS A REBUTTABLE PRESUMPTION THE REPORT IS ACCURATE

1 AS TO A MATTER ADEQUATELY DISCLOSED IN THE REPORT.

2 **15-14.7-318. Removal of guardian for adult - appointment of**
3 **successor.** (1) THE COURT MAY REMOVE A GUARDIAN FOR AN ADULT FOR
4 FAILURE TO PERFORM THE GUARDIAN'S DUTIES OR FOR OTHER GOOD CAUSE
5 AND APPOINT A SUCCESSOR GUARDIAN TO ASSUME THE DUTIES OF
6 GUARDIAN AS DESCRIBED IN SECTION 15-10-503.

7 (2) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
8 TO REMOVE A GUARDIAN FOR AN ADULT AND APPOINT A SUCCESSOR
9 GUARDIAN ON:

10 (a) PETITION OF THE ADULT, GUARDIAN, OR PERSON INTERESTED IN
11 THE WELFARE OF THE ADULT, WHICH CONTAINS ALLEGATIONS THAT, IF
12 TRUE, WOULD SUPPORT A REASONABLE BELIEF THAT REMOVAL OF THE
13 GUARDIAN AND APPOINTMENT OF A SUCCESSOR GUARDIAN MAY BE
14 APPROPRIATE, BUT THE COURT MAY DECLINE TO HOLD A HEARING IF A
15 PETITION BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS WAS
16 FILED DURING THE PRECEDING SIX MONTHS;

17 (b) COMMUNICATION, PURSUANT TO SECTION 15-14.7-127, FROM
18 THE ADULT, GUARDIAN, OR PERSON INTERESTED IN THE WELFARE OF THE
19 ADULT WHICH SUPPORTS A REASONABLE BELIEF THAT REMOVAL OF THE
20 GUARDIAN AND APPOINTMENT OF A SUCCESSOR GUARDIAN MAY BE
21 APPROPRIATE; OR

22 (c) DETERMINATION BY THE COURT THAT A HEARING WOULD BE IN
23 THE BEST INTEREST OF THE ADULT.

24 (3) NOTICE OF A HEARING PURSUANT TO SECTION 15-10-503 MUST
25 BE PERSONALLY SERVED ON THE ADULT SUBJECT TO GUARDIANSHIP, AND
26 GIVEN PURSUANT TO SECTION 15-10-401 TO THE GUARDIAN, AND ANY
27 OTHER PERSON THE COURT DETERMINES.

1 (4) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO REMOVE
2 THE GUARDIAN AND HAVE A SUCCESSOR GUARDIAN APPOINTED HAS THE
3 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THIS
4 MATTER. IF THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT
5 SHALL APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS AS IN
6 SECTION 15-14.7-305.

7 (5) IN SELECTING A SUCCESSOR GUARDIAN FOR AN ADULT, THE
8 COURT SHALL FOLLOW THE PRIORITIES DESCRIBED IN SECTION 15-14.7-309.

9 (6) NOT LATER THAN THIRTY DAYS AFTER APPOINTING A
10 SUCCESSOR GUARDIAN, THE COURT SHALL GIVE NOTICE, PURSUANT TO
11 SECTION 15-10-401, OF THE APPOINTMENT TO THE ADULT SUBJECT TO
12 GUARDIANSHIP AND ANY PERSON ENTITLED TO NOTICE PURSUANT TO
13 SECTION 15-14.7-310 (5) OR A SUBSEQUENT ORDER.

14 **15-14.7-319. Termination or modification of guardianship for**
15 **adult.** (1) AN ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN FOR THE
16 ADULT, OR A PERSON INTERESTED IN THE WELFARE OF THE ADULT MAY
17 PETITION FOR:

18 (a) TERMINATION OF THE GUARDIANSHIP ON THE GROUNDS THAT
19 A BASIS FOR APPOINTMENT PURSUANT TO SECTION 15-14.7-301 DOES NOT
20 EXIST OR TERMINATION WOULD BE IN THE BEST INTEREST OF THE ADULT OR
21 FOR OTHER GOOD CAUSE; OR

22 (b) MODIFICATION OF THE GUARDIANSHIP ON THE GROUNDS THAT
23 THE EXTENT OF PROTECTION OR ASSISTANCE GRANTED IS NOT APPROPRIATE
24 OR FOR OTHER GOOD CAUSE.

25 (2) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
26 TERMINATION OR MODIFICATION OF A GUARDIANSHIP FOR AN ADULT IS
27 APPROPRIATE ON:

1 (a) PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION WHICH
2 CONTAINS ALLEGATIONS THAT, IF TRUE, WOULD SUPPORT A REASONABLE
3 BELIEF THAT TERMINATION OR MODIFICATION OF THE GUARDIANSHIP MAY
4 BE APPROPRIATE, BUT THE COURT MAY DECLINE TO HOLD A HEARING IF A
5 PETITION BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS WAS
6 FILED DURING THE PRECEDING SIX MONTHS;

7 (b) COMMUNICATION, PURSUANT TO SECTION 15-14.7-127, FROM
8 THE ADULT, GUARDIAN, OR PERSON INTERESTED IN THE WELFARE OF THE
9 ADULT WHICH SUPPORTS A REASONABLE BELIEF THAT TERMINATION OR
10 MODIFICATION OF THE GUARDIANSHIP MAY BE APPROPRIATE, INCLUDING
11 BECAUSE THE FUNCTIONAL NEEDS OF THE ADULT OR SUPPORTS OR
12 SERVICES AVAILABLE TO THE ADULT HAVE CHANGED;

13 (c) A REPORT FROM A GUARDIAN OR CONSERVATOR WHICH
14 INDICATES THAT TERMINATION OR MODIFICATION MAY BE APPROPRIATE
15 BECAUSE THE FUNCTIONAL NEEDS OF THE ADULT OR SUPPORTS OR
16 SERVICES AVAILABLE TO THE ADULT HAVE CHANGED OR A PROTECTIVE
17 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR OTHER LESS RESTRICTIVE
18 ALTERNATIVE FOR MEETING THE ADULT'S NEEDS IS AVAILABLE; OR

19 (d) A DETERMINATION BY THE COURT THAT A HEARING WOULD BE
20 IN THE BEST INTEREST OF THE ADULT.

21 (3) NOTICE OF A PETITION PURSUANT TO SUBSECTION (2)(a) OF THIS
22 SECTION MUST BE GIVEN TO THE ADULT SUBJECT TO GUARDIANSHIP, THE
23 GUARDIAN, AND ANY OTHER PERSON THE COURT DETERMINES.

24 (4) ON PRESENTATION OF PRIMA FACIE EVIDENCE FOR TERMINATION
25 OF A GUARDIANSHIP FOR AN ADULT, THE COURT SHALL ORDER
26 TERMINATION UNLESS IT IS PROVEN THAT A BASIS FOR APPOINTMENT OF A
27 GUARDIAN PURSUANT TO SECTION 15-14.7-301 EXISTS.

1 (5) THE COURT SHALL MODIFY THE POWERS GRANTED TO A
2 GUARDIAN FOR AN ADULT IF THE POWERS ARE EXCESSIVE OR INADEQUATE
3 DUE TO A CHANGE IN THE ABILITIES OR LIMITATIONS OF THE ADULT, THE
4 ADULT'S SUPPORTS, OR OTHER CIRCUMSTANCES.

5 (6) UNLESS THE COURT OTHERWISE ORDERS FOR GOOD CAUSE,
6 BEFORE TERMINATING OR MODIFYING A GUARDIANSHIP FOR AN ADULT, THE
7 COURT SHALL FOLLOW THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS
8 OF THE ADULT WHICH APPLY TO A PETITION FOR GUARDIANSHIP.

9 (7) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO
10 TERMINATE OR MODIFY THE TERMS OF THE GUARDIANSHIP HAS THE RIGHT
11 TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THE MATTER. IF
12 THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT SHALL
13 APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS AS SET FORTH
14 IN SECTION 15-14.7-305.

15 (8) THE FOLLOWING PROVISIONS APPLY IN A CONTESTED
16 TERMINATION PROCEEDING:

17 (a) THE GUARDIAN MAY FILE A WRITTEN REPORT TO THE COURT
18 REGARDING ANY MATTER RELEVANT TO THE TERMINATION PROCEEDING,
19 AND THE GUARDIAN MAY FILE A MOTION FOR INSTRUCTIONS REGARDING
20 ANY RELEVANT MATTER, INCLUDING, BUT NOT LIMITED TO:

21 (I) WHETHER AN ATTORNEY, GUARDIAN AD LITEM, OR VISITOR
22 MUST BE APPOINTED FOR THE ADULT SUBJECT TO GUARDIANSHIP;

23 (II) WHETHER ANY FURTHER INVESTIGATION OR PROFESSIONAL
24 EVALUATION OF THE ADULT SUBJECT TO GUARDIANSHIP MUST BE
25 CONDUCTED, THE SCOPE OF THE INVESTIGATION OR PROFESSIONAL
26 EVALUATION, AND WHEN THE INVESTIGATION OR PROFESSIONAL
27 EVALUATION MUST BE COMPLETED; AND

1 (III) WHETHER THE GUARDIAN MUST BE INVOLVED IN THE
2 TERMINATION PROCEEDINGS AND, IF SO, TO WHAT EXTENT;

3 (b) IF THE GUARDIAN ELECTS TO FILE A WRITTEN REPORT OR A
4 MOTION FOR INSTRUCTIONS, THE GUARDIAN MUST FILE INITIAL PLEADINGS
5 WITHIN TWENTY-ONE DAYS AFTER THE PETITION TO TERMINATE IS FILED.
6 ANY PERSON INTERESTED IN THE WELFARE OF THE ADULT SUBJECT TO
7 GUARDIANSHIP HAS FOURTEEN DAYS AFTER THE INITIAL PLEADINGS ARE
8 FILED TO FILE A RESPONSE. IF A RESPONSE IS FILED, THE GUARDIAN HAS
9 SEVEN DAYS AFTER THE RESPONSE IS FILED TO FILE A REPLY. IF A MOTION
10 FOR INSTRUCTIONS IS FILED BY THE GUARDIAN AS THE GUARDIAN'S INITIAL
11 PLEADING, THE COURT MUST RULE ON THE MOTION BEFORE THE PETITION
12 FOR TERMINATION OF THE GUARDIANSHIP IS SET FOR HEARING. UNLESS A
13 HEARING ON THE MOTION FOR INSTRUCTIONS IS REQUESTED BY THE COURT,
14 THE COURT MAY RULE ON THE PLEADINGS WITHOUT A HEARING AFTER THE
15 TIME PERIOD FOR THE FILING OF THE LAST RESPONSIVE PLEADING HAS
16 EXPIRED. AFTER THE FILING OF THE GUARDIAN'S INITIAL MOTION FOR
17 INSTRUCTIONS, THE GUARDIAN MAY FILE SUBSEQUENT MOTIONS FOR
18 INSTRUCTION, AS APPROPRIATE.

19 (c) EXCEPT FOR THE ACTIONS AUTHORIZED IN SUBSECTIONS (8)(a),
20 (8)(b), OR (8)(e) OF THIS SECTION, OR AS OTHERWISE ORDERED BY THE
21 COURT, THE GUARDIAN SHALL NOT TAKE ANY ACTION TO OPPOSE OR
22 INTERFERE IN THE TERMINATION PROCEEDING. THE FILING OF THE INITIAL
23 OR SUBSEQUENT MOTION FOR INSTRUCTIONS BY THE GUARDIAN MUST NOT
24 ALONE BE DEEMED OPPOSITION OR INTERFERENCE.

25 (d) UNLESS ORDERED BY THE COURT, THE GUARDIAN DOES NOT
26 HAVE A DUTY TO PARTICIPATE IN THE TERMINATION PROCEEDING, AND THE
27 GUARDIAN DOES NOT INCUR LIABILITY FOR FILING THE REPORT OR MOTION

1 FOR INSTRUCTION OR FOR FAILING TO PARTICIPATE IN THE PROCEEDING;
2 (e) NOTHING IN THIS SUBSECTION (8) PREVENTS:
3 (I) THE COURT, ON ITS OWN MOTION, AND REGARDLESS OF
4 WHETHER THE GUARDIAN HAS FILED A REPORT OR MOTION FOR
5 INSTRUCTIONS, FROM ORDERING THE GUARDIAN TO TAKE ANY ACTION
6 THAT THE COURT DEEMS APPROPRIATE OR FROM APPOINTING AN
7 ATTORNEY, GUARDIAN AD LITEM, VISITOR, OR PROFESSIONAL EVALUATOR;
8 (II) THE COURT FROM ORDERING THE GUARDIAN TO APPEAR AT THE
9 TERMINATION PROCEEDING AND GIVE TESTIMONY; OR
10 (III) ANY PERSON INTERESTED IN THE WELFARE OF THE ADULT
11 SUBJECT TO GUARDIANSHIP FROM CALLING THE GUARDIAN AS A WITNESS
12 IN THE TERMINATION PROCEEDING; AND
13 (f) ANY INDIVIDUAL WHO HAS BEEN APPOINTED AS A GUARDIAN,
14 AND IS ALSO A PERSON INTERESTED IN THE WELFARE OF THE ADULT
15 SUBJECT TO GUARDIANSHIP, AND WHO WANTS TO PARTICIPATE IN THE
16 TERMINATION PROCEEDING IN THE INDIVIDUAL'S INDIVIDUAL CAPACITY
17 AND NOT IN THE INDIVIDUAL'S FIDUCIARY CAPACITY MAY DO SO WITHOUT
18 RESTRICTION OR LIMITATION. THE PAYMENT OF ANY FEES AND COSTS TO
19 THAT INDIVIDUAL RELATED TO THE INDIVIDUAL'S DECISION TO PARTICIPATE
20 IN THE TERMINATION PROCEEDING IS GOVERNED BY SECTION 15-10-602 (7)
21 AND NOT BY SECTION 15-10-602 (1).

22 PART 4

23 CONSERVATORSHIP

24 **15-14.7-401. Basis for appointment of conservator.** (1) ON
25 PETITION AND AFTER NOTICE AND HEARING, THE COURT MAY APPOINT A
26 CONSERVATOR FOR THE PROPERTY OR FINANCIAL AFFAIRS OF A MINOR IF
27 THE COURT FINDS BY A PREPONDERANCE OF EVIDENCE THAT APPOINTMENT

1 OF A CONSERVATOR IS IN THE MINOR'S BEST INTEREST, AND:

2 (a) IF THE MINOR HAS A PARENT, THE COURT GIVES WEIGHT TO ANY
3 RECOMMENDATION OF THE PARENT WHETHER AN APPOINTMENT IS IN THE
4 MINOR'S BEST INTEREST; AND

5 (b) EITHER:

6 (I) THE MINOR OWNS FUNDS OR OTHER PROPERTY REQUIRING
7 MANAGEMENT OR PROTECTION THAT OTHERWISE CANNOT BE PROVIDED;

8 (II) THE MINOR HAS OR MAY HAVE FINANCIAL AFFAIRS THAT MAY
9 BE PUT AT UNREASONABLE RISK OR HINDERED BECAUSE OF THE MINOR'S
10 AGE; OR

11 (III) APPOINTMENT IS NECESSARY OR DESIRABLE TO OBTAIN OR
12 PROVIDE FUNDS OR OTHER PROPERTY NEEDED FOR THE SUPPORT, CARE,
13 EDUCATION, HEALTH, OR WELFARE OF THE MINOR.

14 (2) ON PETITION AND AFTER NOTICE AND HEARING, THE COURT
15 MAY APPOINT A CONSERVATOR FOR THE PROPERTY OR FINANCIAL AFFAIRS
16 OF AN ADULT IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE
17 THAT:

18 (a) THE ADULT IS UNABLE TO MANAGE PROPERTY OR FINANCIAL
19 AFFAIRS BECAUSE:

20 (I) OF A LIMITATION IN THE ADULT'S ABILITY TO RECEIVE AND
21 EVALUATE INFORMATION OR MAKE OR COMMUNICATE DECISIONS, EVEN
22 WITH THE USE OF APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL
23 ASSISTANCE, OR SUPPORTED DECISION MAKING; OR

24 (II) THE ADULT IS MISSING, DETAINED, OR UNABLE TO RETURN TO
25 THE UNITED STATES;

26 (b) APPOINTMENT IS NECESSARY TO:

27 (I) AVOID FINANCIAL HARM TO THE ADULT OR MATERIAL

1 DISSIPATION OF THE PROPERTY OF THE ADULT; OR

2 (II) OBTAIN OR PROVIDE FUNDS OR OTHER PROPERTY NEEDED FOR
3 THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF THE ADULT OR
4 OF AN INDIVIDUAL ENTITLED TO THE ADULT'S SUPPORT; AND

5 (c) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
6 PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP OR OTHER
7 LESS RESTRICTIVE ALTERNATIVE.

8 (3) THE COURT SHALL GRANT A CONSERVATOR ONLY THOSE
9 POWERS NECESSITATED BY DEMONSTRATED LIMITATIONS AND NEEDS OF
10 THE RESPONDENT AND ISSUE ORDERS THAT WILL ENCOURAGE
11 DEVELOPMENT OF THE RESPONDENT'S MAXIMUM SELF-DETERMINATION
12 AND INDEPENDENCE. THE COURT MAY NOT ESTABLISH A FULL
13 CONSERVATORSHIP IF A LIMITED CONSERVATORSHIP, PROTECTIVE
14 ARRANGEMENT INSTEAD OF CONSERVATORSHIP, OR OTHER LESS
15 RESTRICTIVE ALTERNATIVE WOULD MEET THE NEEDS OF THE RESPONDENT.

16 **15-14.7-402. Petition for appointment of conservator.** (1) THE
17 FOLLOWING MAY PETITION FOR THE APPOINTMENT OF A CONSERVATOR:

18 (a) THE INDIVIDUAL FOR WHOM THE ORDER IS SOUGHT;

19 (b) A PERSON INTERESTED IN THE ESTATE, FINANCIAL AFFAIRS, OR
20 WELFARE OF THE INDIVIDUAL, INCLUDING A PERSON THAT WOULD BE
21 ADVERSELY AFFECTED BY LACK OF EFFECTIVE MANAGEMENT OF PROPERTY
22 OR FINANCIAL AFFAIRS OF THE INDIVIDUAL; OR

23 (c) THE GUARDIAN FOR THE INDIVIDUAL.

24 (2) A PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION
25 MUST STATE THE PETITIONER'S NAME; PRINCIPAL RESIDENCE; CURRENT
26 STREET ADDRESS, IF DIFFERENT; RELATIONSHIP TO THE RESPONDENT;
27 INTEREST IN THE APPOINTMENT; THE NAME AND ADDRESS OF ANY

1 ATTORNEY REPRESENTING THE PETITIONER; AND, TO THE EXTENT KNOWN,
2 THE FOLLOWING:

3 (a) THE RESPONDENT'S NAME; AGE; PRINCIPAL RESIDENCE;
4 CURRENT STREET ADDRESS, IF DIFFERENT; AND, IF DIFFERENT, ADDRESS OF
5 THE DWELLING IN WHICH IT IS PROPOSED THE RESPONDENT WILL RESIDE IF
6 THE PETITION IS GRANTED;

7 (b) THE NAME AND ADDRESS OF THE RESPONDENT'S:

8 (I) SPOUSE OR DOMESTIC PARTNER OR, IF THE RESPONDENT HAS
9 NONE, AN ADULT WITH WHOM THE RESPONDENT HAS SHARED HOUSEHOLD
10 RESPONSIBILITIES FOR MORE THAN SIX MONTHS IN THE TWELVE-MONTH
11 PERIOD BEFORE THE FILING OF THE PETITION;

12 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
13 SIBLING OF THE RESPONDENT; AND

14 (III) ADULT STEPCHILDREN WHOM THE RESPONDENT ACTIVELY
15 PARENTED DURING THE STEPCHILDREN'S MINOR YEARS AND WITH WHOM
16 THE RESPONDENT HAD AN ONGOING RELATIONSHIP DURING THE TWO YEARS
17 IMMEDIATELY BEFORE THE FILING OF THE PETITION;

18 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
19 FOLLOWING, IF APPLICABLE:

20 (I) A PERSON RESPONSIBLE FOR THE CARE OR CUSTODY OF THE
21 RESPONDENT;

22 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;

23 (III) THE REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
24 SECURITY ADMINISTRATION FOR THE RESPONDENT;

25 (IV) A GUARDIAN OR CONSERVATOR ACTING FOR THE RESPONDENT
26 IN THIS STATE OR ANOTHER JURISDICTION;

27 (V) A TRUSTEE OR CUSTODIAN OF A TRUST OR CUSTODIANSHIP OF

1 WHICH THE RESPONDENT IS A BENEFICIARY;

2 (VI) THE FIDUCIARY APPOINTED FOR THE RESPONDENT BY THE
3 DEPARTMENT OF VETERANS AFFAIRS;

4 (VII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
5 HEALTH CARE IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;

6 (VIII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
7 FINANCES IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;

8 (IX) A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY;

9 (X) ANY PROPOSED CONSERVATOR, INCLUDING A PERSON
10 NOMINATED BY THE RESPONDENT, IF THE RESPONDENT IS TWELVE YEARS
11 OF AGE OR OLDER; AND

12 (XI) IF THE INDIVIDUAL FOR WHOM A CONSERVATOR IS SOUGHT IS
13 A MINOR:

14 (A) AN ADULT NOT OTHERWISE LISTED WITH WHOM THE MINOR
15 RESIDES; AND

16 (B) EACH PERSON NOT OTHERWISE LISTED THAT HAD PRIMARY
17 CARE OR CUSTODY OF THE MINOR FOR AT LEAST SIXTY DAYS DURING THE
18 TWO YEARS IMMEDIATELY BEFORE THE FILING OF THE PETITION OR FOR AT
19 LEAST SEVEN HUNDRED AND THIRTY DAYS DURING THE FIVE YEARS
20 IMMEDIATELY BEFORE THE FILING OF THE PETITION;

21 (d) A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH
22 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
23 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS;

24 (e) THE REASON CONSERVATORSHIP IS NECESSARY, INCLUDING A
25 BRIEF DESCRIPTION OF:

26 (I) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
27 NEED;

1 (II) IF THE PETITION ALLEGES THE RESPONDENT IS MISSING,
2 DETAINED, OR UNABLE TO RETURN TO THE UNITED STATES, THE RELEVANT
3 CIRCUMSTANCES, INCLUDING THE TIME AND NATURE OF THE
4 DISAPPEARANCE OR DETENTION AND ANY SEARCH OR INQUIRY
5 CONCERNING THE RESPONDENT'S WHEREABOUTS;

6 (III) ANY PROTECTIVE ARRANGEMENT INSTEAD OF
7 CONSERVATORSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE FOR
8 MEETING THE RESPONDENT'S ALLEGED NEED WHICH HAS BEEN CONSIDERED
9 OR IMPLEMENTED;

10 (IV) IF NO PROTECTIVE ARRANGEMENT OR OTHER LESS
11 RESTRICTIVE ALTERNATIVES HAVE BEEN CONSIDERED OR IMPLEMENTED,
12 THE REASON IT HAS NOT BEEN CONSIDERED OR IMPLEMENTED;

13 (V) THE REASON A PROTECTIVE ARRANGEMENT OR OTHER LESS
14 RESTRICTIVE ALTERNATIVE IS INSUFFICIENT TO MEET THE RESPONDENT'S
15 NEED;

16 (VI) WHETHER THE PETITIONER SEEKS A LIMITED
17 CONSERVATORSHIP OR A FULL CONSERVATORSHIP;

18 (VII) IF THE PETITIONER SEEKS A FULL CONSERVATORSHIP, THE
19 REASON A LIMITED CONSERVATORSHIP OR PROTECTIVE ARRANGEMENT
20 INSTEAD OF CONSERVATORSHIP IS NOT APPROPRIATE;

21 (VIII) IF THE PETITION INCLUDES THE NAME OF A PROPOSED
22 CONSERVATOR, THE REASON THE PROPOSED CONSERVATOR SHOULD BE
23 APPOINTED;

24 (IX) IF THE PETITION IS FOR A LIMITED CONSERVATORSHIP, A
25 DESCRIPTION OF THE PROPERTY TO BE PLACED UNDER THE CONSERVATOR'S
26 CONTROL AND ANY REQUESTED LIMITATION ON THE AUTHORITY OF THE
27 CONSERVATOR;

1 (X) WHETHER THE RESPONDENT NEEDS AN INTERPRETER,
2 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE EFFECTIVELY
3 WITH THE COURT OR UNDERSTAND COURT PROCEEDINGS; AND

4 (XI) THE NAME AND ADDRESS OF AN ATTORNEY REPRESENTING THE
5 PETITIONER, IF ANY.

6 **15-14.7-403. Notice and hearing for appointment of**
7 **conservator.** (1) ON FILING OF A PETITION PURSUANT TO SECTION
8 15-14.7-402 FOR APPOINTMENT OF A CONSERVATOR, THE COURT SHALL SET
9 A DATE, TIME, AND PLACE FOR A HEARING ON THE PETITION.

10 (2) A COPY OF A PETITION PURSUANT TO SECTION 15-14.7-402 AND
11 NOTICE OF A HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON
12 THE RESPONDENT. IF THE RESPONDENT'S WHEREABOUTS ARE UNKNOWN OR
13 PERSONAL SERVICE CANNOT BE MADE, SERVICE ON THE RESPONDENT MUST
14 BE MADE BY SUBSTITUTED SERVICE OR PUBLICATION. THE NOTICE MUST
15 INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHTS AT THE HEARING,
16 INCLUDING THE RIGHT TO AN ATTORNEY AND TO ATTEND THE HEARING.
17 THE NOTICE MUST INCLUDE A DESCRIPTION OF THE NATURE, PURPOSE, AND
18 CONSEQUENCES OF GRANTING THE PETITION. THE COURT MAY NOT GRANT
19 A PETITION FOR APPOINTMENT OF A CONSERVATOR IF NOTICE
20 SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (2) IS NOT SERVED ON
21 THE RESPONDENT.

22 (3) IN A PROCEEDING ON A PETITION PURSUANT TO SECTION
23 15-14.7-402, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
24 SECTION MUST BE GIVEN, PURSUANT TO SECTION 15-10-401, TO THE
25 PERSONS REQUIRED TO BE LISTED IN THE PETITION PURSUANT TO SECTION
26 15-14.7-402 (2)(a) TO 15-14.7-402 (2)(c) AND ANY OTHER PERSON
27 INTERESTED IN THE RESPONDENT'S WELFARE THE COURT DETERMINES.

1 FAILURE TO GIVE NOTICE, PURSUANT TO SECTION 15-10-401, PURSUANT TO
2 THIS SUBSECTION (3) DOES NOT PRECLUDE THE COURT FROM APPOINTING
3 A CONSERVATOR.

4 (4) IF A PETITION FILED PURSUANT TO SECTION 15-14.7-402 DOES
5 NOT INCLUDE THE NAME OF AT LEAST ONE PERSON DESCRIBED IN SECTION
6 15-14.7-402 (2)(b), THE PETITIONER MUST SEARCH WITH REASONABLE
7 DILIGENCE FOR AN ADULT RELATIVE OF THE RESPONDENT AND, IF AN
8 ADULT RELATIVE IS FOUND, GIVE THE ADULT RELATIVE NOTICE, IN
9 ACCORDANCE WITH SECTION 15-10-401, THAT A PETITION FOR
10 CONSERVATORSHIP OF THE RESPONDENT HAS BEEN FILED AND GIVE NOTICE
11 OF A HEARING ON THE PETITION. THE NOTICE SENT TO THE ADULT RELATIVE
12 OF THE RESPONDENT MUST NOT INCLUDE A COPY OF THE PETITION. FAILURE
13 TO GIVE NOTICE PURSUANT TO THIS SUBSECTION (4) DOES NOT PRECLUDE
14 THE COURT FROM APPOINTING A CONSERVATOR.

15 (5) AFTER THE APPOINTMENT OF A CONSERVATOR, NOTICE OF A
16 HEARING ON A PETITION FOR AN ORDER PURSUANT TO THIS PART 4,
17 TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO:

18 (a) THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, IF THE
19 INDIVIDUAL IS TWELVE YEARS OF AGE OR OLDER AND NOT MISSING,
20 DETAINED, OR UNABLE TO RETURN TO THE UNITED STATES;

21 (b) THE CONSERVATOR; AND

22 (c) ANY OTHER PERSON THE COURT DETERMINES.

23 **15-14.7-404. Order to preserve or apply property while**
24 **proceeding pending.** WHILE A PETITION PURSUANT TO SECTION
25 15-14.7-402 IS PENDING, AFTER PRELIMINARY HEARING AND WITHOUT
26 NOTICE TO OTHERS, THE COURT MAY ISSUE AN ORDER TO PRESERVE AND
27 APPLY PROPERTY OF THE RESPONDENT AS REQUIRED FOR THE SUPPORT OF

1 THE RESPONDENT OR AN INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE
2 RESPONDENT. THE COURT MAY APPOINT A SPECIAL CONSERVATOR TO
3 ASSIST IN IMPLEMENTING THE ORDER.

4 **15-14.7-405. Appointment and role of visitor.** (1) IF THE
5 RESPONDENT IN A PROCEEDING TO APPOINT A CONSERVATOR IS A MINOR,
6 THE COURT MAY APPOINT A VISITOR TO INVESTIGATE A MATTER RELATED
7 TO THE PETITION OR INFORM THE MINOR OR A PARENT OF THE MINOR ABOUT
8 THE PETITION OR A RELATED MATTER.

9 (2) IF THE RESPONDENT IN A PROCEEDING TO APPOINT A
10 CONSERVATOR IS AN ADULT, THE COURT SHALL APPOINT A VISITOR UNLESS
11 THE ADULT IS REPRESENTED BY AN ATTORNEY APPOINTED BY THE COURT.
12 THE DUTIES AND REPORTING REQUIREMENTS OF THE VISITOR ARE LIMITED
13 TO THE RELIEF REQUESTED IN THE PETITION. THE COURT SHALL
14 DISCLOSE IN THE ORDER APPOINTING THE VISITOR THE SPECIFIC TRAINING
15 OR EXPERIENCE THE VISITOR HAS WITH RESPECT TO THE TYPE OF ABILITIES,
16 LIMITATIONS, AND NEEDS OF THE RESPONDENT ALLEGED IN THE PETITION
17 AND THE BASIS FOR FEES TO BE PAID TO THE VISITOR.

18 (3) A VISITOR APPOINTED PURSUANT TO SUBSECTION (2) OF THIS
19 SECTION FOR AN ADULT SHALL INTERVIEW THE RESPONDENT IN PERSON
20 AND IN A MANNER THE RESPONDENT IS BEST ABLE TO UNDERSTAND:

21 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE
22 PETITION; THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING; THE
23 RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION; AND THE
24 GENERAL POWERS AND DUTIES OF A CONSERVATOR;

25 (b) DETERMINE THE RESPONDENT'S VIEWS ABOUT THE
26 APPOINTMENT SOUGHT BY THE PETITIONER, INCLUDING VIEWS ABOUT A
27 PROPOSED CONSERVATOR, THE CONSERVATOR'S PROPOSED POWERS AND

1 DUTIES, AND THE SCOPE AND DURATION OF THE PROPOSED
2 CONSERVATORSHIP;

3 (c) INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHT TO
4 EMPLOY AND CONSULT WITH AN ATTORNEY AT THE RESPONDENT'S EXPENSE
5 AND THE RIGHT TO REQUEST A COURT-APPOINTED ATTORNEY; AND

6 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF
7 THE PROCEEDING, INCLUDING THE RESPONDENT'S ATTORNEY FEES, MAY BE
8 PAID FROM THE RESPONDENT'S ASSETS.

9 (4) A VISITOR APPOINTED PURSUANT TO SUBSECTION (2) OF THIS
10 SECTION FOR AN ADULT SHALL:

11 (a) INTERVIEW THE PETITIONER AND PROPOSED CONSERVATOR, IF
12 ANY;

13 (b) REVIEW FINANCIAL RECORDS OF THE RESPONDENT, IF RELEVANT
14 TO THE VISITOR'S RECOMMENDATION PURSUANT TO SUBSECTION (5)(b) OF
15 THIS SECTION;

16 (c) INVESTIGATE WHETHER THE RESPONDENT'S NEEDS COULD BE
17 MET BY A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP OR
18 OTHER LESS RESTRICTIVE ALTERNATIVE AND, IF SO, IDENTIFY THE
19 ARRANGEMENT OR OTHER LESS RESTRICTIVE ALTERNATIVE; AND

20 (d) INVESTIGATE THE ALLEGATIONS IN THE PETITION AND ANY
21 OTHER MATTER RELATING TO THE PETITION THE COURT DIRECTS.

22 (5) A VISITOR APPOINTED PURSUANT TO SUBSECTION (2) OF THIS
23 SECTION FOR AN ADULT PROMPTLY SHALL FILE A REPORT IN A RECORD WITH
24 THE COURT, WHICH MUST INCLUDE:

25 (a) A RECOMMENDATION WHETHER AN ATTORNEY SHOULD BE
26 APPOINTED TO REPRESENT THE RESPONDENT;

27 (b) A RECOMMENDATION:

1 (I) REGARDING THE APPROPRIATENESS OF CONSERVATORSHIP, OR
2 WHETHER A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP
3 OR OTHER LESS RESTRICTIVE ALTERNATIVE FOR MEETING THE
4 RESPONDENT'S NEEDS IS AVAILABLE;

5 (II) IF A CONSERVATORSHIP IS RECOMMENDED, WHETHER IT
6 SHOULD BE FULL OR LIMITED; AND

7 (III) IF A LIMITED CONSERVATORSHIP IS RECOMMENDED, THE
8 POWERS TO BE GRANTED TO THE CONSERVATOR, AND THE PROPERTY THAT
9 SHOULD BE PLACED UNDER THE CONSERVATOR'S CONTROL;

10 (c) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED
11 CONSERVATOR AND WHETHER THE RESPONDENT APPROVES OR
12 DISAPPROVES OF THE PROPOSED CONSERVATOR;

13 (d) A RECOMMENDATION WHETHER A PROFESSIONAL EVALUATION
14 PURSUANT TO SECTION 15-14.7-407 IS NECESSARY;

15 (e) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO ATTEND
16 A HEARING AT THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD;

17 (f) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
18 PARTICIPATE IN A HEARING AND WHICH IDENTIFIES ANY TECHNOLOGY OR
19 OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE RESPONDENT'S
20 ABILITY TO PARTICIPATE; AND

21 (g) ANY OTHER MATTER THE COURT DIRECTS.

22 **15-14.7-406. Appointment and role of attorney.** (1) THE COURT
23 SHALL APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT IN A
24 PROCEEDING TO APPOINT A CONSERVATOR IF:

25 (a) THE RESPONDENT REQUESTS AN APPOINTMENT;

26 (b) THE VISITOR RECOMMENDS AN APPOINTMENT; OR

27 (c) THE COURT DETERMINES THE RESPONDENT NEEDS

1 REPRESENTATION.

2 (2) AN ATTORNEY REPRESENTING THE RESPONDENT IN A
3 PROCEEDING FOR APPOINTMENT OF A CONSERVATOR SHALL:

4 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
5 WISHES;

6 (b) ADVOCATE FOR THE RESPONDENT'S WISHES TO THE EXTENT
7 REASONABLY ASCERTAINABLE; AND

8 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
9 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
10 RESTRICTIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT WITH THE
11 RESPONDENT'S INTERESTS.

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13 **15-14.7-407. Professional evaluation.** (1) AT OR BEFORE A
14 HEARING ON A PETITION FOR CONSERVATORSHIP FOR AN ADULT, THE COURT
15 SHALL ORDER A PROFESSIONAL EVALUATION OF THE RESPONDENT:

16 (a) IF THE RESPONDENT REQUESTS THE EVALUATION; OR

17 (b) IF THE COURT FINDS THAT ADDITIONAL INFORMATION MAY
18 ASSIST THE COURT IN DETERMINING THE RESPONDENT'S NEEDS AND
19 ABILITIES.

20 (2) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
21 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED BY
22 A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
23 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE
24 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND
25 LIMITATIONS AND WILL NOT BE ADVANTAGED OR DISADVANTAGED BY A
26 DECISION TO GRANT THE PETITION OR OTHERWISE HAVE A CONFLICT OF
27 INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION PROMPTLY

1 SHALL FILE A REPORT IN A RECORD WITH THE COURT. UNLESS OTHERWISE
2 DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

3 (a) A DESCRIPTION OF THE NATURE, TYPE, AND EXTENT OF THE
4 RESPONDENT'S COGNITIVE AND FUNCTIONAL ABILITIES AND LIMITATIONS
5 WITH REGARD TO THE MANAGEMENT OF THE RESPONDENT'S PROPERTY AND
6 FINANCIAL AFFAIRS;

7 (b) AN EVALUATION OF THE RESPONDENT'S MENTAL AND PHYSICAL
8 CONDITION AND, IF APPROPRIATE, EDUCATIONAL POTENTIAL, ADAPTIVE
9 BEHAVIOR, AND SOCIAL SKILLS;

10 (c) A PROGNOSIS FOR IMPROVEMENT WITH REGARD TO THE ABILITY
11 TO MANAGE THE RESPONDENT'S PROPERTY AND FINANCIAL AFFAIRS; AND

12 (d) THE DATE OF THE EXAMINATION ON WHICH THE REPORT IS
13 BASED.

14 (3) A RESPONDENT MAY DECLINE TO PARTICIPATE IN AN
15 EVALUATION ORDERED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

16 **15-14.7-408. Attendance and rights at hearing.** (1) EXCEPT AS
17 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A HEARING
18 PURSUANT TO SECTION 15-14.7-403 MAY NOT PROCEED UNLESS THE
19 RESPONDENT ATTENDS THE HEARING. IF IT IS NOT REASONABLY FEASIBLE
20 FOR THE RESPONDENT TO ATTEND A HEARING AT THE LOCATION COURT
21 PROCEEDINGS TYPICALLY ARE HELD, THE COURT SHALL HOLD A
22 HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY OR, AT THE
23 COURT'S DISCRETION, HOLD THE HEARING AT AN ALTERNATIVE LOCATION
24 WHERE THE RESPONDENT CAN ATTEND USING REAL-TIME AUDIO-VISUAL
25 TECHNOLOGY.

26 (2) A HEARING PURSUANT TO SECTION 15-14.7-403 MAY PROCEED
27 WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS BY CLEAR

1 AND CONVINCING EVIDENCE THAT:

2 (a) THE RESPONDENT HAS REFUSED TO ATTEND THE HEARING
3 AFTER HAVING BEEN FULLY INFORMED OF THE RIGHT TO ATTEND AND THE
4 POTENTIAL CONSEQUENCES OF FAILING TO DO SO;

5 (b) THERE IS NO PRACTICABLE WAY FOR THE RESPONDENT TO
6 ATTEND AND PARTICIPATE IN THE HEARING EVEN WITH APPROPRIATE
7 SUPPORTIVE SERVICES OR TECHNOLOGICAL ASSISTANCE; OR

8 (c) THE RESPONDENT IS A MINOR WHO HAS RECEIVED PROPER
9 NOTICE AND ATTENDANCE WOULD BE HARMFUL TO THE MINOR.

10 (3) THE RESPONDENT MAY BE ASSISTED IN A HEARING PURSUANT
11 TO SECTION 15-14.7-403 BY A PERSON OR PERSONS OF THE RESPONDENT'S
12 CHOOSING, ASSISTIVE TECHNOLOGY, OR AN INTERPRETER OR TRANSLATOR,
13 OR A COMBINATION OF THESE SUPPORTS. IF ASSISTANCE WOULD FACILITATE
14 THE RESPONDENT'S PARTICIPATION IN THE HEARING, BUT IS NOT OTHERWISE
15 AVAILABLE TO THE RESPONDENT, THE COURT SHALL MAKE REASONABLE
16 EFFORTS TO PROVIDE IT.

17 (4) THE RESPONDENT HAS A RIGHT TO CHOOSE AN ATTORNEY TO
18 REPRESENT THE RESPONDENT AT A HEARING PURSUANT TO SECTION
19 15-14.7-403.

20 (5) AT A HEARING PURSUANT TO SECTION 15-14.7-403, THE
21 RESPONDENT MAY:

22 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
23 DOCUMENTS;

24 (b) EXAMINE WITNESSES, INCLUDING ANY COURT-APPOINTED
25 EVALUATOR AND THE VISITOR; AND

26 (c) OTHERWISE PARTICIPATE IN THE HEARING.

27 (6) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, A PROPOSED

1 CONSERVATOR SHALL ATTEND A HEARING PURSUANT TO SECTION
2 15-14.7-403.

3 (7) A HEARING PURSUANT TO SECTION 15-14.7-403 MUST BE
4 CLOSED ON REQUEST OF THE RESPONDENT OR A SHOWING OF GOOD CAUSE.

5 (8) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING
6 PURSUANT TO SECTION 15-14.7-403. THE COURT MAY GRANT THE
7 REQUEST, WITH OR WITHOUT A HEARING, ON DETERMINING THAT THE BEST
8 INTEREST OF THE RESPONDENT WILL BE SERVED. THE COURT SHALL
9 CONSIDER THE PREFERENCES AND OPINIONS OF THE RESPONDENT PRIOR TO
10 GRANTING A REQUEST TO PARTICIPATE IN THE HEARING. THE COURT MAY
11 IMPOSE APPROPRIATE CONDITIONS ON THE PERSON'S PARTICIPATION.

12 **15-14.7-409. Confidentiality of records.** THE COURT SHALL
13 COMPLY WITH THE ADMINISTRATIVE RULES PROMULGATED BY THE
14 JUDICIAL DEPARTMENT CONCERNING THE CONFIDENTIALITY OF COURT
15 RECORDS.

16 **15-14.7-410. Who may be conservator - order of priority.**

17 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION,
18 THE COURT IN APPOINTING A CONSERVATOR SHALL CONSIDER PERSONS
19 QUALIFIED TO BE A CONSERVATOR IN THE FOLLOWING ORDER OF PRIORITY:

20 (a) A CONSERVATOR, OTHER THAN A TEMPORARY OR EMERGENCY
21 CONSERVATOR, CURRENTLY ACTING FOR THE RESPONDENT IN ANOTHER
22 JURISDICTION;

23 (b) A PERSON NOMINATED AS CONSERVATOR BY THE RESPONDENT,
24 INCLUDING THE RESPONDENT'S MOST RECENT NOMINATION MADE IN A
25 POWER OF ATTORNEY FOR FINANCES;

26 (c) AN AGENT APPOINTED BY THE RESPONDENT TO MANAGE THE
27 RESPONDENT'S PROPERTY UNDER A POWER OF ATTORNEY FOR FINANCES;

1 (d) A SPOUSE OR DOMESTIC PARTNER OF THE RESPONDENT; AND

2 (e) A FAMILY MEMBER OR OTHER INDIVIDUAL WHO HAS SHOWN
3 SPECIAL CARE AND CONCERN FOR THE RESPONDENT.

4 (2) IF TWO OR MORE PERSONS HAVE EQUAL PRIORITY PURSUANT TO
5 SUBSECTION (1) OF THIS SECTION, THE COURT SHALL SELECT AS
6 CONSERVATOR THE PERSON THE COURT CONSIDERS BEST QUALIFIED. IN
7 DETERMINING THE BEST QUALIFIED PERSON, THE COURT SHALL CONSIDER
8 THE PERSON'S RELATIONSHIP WITH THE RESPONDENT, THE PERSON'S SKILLS,
9 THE EXPRESSED WISHES OF THE RESPONDENT, THE EXTENT TO WHICH THE
10 PERSON AND THE RESPONDENT HAVE SIMILAR VALUES AND PREFERENCES,
11 AND THE LIKELIHOOD THE PERSON WILL BE ABLE TO PERFORM THE DUTIES
12 OF A CONSERVATOR SUCCESSFULLY.

13 (3) THE COURT, ACTING IN THE BEST INTEREST OF THE
14 RESPONDENT, MAY DECLINE TO APPOINT AS CONSERVATOR A PERSON
15 HAVING PRIORITY PURSUANT TO SUBSECTION (1) OF THIS SECTION AND
16 APPOINT A PERSON HAVING A LOWER PRIORITY OR NO PRIORITY.

17 (4) UNLESS THE PERSON HAS PRIORITY TO SERVE PURSUANT TO
18 SUBSECTION (1) OF THIS SECTION, A PERSON THAT PROVIDES PAID SERVICES
19 TO THE RESPONDENT, OR AN INDIVIDUAL WHO IS EMPLOYED BY A PERSON
20 THAT PROVIDES PAID SERVICES TO THE RESPONDENT OR IS THE SPOUSE,
21 DOMESTIC PARTNER, PARENT, OR CHILD OF AN INDIVIDUAL WHO PROVIDES
22 OR IS EMPLOYED TO PROVIDE PAID SERVICES TO THE RESPONDENT, MAY
23 NOT BE APPOINTED AS CONSERVATOR UNLESS:

24 (a) THE INDIVIDUAL IS RELATED TO THE RESPONDENT BY BLOOD,
25 MARRIAGE, OR ADOPTION; OR

26 (b) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
27 THE PERSON IS THE BEST QUALIFIED PERSON AVAILABLE FOR APPOINTMENT

1 AND THE APPOINTMENT IS IN THE BEST INTEREST OF THE RESPONDENT.

2 (5) AN OWNER, OPERATOR, OR EMPLOYEE OF A LONG-TERM CARE
3 FACILITY AT WHICH THE RESPONDENT IS RECEIVING CARE MAY NOT BE
4 APPOINTED AS CONSERVATOR UNLESS THE OWNER, OPERATOR, OR
5 EMPLOYEE IS RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR
6 ADOPTION.

7 **15-14.7-411. Order of appointment of conservator.** (1) A
8 COURT ORDER APPOINTING A CONSERVATOR FOR A MINOR MUST INCLUDE
9 FINDINGS TO SUPPORT APPOINTMENT OF A CONSERVATOR AND, IF A FULL
10 CONSERVATORSHIP IS GRANTED, THE REASON A LIMITED
11 CONSERVATORSHIP WOULD NOT MEET THE IDENTIFIED NEEDS OF THE
12 MINOR.

13 (2) A COURT ORDER APPOINTING A CONSERVATOR FOR AN ADULT
14 MUST:

15 (a) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
16 EVIDENCE HAS ESTABLISHED THAT THE IDENTIFIED NEEDS OF THE
17 RESPONDENT CANNOT BE MET BY A PROTECTIVE ARRANGEMENT INSTEAD
18 OF CONSERVATORSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE,
19 INCLUDING USE OF APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL
20 ASSISTANCE, OR SUPPORTED DECISION MAKING; AND

21 (b) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
22 EVIDENCE ESTABLISHED THE RESPONDENT WAS GIVEN PROPER NOTICE OF
23 THE HEARING ON THE PETITION.

24 (3) A COURT ORDER ESTABLISHING A FULL CONSERVATORSHIP FOR
25 AN ADULT MUST STATE THE BASIS FOR GRANTING A FULL
26 CONSERVATORSHIP AND INCLUDE SPECIFIC FINDINGS TO SUPPORT THE
27 CONCLUSION THAT A LIMITED CONSERVATORSHIP WOULD NOT MEET THE

1 FUNCTIONAL NEEDS OF THE ADULT.

2 (4) A COURT ORDER ESTABLISHING A LIMITED CONSERVATORSHIP
3 MUST STATE THE SPECIFIC PROPERTY PLACED UNDER THE CONTROL OF THE
4 CONSERVATOR AND THE POWERS GRANTED TO THE CONSERVATOR.

5 (5) THE COURT, AS PART OF AN ORDER ESTABLISHING A
6 CONSERVATORSHIP, SHALL IDENTIFY ANY PERSON THAT SUBSEQUENTLY IS
7 ENTITLED TO:

8 (a) NOTICE OF THE RIGHTS OF THE INDIVIDUAL SUBJECT TO
9 CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-412 (2);

10 (b) NOTICE OF A SALE OF OR SURRENDER OF A LEASE TO THE
11 PRIMARY DWELLING OF THE INDIVIDUAL;

12 (c) NOTICE THAT THE CONSERVATOR HAS DELEGATED A POWER
13 THAT REQUIRES COURT APPROVAL PURSUANT TO SECTION 15-14.7-414 OR
14 SUBSTANTIALLY ALL POWERS OF THE CONSERVATOR;

15 (d) NOTICE THAT THE CONSERVATOR WILL BE UNAVAILABLE TO
16 PERFORM THE CONSERVATOR'S DUTIES FOR MORE THAN ONE MONTH;

17 (e) A COPY OF THE CONSERVATOR'S PLAN PURSUANT TO SECTION
18 15-14.7-419 AND THE CONSERVATOR'S REPORT PURSUANT TO SECTION
19 15-14.7-423;

20 (f) ACCESS TO COURT RECORDS RELATING TO THE
21 CONSERVATORSHIP;

22 (g) NOTICE OF A TRANSACTION INVOLVING A SUBSTANTIAL
23 CONFLICT BETWEEN THE CONSERVATOR'S FIDUCIARY DUTIES AND
24 PERSONAL INTERESTS;

25 (h) NOTICE OF THE DEATH OR SIGNIFICANT CHANGE IN THE
26 CONDITION OF THE INDIVIDUAL;

27 (i) NOTICE THAT THE COURT HAS LIMITED OR MODIFIED THE

1 POWERS OF THE CONSERVATOR; AND

2 (j) NOTICE OF THE REMOVAL OF THE CONSERVATOR.

3 (6) IF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP IS AN ADULT,
4 THE SPOUSE, DOMESTIC PARTNER, AND ADULT CHILDREN OF THE ADULT
5 SUBJECT TO CONSERVATORSHIP ARE ENTITLED PURSUANT TO SUBSECTION
6 (5) OF THIS SECTION TO NOTICE UNLESS THE COURT DETERMINES NOTICE
7 WOULD BE CONTRARY TO THE PREFERENCES OR PRIOR DIRECTIONS OF THE
8 ADULT SUBJECT TO CONSERVATORSHIP OR NOT IN THE BEST INTEREST OF
9 THE ADULT.

10 (7) IF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP IS A MINOR,
11 EACH PARENT AND ADULT SIBLING OF THE MINOR IS ENTITLED PURSUANT
12 TO SUBSECTION (5) OF THIS SECTION TO NOTICE UNLESS THE COURT
13 DETERMINES NOTICE WOULD NOT BE IN THE BEST INTEREST OF THE MINOR.

14 **15-14.7-412. Notice of order of appointment - rights.** (1) A
15 CONSERVATOR APPOINTED PURSUANT TO SECTION 15-14.7-411 SHALL GIVE
16 TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND TO ALL OTHER
17 PERSONS GIVEN NOTICE PURSUANT TO SECTION 15-14.7-403 A COPY OF THE
18 ORDER OF APPOINTMENT, TOGETHER WITH NOTICE OF THE RIGHT TO
19 REQUEST TERMINATION OR MODIFICATION. THE ORDER AND NOTICE MUST
20 BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE APPOINTMENT.

21 (2) NOT LATER THAN THIRTY DAYS AFTER APPOINTMENT OF A
22 CONSERVATOR PURSUANT TO SECTION 15-14.7-411, THE COURT SHALL
23 GIVE TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, THE
24 CONSERVATOR, AND ANY OTHER PERSON ENTITLED TO NOTICE PURSUANT
25 TO SECTION 15-14.7-411 A STATEMENT OF THE RIGHTS OF THE INDIVIDUAL
26 SUBJECT TO CONSERVATORSHIP AND PROCEDURES TO SEEK RELIEF IF THE
27 INDIVIDUAL IS DENIED THOSE RIGHTS. THE STATEMENT MUST BE IN PLAIN

1 LANGUAGE, IN AT LEAST SIXTEEN-POINT FONT, AND TO THE EXTENT
2 FEASIBLE, IN A LANGUAGE IN WHICH THE INDIVIDUAL SUBJECT TO
3 CONSERVATORSHIP IS PROFICIENT. THE STATEMENT MUST NOTIFY THE
4 INDIVIDUAL SUBJECT TO CONSERVATORSHIP OF THE RIGHT TO:

5 (a) SEEK TERMINATION OR MODIFICATION OF THE
6 CONSERVATORSHIP, OR REMOVAL OF THE CONSERVATOR, AND CHOOSE AN
7 ATTORNEY TO REPRESENT THE INDIVIDUAL IN THESE MATTERS;

8 (b) PARTICIPATE IN DECISION MAKING TO THE EXTENT REASONABLY
9 FEASIBLE;

10 (c) RECEIVE A COPY OF THE CONSERVATOR'S PLAN PURSUANT TO
11 SECTION 15-14.7-419, THE CONSERVATOR'S INVENTORY PURSUANT TO
12 SECTION 15-14.7-420, AND THE CONSERVATOR'S REPORT PURSUANT TO
13 SECTION 15-14.7-423; AND

14 (d) OBJECT TO THE CONSERVATOR'S INVENTORY, PLAN, OR REPORT.

15 (3) IF A CONSERVATOR IS APPOINTED FOR THE REASONS STATED IN
16 SECTION 15-14.7-401 (2)(a)(II) AND THE INDIVIDUAL SUBJECT TO
17 CONSERVATORSHIP IS MISSING, NOTICE PURSUANT TO THIS SECTION TO THE
18 INDIVIDUAL IS NOT REQUIRED.

19 **15-14.7-413. Emergency conservator.** (1) ON ITS OWN OR ON
20 PETITION BY A PERSON INTERESTED IN AN INDIVIDUAL'S WELFARE AFTER A
21 PETITION HAS BEEN FILED PURSUANT TO SECTION 15-14.7-402, THE COURT
22 MAY APPOINT AN EMERGENCY CONSERVATOR FOR THE INDIVIDUAL IF THE
23 COURT FINDS:

24 (a) APPOINTMENT OF AN EMERGENCY CONSERVATOR IS LIKELY TO
25 PREVENT SUBSTANTIAL AND IRREPARABLE HARM TO THE INDIVIDUAL'S
26 PROPERTY OR FINANCIAL INTERESTS;

27 (b) NO OTHER PERSON APPEARS TO HAVE AUTHORITY AND

1 WILLINGNESS TO ACT IN THE CIRCUMSTANCES; AND

2 (c) THERE IS REASON TO BELIEVE THAT A BASIS FOR APPOINTMENT
3 OF A CONSERVATOR PURSUANT TO SECTION 15-14.7-401 EXISTS.

4 (2) THE DURATION OF AUTHORITY OF AN EMERGENCY
5 CONSERVATOR MAY NOT EXCEED SIXTY DAYS AND THE EMERGENCY
6 CONSERVATOR MAY EXERCISE ONLY THE POWERS SPECIFIED IN THE ORDER
7 OF APPOINTMENT. THE EMERGENCY CONSERVATOR'S AUTHORITY MAY BE
8 EXTENDED ONCE FOR NOT MORE THAN SIXTY DAYS IF THE COURT FINDS
9 THAT THE CONDITIONS FOR APPOINTMENT OF AN EMERGENCY
10 CONSERVATOR PURSUANT TO SUBSECTION (1) OF THIS SECTION CONTINUE.

11 (3) IMMEDIATELY ON FILING OF A PETITION FOR AN EMERGENCY
12 CONSERVATOR, THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT
13 THE RESPONDENT IN THE PROCEEDING. EXCEPT AS OTHERWISE PROVIDED
14 IN SUBSECTION (4) OF THIS SECTION, REASONABLE NOTICE OF THE DATE,
15 TIME, AND PLACE OF A HEARING ON THE PETITION MUST BE GIVEN TO THE
16 RESPONDENT, THE RESPONDENT'S ATTORNEY, AND ANY OTHER PERSON THE
17 COURT DETERMINES.

18 (4) THE COURT MAY APPOINT AN EMERGENCY CONSERVATOR
19 WITHOUT NOTICE TO THE RESPONDENT AND ANY ATTORNEY FOR THE
20 RESPONDENT ONLY IF THE COURT FINDS FROM AN AFFIDAVIT OR TESTIMONY
21 THAT THE RESPONDENT'S PROPERTY OR FINANCIAL INTERESTS WILL BE
22 SUBSTANTIALLY AND IRREPARABLY HARMED BEFORE A HEARING WITH
23 NOTICE ON THE APPOINTMENT CAN BE HELD. IF THE COURT APPOINTS AN
24 EMERGENCY CONSERVATOR WITHOUT REASONABLE NOTICE TO THE
25 RESPONDENT OR THE RESPONDENT'S ATTORNEY AND THE RESPONDENT IS
26 NOT PRESENT AT THE HEARING, THE COURT MUST PERSONALLY SERVE
27 NOTICE OF THE APPOINTMENT NOT LATER THAN FORTY-EIGHT HOURS AFTER

1 THE APPOINTMENT TO:

2 (a) THE RESPONDENT;

3 (b) THE RESPONDENT'S ATTORNEY; AND

4 (c) ANY OTHER PERSON THE COURT DETERMINES.

5 (5) NOT LATER THAN SEVEN DAYS AFTER THE APPOINTMENT, THE
6 COURT SHALL HOLD A HEARING ON THE APPROPRIATENESS OF THE
7 APPOINTMENT UPON THE REQUEST OF THE RESPONDENT, THE RESPONDENT'S
8 ATTORNEY, A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY, OR
9 A PERSON INTERESTED IN THE WELFARE OF AN INDIVIDUAL SUBJECT TO
10 GUARDIANSHIP OR CONSERVATORSHIP.

11 (6) APPOINTMENT OF AN EMERGENCY CONSERVATOR PURSUANT TO
12 THIS SECTION IS NOT A DETERMINATION THAT A BASIS EXISTS FOR
13 APPOINTMENT OF A CONSERVATOR PURSUANT TO SECTION 15-14.7-401.

14 (7) THE COURT MAY TERMINATE THE APPOINTMENT OF AN
15 EMERGENCY CONSERVATOR APPOINTED PURSUANT TO THIS SECTION AT
16 ANY TIME. THE EMERGENCY CONSERVATOR SHALL MAKE ANY REPORT THE
17 COURT REQUIRES.

18 **15-14.7-414. Powers of conservator requiring court approval.**

19 (1) EXCEPT AS OTHERWISE ORDERED BY THE COURT, A CONSERVATOR
20 MUST GIVE NOTICE, PURSUANT TO SECTION 15-10-401, TO PERSONS
21 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-403 AND RECEIVE
22 SPECIFIC AUTHORIZATION BY THE COURT BEFORE THE CONSERVATOR MAY
23 EXERCISE WITH RESPECT TO THE CONSERVATORSHIP THE POWER TO:

24 (a) MAKE A GIFT, EXCEPT A GIFT OF DE MINIMIS VALUE;

25 (b) SELL, ENCUMBER AN INTEREST IN, OR SURRENDER A LEASE TO
26 THE PRIMARY DWELLING OF THE INDIVIDUAL SUBJECT TO
27 CONSERVATORSHIP;

1 (c) CONVEY, RELEASE, OR DISCLAIM A CONTINGENT OR EXPECTANT
2 INTEREST IN PROPERTY, INCLUDING MARITAL PROPERTY AND ANY RIGHT OF
3 SURVIVORSHIP INCIDENT TO JOINT TENANCY OR TENANCY BY THE
4 ENTIRETIES;

5 (d) EXERCISE OR RELEASE A POWER OF APPOINTMENT;

6 (e) CREATE A REVOCABLE OR IRREVOCABLE TRUST OF PROPERTY
7 OF THE CONSERVATORSHIP ESTATE, WHETHER OR NOT THE TRUST EXTENDS
8 BEYOND THE DURATION OF THE CONSERVATORSHIP, OR REVOKE OR AMEND
9 A TRUST REVOCABLE BY THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

10 (f) EXERCISE A RIGHT TO ELECT AN OPTION OR CHANGE A
11 BENEFICIARY UNDER AN INSURANCE POLICY OR ANNUITY OR SURRENDER
12 THE POLICY OR ANNUITY FOR ITS CASH VALUE;

13 (g) EXERCISE A RIGHT TO AN ELECTIVE SHARE IN THE ESTATE OF A
14 DECEASED SPOUSE OR DOMESTIC PARTNER OF THE INDIVIDUAL SUBJECT TO
15 CONSERVATORSHIP OR RENOUNCE OR DISCLAIM A PROPERTY INTEREST;

16 (h) GRANT A CREDITOR PRIORITY FOR PAYMENT OVER CREDITORS
17 OF THE SAME OR HIGHER CLASS IF THE CREDITOR IS PROVIDING PROPERTY
18 OR SERVICES USED TO MEET THE BASIC LIVING AND CARE NEEDS OF THE
19 INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND PREFERENTIAL
20 TREATMENT OTHERWISE WOULD BE IMPERMISSIBLE PURSUANT TO SECTION
21 15-14.7-428 (5); AND

22 (i) MAKE, MODIFY, AMEND, OR REVOKE THE WILL OF THE
23 INDIVIDUAL SUBJECT TO CONSERVATORSHIP IN COMPLIANCE WITH PART 5
24 OF ARTICLE 11 OF TITLE 15.

25 (2) IN APPROVING A CONSERVATOR'S EXERCISE OF A POWER LISTED
26 IN SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONSIDER
27 PRIMARILY THE DECISION THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP

1 WOULD MAKE IF ABLE, TO THE EXTENT THE DECISION CAN BE
2 ASCERTAINED.

3 (3) TO DETERMINE PURSUANT TO SUBSECTION (2) OF THIS SECTION
4 THE DECISION THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP WOULD
5 MAKE IF ABLE, THE COURT SHALL CONSIDER THE INDIVIDUAL'S PRIOR OR
6 CURRENT DIRECTIONS, PREFERENCES, OPINIONS, VALUES, AND ACTIONS, TO
7 THE EXTENT ACTUALLY KNOWN OR REASONABLY ASCERTAINABLE BY THE
8 CONSERVATOR. THE COURT ALSO SHALL CONSIDER:

9 (a) THE FINANCIAL NEEDS OF THE INDIVIDUAL SUBJECT TO
10 CONSERVATORSHIP AND INDIVIDUALS WHO ARE IN FACT DEPENDENT ON
11 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP FOR SUPPORT, AND THE
12 INTERESTS OF CREDITORS OF THE INDIVIDUAL;

13 (b) POSSIBLE REDUCTION OF INCOME, ESTATE, INHERITANCE, OR
14 OTHER TAX LIABILITIES;

15 (c) ELIGIBILITY FOR GOVERNMENTAL ASSISTANCE;

16 (d) THE PREVIOUS PATTERN OF GIVING OR LEVEL OF SUPPORT
17 PROVIDED BY THE INDIVIDUAL;

18 (e) ANY EXISTING ESTATE PLAN OR LACK OF ESTATE PLAN OF THE
19 INDIVIDUAL;

20 (f) THE LIFE EXPECTANCY OF THE INDIVIDUAL AND THE
21 PROBABILITY THE CONSERVATORSHIP WILL TERMINATE BEFORE THE
22 INDIVIDUAL'S DEATH; AND

23 (g) ANY OTHER RELEVANT FACTOR.

24 (4) A CONSERVATOR MAY NOT REVOKE OR AMEND A POWER OF
25 ATTORNEY FOR FINANCES EXECUTED BY THE INDIVIDUAL SUBJECT TO
26 CONSERVATORSHIP. IF A POWER OF ATTORNEY FOR FINANCES IS IN EFFECT,
27 A DECISION OF THE AGENT TAKES PRECEDENCE OVER THAT OF THE

1 CONSERVATOR, UNLESS THE COURT ORDERS OTHERWISE.

2 **15-14.7-415. Petition for order after appointment.** (1) AN
3 INDIVIDUAL SUBJECT TO CONSERVATORSHIP OR A PERSON INTERESTED IN
4 THE WELFARE OF THE INDIVIDUAL MAY PETITION FOR AN ORDER:

5 (a) REQUIRING THE CONSERVATOR TO FURNISH A BOND OR
6 COLLATERAL OR ADDITIONAL BOND OR COLLATERAL OR ALLOWING A
7 REDUCTION IN A BOND OR COLLATERAL PREVIOUSLY FURNISHED;

8 (b) REQUIRING AN ACCOUNTING FOR THE ADMINISTRATION OF THE
9 CONSERVATORSHIP ESTATE;

10 (c) DIRECTING DISTRIBUTION;

11 (d) REMOVING THE CONSERVATOR AND APPOINTING A TEMPORARY
12 OR SUCCESSOR CONSERVATOR;

13 (e) MODIFYING THE TYPE OF APPOINTMENT OR POWERS GRANTED
14 TO THE CONSERVATOR, IF THE EXTENT OF PROTECTION OR MANAGEMENT
15 PREVIOUSLY GRANTED IS EXCESSIVE OR INSUFFICIENT TO MEET THE
16 INDIVIDUAL'S NEEDS, INCLUDING BECAUSE THE INDIVIDUAL'S ABILITIES OR
17 SUPPORTS HAVE CHANGED;

18 (f) REJECTING OR MODIFYING THE CONSERVATOR'S PLAN PURSUANT
19 TO SECTION 15-14.7-419, THE CONSERVATOR'S INVENTORY PURSUANT TO
20 SECTION 15-14.7-420, OR THE CONSERVATOR'S REPORT PURSUANT TO
21 SECTION 15-14.7-423; OR

22 (g) GRANTING OTHER APPROPRIATE RELIEF.

23 **15-14.7-416. Bond - alternative asset protection arrangement.**

24 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION,
25 THE COURT SHALL REQUIRE A CONSERVATOR TO FURNISH A BOND WITH A
26 SURETY _____ OR REQUIRE AN ALTERNATIVE ASSET-PROTECTION
27 ARRANGEMENT, CONDITIONED ON FAITHFUL DISCHARGE OF ALL DUTIES OF

1 THE CONSERVATOR. THE COURT MAY WAIVE THE REQUIREMENT ONLY IF
2 THE COURT FINDS THAT A BOND OR OTHER ASSET-PROTECTION
3 ARRANGEMENT IS NOT NECESSARY TO PROTECT THE INTERESTS OF THE
4 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. EXCEPT AS OTHERWISE
5 PROVIDED IN SUBSECTION (3) OF THIS SECTION, THE COURT MAY NOT WAIVE
6 THE REQUIREMENT IF THE CONSERVATOR IS IN THE BUSINESS OF SERVING
7 AS A CONSERVATOR AND IS BEING PAID FOR THE CONSERVATOR'S SERVICE.

8 (2) UNLESS THE COURT DIRECTS OTHERWISE, THE BOND REQUIRED
9 PURSUANT TO THIS SECTION MUST BE IN THE AMOUNT OF THE AGGREGATE
10 CAPITAL VALUE OF THE CONSERVATORSHIP ESTATE, PLUS ONE YEAR'S
11 ESTIMATED INCOME, LESS THE VALUE OF PROPERTY DEPOSITED UNDER AN
12 ARRANGEMENT REQUIRING A COURT ORDER FOR ITS REMOVAL AND REAL
13 PROPERTY THE CONSERVATOR LACKS POWER TO SELL OR CONVEY WITHOUT
14 SPECIFIC COURT AUTHORIZATION. THE COURT, IN PLACE OF SURETY ON A
15 BOND, MAY ACCEPT COLLATERAL FOR THE PERFORMANCE OF THE BOND,
16 INCLUDING A PLEDGE OF SECURITIES OR A MORTGAGE OF REAL PROPERTY.

17 (3) A REGULATED FINANCIAL-SERVICE INSTITUTION QUALIFIED TO
18 DO TRUST BUSINESS IN THIS STATE, A PUBLIC ADMINISTRATOR NOMINATED
19 AS A GUARDIAN OR CONSERVATOR, OR A STATE OR COUNTY AGENCY
20 NOMINATED AS A GUARDIAN OR CONSERVATOR PURSUANT TO STATE LAW
21 IS NOT REQUIRED TO GIVE A BOND PURSUANT TO THIS SECTION.

22 **15-14.7-417. Terms and requirements of bond.** (1) THE
23 FOLLOWING RULES APPLY TO THE BOND REQUIRED PURSUANT TO SECTION
24 15-14.7-416:

25 (a) EXCEPT AS OTHERWISE PROVIDED BY THE BOND, THE SURETY
26 AND THE CONSERVATOR ARE JOINTLY AND SEVERALLY LIABLE.

27 (b) BY EXECUTING A BOND PROVIDED BY A CONSERVATOR, THE

1 SURETY SUBMITS TO THE PERSONAL JURISDICTION OF THE COURT THAT
2 ISSUED LETTERS OF OFFICE TO THE CONSERVATOR IN A PROCEEDING
3 RELATING TO THE DUTIES OF THE CONSERVATOR IN WHICH THE SURETY IS
4 NAMED AS A PARTY. NOTICE OF THE PROCEEDING MUST BE GIVEN TO THE
5 SURETY AT THE ADDRESS SHOWN IN THE RECORDS OF THE COURT IN WHICH
6 THE BOND IS FILED AND ANY OTHER ADDRESS OF THE SURETY THEN KNOWN
7 TO THE PERSON REQUIRED TO PROVIDE THE NOTICE.

8 (c) ON PETITION OF A SUCCESSOR CONSERVATOR OR PERSON
9 AFFECTED BY A BREACH OF THE OBLIGATION OF THE BOND, A PROCEEDING
10 MAY BE BROUGHT AGAINST THE SURETY FOR BREACH OF THE OBLIGATION
11 OF THE BOND.

12 (d) A PROCEEDING AGAINST THE BOND MAY BE BROUGHT UNTIL
13 LIABILITY UNDER THE BOND IS EXHAUSTED.

14 (2) A PROCEEDING MAY NOT BE BROUGHT PURSUANT TO THIS
15 SECTION AGAINST A SURETY OF A BOND ON A MATTER AS TO WHICH A
16 PROCEEDING AGAINST THE CONSERVATOR IS BARRED.

17 (3) IF A BOND PURSUANT TO SECTION 15-14.7-416 IS NOT RENEWED
18 BY THE CONSERVATOR, THE SURETY OR SURETIES IMMEDIATELY SHALL
19 GIVE NOTICE, PURSUANT TO SECTION 15-10-401, TO THE COURT AND THE
20 INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

21 **15-14.7-418. Duties of conservator.** (1) A CONSERVATOR IS A
22 FIDUCIARY AND HAS DUTIES OF PRUDENCE AND LOYALTY TO THE
23 INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

24 (2) A CONSERVATOR SHALL PROMOTE THE SELF-DETERMINATION
25 OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND, TO THE EXTENT
26 FEASIBLE, ENCOURAGE THE INDIVIDUAL TO PARTICIPATE IN DECISIONS, ACT
27 ON THE INDIVIDUAL'S OWN BEHALF, AND DEVELOP OR REGAIN THE

1 CAPACITY TO MANAGE THE INDIVIDUAL'S PERSONAL AFFAIRS.

2 (3) IN MAKING A DECISION FOR AN INDIVIDUAL SUBJECT TO
3 CONSERVATORSHIP, THE CONSERVATOR SHALL MAKE THE DECISION THE
4 CONSERVATOR REASONABLY BELIEVES THE INDIVIDUAL WOULD MAKE IF
5 ABLE, UNLESS DOING SO WOULD FAIL TO PRESERVE THE RESOURCES
6 NEEDED TO MAINTAIN THE INDIVIDUAL'S WELL-BEING AND LIFESTYLE OR
7 OTHERWISE UNREASONABLY HARM OR ENDANGER THE WELFARE OR
8 PERSONAL OR FINANCIAL INTERESTS OF THE INDIVIDUAL. TO DETERMINE
9 THE DECISION THE INDIVIDUAL WOULD MAKE IF ABLE, THE CONSERVATOR
10 SHALL CONSIDER THE INDIVIDUAL'S PRIOR OR CURRENT DIRECTIONS,
11 PREFERENCES, OPINIONS, VALUES, AND ACTIONS, TO THE EXTENT
12 ACTUALLY KNOWN OR REASONABLY ASCERTAINABLE BY THE
13 CONSERVATOR.

14 (4) IF A CONSERVATOR CANNOT MAKE A DECISION PURSUANT TO
15 SUBSECTION (3) OF THIS SECTION BECAUSE THE CONSERVATOR DOES NOT
16 KNOW AND CANNOT REASONABLY DETERMINE THE DECISION THE
17 INDIVIDUAL SUBJECT TO CONSERVATORSHIP PROBABLY WOULD MAKE IF
18 ABLE, OR THE CONSERVATOR REASONABLY BELIEVES THE DECISION THE
19 INDIVIDUAL WOULD MAKE WOULD FAIL TO PRESERVE RESOURCES NEEDED
20 TO MAINTAIN THE INDIVIDUAL'S WELL-BEING AND LIFESTYLE OR
21 OTHERWISE UNREASONABLY HARM OR ENDANGER THE WELFARE OR
22 PERSONAL OR FINANCIAL INTERESTS OF THE INDIVIDUAL, THE
23 CONSERVATOR SHALL ACT IN ACCORDANCE WITH THE BEST INTEREST OF
24 THE INDIVIDUAL. IN DETERMINING THE BEST INTEREST OF THE INDIVIDUAL,
25 THE CONSERVATOR SHALL CONSIDER:

26 (a) INFORMATION RECEIVED FROM PROFESSIONALS AND PERSONS
27 THAT DEMONSTRATE SUFFICIENT INTEREST IN THE WELFARE OF THE

1 INDIVIDUAL;

2 (b) OTHER INFORMATION THE CONSERVATOR BELIEVES THE
3 INDIVIDUAL WOULD HAVE CONSIDERED IF THE INDIVIDUAL WERE ABLE TO
4 ACT; AND

5 (c) OTHER FACTORS A REASONABLE PERSON IN THE
6 CIRCUMSTANCES OF THE INDIVIDUAL WOULD CONSIDER, INCLUDING
7 CONSEQUENCES FOR OTHERS.

8 (5) EXCEPT WHEN INCONSISTENT WITH THE CONSERVATOR'S DUTIES
9 PURSUANT TO SUBSECTIONS (1) TO (4) OF THIS SECTION, A CONSERVATOR
10 SHALL INVEST AND MANAGE THE CONSERVATORSHIP ESTATE AS A PRUDENT
11 INVESTOR WOULD, BY CONSIDERING:

12 (a) THE CIRCUMSTANCES OF THE INDIVIDUAL SUBJECT TO
13 CONSERVATORSHIP AND THE CONSERVATORSHIP ESTATE;

14 (b) GENERAL ECONOMIC CONDITIONS;

15 (c) THE POSSIBLE EFFECT OF INFLATION OR DEFLATION;

16 (d) THE EXPECTED TAX CONSEQUENCES OF AN INVESTMENT
17 DECISION OR STRATEGY;

18 (e) THE ROLE OF EACH INVESTMENT OR COURSE OF ACTION IN
19 RELATION TO THE CONSERVATORSHIP ESTATE AS A WHOLE;

20 (f) THE EXPECTED TOTAL RETURN FROM INCOME AND
21 APPRECIATION OF CAPITAL;

22 (g) THE NEED FOR LIQUIDITY, REGULARITY OF INCOME, AND
23 PRESERVATION OR APPRECIATION OF CAPITAL; AND

24 (h) THE SPECIAL RELATIONSHIP OR VALUE, IF ANY, OF SPECIFIC
25 PROPERTY TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

26 (6) THE PROPRIETY OF A CONSERVATOR'S INVESTMENT AND
27 MANAGEMENT OF THE CONSERVATORSHIP ESTATE IS DETERMINED IN LIGHT

1 OF THE FACTS AND CIRCUMSTANCES EXISTING WHEN THE CONSERVATOR
2 DECIDES OR ACTS AND NOT BY HINDSIGHT.

3 (7) A CONSERVATOR SHALL MAKE A REASONABLE EFFORT TO
4 VERIFY FACTS RELEVANT TO THE INVESTMENT AND MANAGEMENT OF THE
5 CONSERVATORSHIP ESTATE.

6 (8) A CONSERVATOR THAT HAS SPECIAL SKILLS OR EXPERTISE, OR
7 IS NAMED CONSERVATOR IN RELIANCE ON THE CONSERVATOR'S
8 REPRESENTATION OF SPECIAL SKILLS OR EXPERTISE, HAS A DUTY TO USE
9 THE SPECIAL SKILLS OR EXPERTISE IN CARRYING OUT THE CONSERVATOR'S
10 DUTIES.

11 (9) IN INVESTING, SELECTING SPECIFIC PROPERTY FOR
12 DISTRIBUTION, AND INVOKING A POWER OF REVOCATION OR WITHDRAWAL
13 FOR THE USE OR BENEFIT OF THE INDIVIDUAL SUBJECT TO
14 CONSERVATORSHIP, A CONSERVATOR SHALL CONSIDER ANY ESTATE PLAN
15 OF THE INDIVIDUAL KNOWN OR REASONABLY ASCERTAINABLE TO THE
16 CONSERVATOR AND MAY EXAMINE THE WILL OR OTHER DONATIVE,
17 NOMINATIVE, OR APPOINTIVE INSTRUMENT OF THE INDIVIDUAL.

18 (10) A CONSERVATOR SHALL MAINTAIN INSURANCE ON THE
19 INSURABLE REAL AND PERSONAL PROPERTY OF THE INDIVIDUAL SUBJECT
20 TO CONSERVATORSHIP, UNLESS THE CONSERVATORSHIP ESTATE LACKS
21 SUFFICIENT FUNDS TO PAY FOR INSURANCE OR THE COURT FINDS:

22 (a) THE PROPERTY LACKS SUFFICIENT EQUITY; OR

23 (b) INSURING THE PROPERTY WOULD UNREASONABLY DISSIPATE
24 THE CONSERVATORSHIP ESTATE OR OTHERWISE NOT BE IN THE BEST
25 INTEREST OF THE INDIVIDUAL.

26 (11) IF A POWER OF ATTORNEY FOR FINANCES IS IN EFFECT, A
27 CONSERVATOR SHALL COOPERATE WITH THE AGENT TO THE EXTENT

1 FEASIBLE.

2 (12) A CONSERVATOR HAS ACCESS TO AND AUTHORITY OVER A
3 DIGITAL ASSET OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP TO THE
4 EXTENT PROVIDED BY THE "REVISED UNIFORM FIDUCIARY ACCESS TO
5 DIGITAL ASSETS ACT" IN PART 15 OF ARTICLE 1 OF THIS TITLE 15 OR COURT
6 ORDER.

7 (13) A CONSERVATOR FOR AN ADULT SHALL NOTIFY THE COURT IF
8 THE CONDITION OF THE ADULT HAS CHANGED SO THAT THE ADULT IS
9 CAPABLE OF EXERCISING RIGHTS PREVIOUSLY REMOVED. THE NOTICE MUST
10 BE GIVEN IMMEDIATELY ON LEARNING OF THE CHANGE.

11 **15-14.7-419. Conservator's plan.** (1) A CONSERVATOR, NOT
12 LATER THAN NINETY DAYS AFTER APPOINTMENT AND WHEN THERE IS A
13 SIGNIFICANT CHANGE IN CIRCUMSTANCES OR THE CONSERVATOR SEEKS TO
14 DEVIATE SIGNIFICANTLY FROM THE CONSERVATOR'S PLAN, SHALL FILE
15 WITH THE COURT A PLAN FOR PROTECTING, MANAGING, EXPENDING, AND
16 DISTRIBUTING THE ASSETS OF THE CONSERVATORSHIP ESTATE. THE PLAN
17 MUST BE BASED ON THE NEEDS OF THE INDIVIDUAL SUBJECT TO
18 CONSERVATORSHIP AND TAKE INTO ACCOUNT THE BEST INTEREST OF THE
19 INDIVIDUAL AS WELL AS THE INDIVIDUAL'S PREFERENCES, VALUES, AND
20 PRIOR DIRECTIONS, TO THE EXTENT KNOWN TO OR REASONABLY
21 ASCERTAINABLE BY THE CONSERVATOR. THE CONSERVATOR SHALL
22 INCLUDE IN THE PLAN:

23 (a) A BUDGET CONTAINING PROJECTED EXPENSES AND RESOURCES,
24 INCLUDING AN ESTIMATE OF THE TOTAL AMOUNT OF FEES THE
25 CONSERVATOR ANTICIPATES CHARGING PER YEAR AND A STATEMENT OR
26 LIST OF THE AMOUNT THE CONSERVATOR PROPOSES TO CHARGE FOR EACH
27 SERVICE THE CONSERVATOR ANTICIPATES PROVIDING TO THE INDIVIDUAL;

1 (b) HOW THE CONSERVATOR WILL INVOLVE THE INDIVIDUAL IN
2 DECISIONS ABOUT MANAGEMENT OF THE CONSERVATORSHIP ESTATE;

3 (c) ANY STEP THE CONSERVATOR PLANS TO TAKE TO DEVELOP OR
4 RESTORE THE ABILITY OF THE INDIVIDUAL TO MANAGE THE
5 CONSERVATORSHIP ESTATE; AND

6 (d) AN ESTIMATE OF THE DURATION OF THE CONSERVATORSHIP.

7 (2) A CONSERVATOR SHALL GIVE NOTICE, PURSUANT TO SECTION
8 15-10-401, OF THE FILING OF THE CONSERVATOR'S PLAN PURSUANT TO
9 SUBSECTION (1) OF THIS SECTION, TOGETHER WITH A COPY OF THE PLAN, TO
10 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A PERSON ENTITLED TO
11 NOTICE PURSUANT TO SECTION 15-14.7-411 OR A SUBSEQUENT ORDER, AND
12 ANY OTHER PERSON THE COURT DETERMINES. THE NOTICE MUST INCLUDE
13 A STATEMENT OF THE RIGHT TO OBJECT TO THE PLAN AND BE GIVEN NOT
14 LATER THAN FOURTEEN DAYS AFTER THE FILING.

15 (3) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND ANY
16 PERSON ENTITLED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO
17 RECEIVE NOTICE AND A COPY OF THE CONSERVATOR'S PLAN MAY OBJECT
18 TO THE PLAN.

19 (4) THE COURT SHALL REVIEW THE CONSERVATOR'S PLAN FILED
20 PURSUANT TO SUBSECTION (1) OF THIS SECTION AND DETERMINE WHETHER
21 TO APPROVE THE PLAN OR REQUIRE A NEW PLAN. IN DECIDING WHETHER TO
22 APPROVE THE PLAN, THE COURT SHALL CONSIDER AN OBJECTION PURSUANT
23 TO SUBSECTION (3) OF THIS SECTION AND WHETHER THE PLAN IS
24 CONSISTENT WITH THE CONSERVATOR'S DUTIES AND POWERS. THE COURT
25 MAY NOT APPROVE THE PLAN UNTIL THIRTY DAYS AFTER ITS FILING.

26 (5) AFTER A CONSERVATOR'S PLAN PURSUANT TO THIS SECTION IS
27 APPROVED BY THE COURT, THE CONSERVATOR SHALL PROVIDE A COPY OF

1 THE PLAN TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A PERSON
2 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR A
3 SUBSEQUENT ORDER, AND ANY OTHER PERSON THE COURT DETERMINES.

4 **15-14.7-420. Inventory - records.** (1) NOT LATER THAN NINETY
5 DAYS AFTER APPOINTMENT, A CONSERVATOR SHALL PREPARE AND FILE
6 WITH THE APPOINTING COURT A DETAILED INVENTORY OF THE
7 CONSERVATORSHIP ESTATE, TOGETHER WITH AN OATH OR AFFIRMATION
8 THAT THE INVENTORY IS BELIEVED TO BE COMPLETE AND ACCURATE AS
9 FAR AS INFORMATION PERMITS.

10 (2) A CONSERVATOR SHALL GIVE NOTICE, PURSUANT TO SECTION
11 15-10-401, OF THE FILING OF AN INVENTORY TO THE INDIVIDUAL SUBJECT
12 TO CONSERVATORSHIP, A PERSON ENTITLED TO NOTICE PURSUANT TO
13 SECTION 15-14.7-411 OR A SUBSEQUENT ORDER, AND ANY OTHER PERSON
14 THE COURT DETERMINES. THE NOTICE MUST BE GIVEN NOT LATER THAN
15 FOURTEEN DAYS AFTER THE FILING.

16 (3) A CONSERVATOR SHALL KEEP RECORDS OF THE
17 ADMINISTRATION OF THE CONSERVATORSHIP ESTATE AND MAKE THEM
18 AVAILABLE FOR EXAMINATION ON REASONABLE REQUEST OF THE
19 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A GUARDIAN FOR THE
20 INDIVIDUAL, OR ANY OTHER PERSON THE CONSERVATOR OR THE COURT
21 DETERMINES.

22 **15-14.7-421. Administrative powers of conservator not**
23 **requiring court approval.** (1) EXCEPT AS OTHERWISE PROVIDED IN
24 SECTION 15-14.7-414 OR QUALIFIED OR LIMITED IN THE COURT'S ORDER OF
25 APPOINTMENT AND STATED IN THE LETTERS OF OFFICE, A CONSERVATOR
26 HAS ALL POWERS GRANTED IN THIS SECTION AND ANY ADDITIONAL POWER
27 GRANTED TO A TRUSTEE BY LAW OF THIS STATE OTHER THAN THIS ARTICLE

1 14.7.

2 (2) A CONSERVATOR, ACTING REASONABLY AND CONSISTENT WITH
3 THE FIDUCIARY DUTIES OF THE CONSERVATOR TO ACCOMPLISH THE
4 PURPOSE OF THE CONSERVATORSHIP, WITHOUT SPECIFIC COURT
5 AUTHORIZATION OR CONFIRMATION, MAY WITH RESPECT TO THE
6 CONSERVATORSHIP ESTATE:

7 (a) COLLECT, HOLD, AND RETAIN PROPERTY, INCLUDING PROPERTY
8 IN WHICH THE CONSERVATOR HAS A PERSONAL INTEREST AND REAL
9 PROPERTY IN ANOTHER STATE, UNTIL THE CONSERVATOR DETERMINES
10 DISPOSITION OF THE PROPERTY SHOULD BE MADE;

11 (b) RECEIVE ADDITIONS TO THE CONSERVATORSHIP ESTATE;

12 (c) CONTINUE OR PARTICIPATE IN THE OPERATION OF A BUSINESS
13 OR OTHER ENTERPRISE;

14 (d) ACQUIRE AN UNDIVIDED INTEREST IN PROPERTY IN WHICH THE
15 CONSERVATOR, IN A FIDUCIARY CAPACITY, HOLDS AN UNDIVIDED
16 INTEREST;

17 (e) INVEST ASSETS;

18 (f) DEPOSIT FUNDS OR OTHER PROPERTY IN A FINANCIAL
19 INSTITUTION, INCLUDING ONE OPERATED BY THE CONSERVATOR;

20 (g) ACQUIRE OR DISPOSE OF PROPERTY, INCLUDING REAL PROPERTY
21 IN ANOTHER STATE, FOR CASH OR ON CREDIT, AT PUBLIC OR PRIVATE SALE,
22 AND MANAGE, DEVELOP, IMPROVE, EXCHANGE, PARTITION, CHANGE THE
23 CHARACTER OF, OR ABANDON PROPERTY;

24 (h) MAKE ORDINARY OR EXTRAORDINARY REPAIRS OR
25 ALTERATIONS IN A BUILDING OR OTHER STRUCTURE, DEMOLISH ANY
26 IMPROVEMENT, OR RAZE AN EXISTING OR ERECT A NEW PARTY WALL OR
27 BUILDING;

1 (i) SUBDIVIDE OR DEVELOP LAND, DEDICATE LAND TO PUBLIC USE,
2 MAKE OR OBTAIN THE VACATION OF A PLAT AND ADJUST A BOUNDARY,
3 ADJUST A DIFFERENCE IN VALUATION OF LAND, EXCHANGE OR PARTITION
4 LAND BY GIVING OR RECEIVING CONSIDERATION, AND DEDICATE AN
5 EASEMENT TO PUBLIC USE WITHOUT CONSIDERATION;

6 (j) ENTER FOR ANY PURPOSE INTO A LEASE OF PROPERTY AS LESSOR
7 OR LESSEE, WITH OR WITHOUT AN OPTION TO PURCHASE OR RENEW, FOR A
8 TERM WITHIN OR EXTENDING BEYOND THE TERM OF THE
9 CONSERVATORSHIP;

10 (k) ENTER INTO A LEASE OR ARRANGEMENT FOR EXPLORATION AND
11 REMOVAL OF MINERALS OR OTHER NATURAL RESOURCES OR A POOLING OR
12 UNITIZATION AGREEMENT;

13 (l) GRANT AN OPTION INVOLVING DISPOSITION OF PROPERTY OR
14 ACCEPT OR EXERCISE AN OPTION FOR THE ACQUISITION OF PROPERTY;

15 (m) VOTE A SECURITY, IN PERSON OR BY GENERAL OR LIMITED
16 PROXY;

17 (n) PAY A CALL, ASSESSMENT, OR OTHER SUM CHARGEABLE OR
18 ACCRUING AGAINST OR ON ACCOUNT OF A SECURITY;

19 (o) SELL OR EXERCISE A STOCK SUBSCRIPTION OR CONVERSION
20 RIGHT;

21 (p) CONSENT, DIRECTLY OR THROUGH A COMMITTEE OR AGENT, TO
22 THE REORGANIZATION, CONSOLIDATION, MERGER, DISSOLUTION, OR
23 LIQUIDATION OF A CORPORATION OR OTHER BUSINESS ENTERPRISE;

24 (q) HOLD A SECURITY IN THE NAME OF A NOMINEE OR IN OTHER
25 FORM WITHOUT DISCLOSURE OF THE CONSERVATORSHIP SO THAT TITLE TO
26 THE SECURITY MAY PASS BY DELIVERY;

27 (r) INSURE:

1 (I) THE CONSERVATORSHIP ESTATE, IN WHOLE OR IN PART, AGAINST
2 DAMAGE OR LOSS IN ACCORDANCE WITH SECTION 15-14.7-418 (10); AND

3 (II) THE CONSERVATOR AGAINST LIABILITY WITH RESPECT TO A
4 THIRD PERSON;

5 (s) BORROW FUNDS, WITH OR WITHOUT SECURITY, TO BE REPAID
6 FROM THE CONSERVATORSHIP ESTATE OR OTHERWISE;

7 (t) ADVANCE FUNDS FOR THE PROTECTION OF THE
8 CONSERVATORSHIP ESTATE OR THE INDIVIDUAL SUBJECT TO
9 CONSERVATORSHIP AND ALL EXPENSES, LOSSES, AND LIABILITY SUSTAINED
10 IN THE ADMINISTRATION OF THE CONSERVATORSHIP ESTATE OR BECAUSE
11 OF HOLDING ANY PROPERTY FOR WHICH THE CONSERVATOR HAS A LIEN ON
12 THE CONSERVATORSHIP ESTATE;

13 (u) PAY OR CONTEST A CLAIM; SETTLE A CLAIM BY OR AGAINST THE
14 CONSERVATORSHIP ESTATE OR THE INDIVIDUAL SUBJECT TO
15 CONSERVATORSHIP BY COMPROMISE, ARBITRATION, OR OTHERWISE; OR
16 RELEASE, IN WHOLE OR IN PART, A CLAIM BELONGING TO THE
17 CONSERVATORSHIP ESTATE TO THE EXTENT THE CLAIM IS UNCOLLECTIBLE;

18 (v) PAY A TAX, ASSESSMENT, COMPENSATION OF THE
19 CONSERVATOR OR ANY GUARDIAN, AND OTHER EXPENSE INCURRED IN THE
20 COLLECTION, CARE, ADMINISTRATION, AND PROTECTION OF THE
21 CONSERVATORSHIP ESTATE;

22 (w) PAY A SUM DISTRIBUTABLE TO THE INDIVIDUAL SUBJECT TO
23 CONSERVATORSHIP OR AN INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE
24 INDIVIDUAL SUBJECT TO CONSERVATORSHIP BY PAYING THE SUM TO THE
25 DISTRIBUTE OR FOR THE USE OF THE DISTRIBUTE:

26 (I) TO THE GUARDIAN FOR THE DISTRIBUTE;

27 (II) TO THE CUSTODIAN OF THE DISTRIBUTE PURSUANT TO THE

1 "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE
2 11, OR CUSTODIAL TRUSTEE PURSUANT TO THE "COLORADO UNIFORM
3 CUSTODIAL TRUST ACT", ARTICLE 1.5 OF THIS TITLE 15; OR

4 (III) IF THERE IS NO GUARDIAN, CUSTODIAN, OR CUSTODIAL
5 TRUSTEE, TO A RELATIVE OR OTHER PERSON HAVING PHYSICAL CUSTODY
6 OF THE DISTRIBUTE;

7 (x) BRING OR DEFEND AN ACTION, CLAIM, OR PROCEEDING IN ANY
8 JURISDICTION FOR THE PROTECTION OF THE CONSERVATORSHIP ESTATE OR
9 THE CONSERVATOR IN THE PERFORMANCE OF THE CONSERVATOR'S DUTIES;

10 (y) STRUCTURE THE FINANCES OF THE INDIVIDUAL SUBJECT TO
11 CONSERVATORSHIP TO ESTABLISH ELIGIBILITY FOR A PUBLIC BENEFIT,
12 CONSISTENT WITH THE INDIVIDUAL'S PREFERENCES, VALUES, AND PRIOR
13 DIRECTIONS, IF THE CONSERVATOR'S ACTION DOES NOT JEOPARDIZE THE
14 INDIVIDUAL'S WELFARE AND OTHERWISE IS CONSISTENT WITH THE
15 CONSERVATOR'S DUTIES; AND

16 (z) EXECUTE AND DELIVER ANY INSTRUMENT THAT WILL
17 ACCOMPLISH OR FACILITATE THE EXERCISE OF A POWER OF THE
18 CONSERVATOR.

19 **15-14.7-422. Distribution from conservatorship estate.**

20 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 15-14.7-414 OR
21 QUALIFIED OR LIMITED IN THE COURT'S ORDER OF APPOINTMENT AND
22 STATED IN THE LETTERS OF OFFICE, AND UNLESS CONTRARY TO A
23 CONSERVATOR'S PLAN PURSUANT TO SECTION 15-14.7-419, THE
24 CONSERVATOR MAY EXPEND OR DISTRIBUTE INCOME OR PRINCIPAL OF THE
25 CONSERVATORSHIP ESTATE WITHOUT SPECIFIC COURT AUTHORIZATION OR
26 CONFIRMATION FOR THE SUPPORT, CARE, EDUCATION, HEALTH, OR
27 WELFARE OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP OR AN

1 INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE INDIVIDUAL SUBJECT TO
2 CONSERVATORSHIP, INCLUDING THE PAYMENT OF CHILD OR SPOUSAL
3 SUPPORT, IN ACCORDANCE WITH THE FOLLOWING RULES:

4 (a) THE CONSERVATOR SHALL CONSIDER A RECOMMENDATION
5 RELATING TO THE APPROPRIATE STANDARD OF SUPPORT, CARE, EDUCATION,
6 HEALTH, OR WELFARE FOR THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP
7 OR INDIVIDUAL WHO IS DEPENDENT ON THE INDIVIDUAL SUBJECT TO
8 CONSERVATORSHIP, MADE BY A GUARDIAN FOR THE INDIVIDUAL SUBJECT
9 TO CONSERVATORSHIP, IF ANY, AND, IF THE INDIVIDUAL SUBJECT TO
10 CONSERVATORSHIP IS A MINOR, A RECOMMENDATION MADE BY A PARENT
11 OF THE MINOR.

12 (b) THE CONSERVATOR ACTING IN COMPLIANCE WITH THE
13 CONSERVATOR'S DUTIES PURSUANT TO SECTION 15-14.7-418 IS NOT LIABLE
14 FOR AN EXPENDITURE OR DISTRIBUTION MADE BASED ON A
15 RECOMMENDATION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION
16 UNLESS THE CONSERVATOR KNOWS THE EXPENDITURE OR DISTRIBUTION IS
17 NOT IN THE BEST INTEREST OF THE INDIVIDUAL SUBJECT TO
18 CONSERVATORSHIP.

19 (c) IN MAKING AN EXPENDITURE OR DISTRIBUTION PURSUANT TO
20 THIS SECTION, THE CONSERVATOR SHALL CONSIDER:

21 (I) THE SIZE OF THE CONSERVATORSHIP ESTATE, THE ESTIMATED
22 DURATION OF THE CONSERVATORSHIP, AND THE LIKELIHOOD THE
23 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, AT SOME FUTURE TIME, MAY
24 BE FULLY SELF-SUFFICIENT AND ABLE TO MANAGE THE INDIVIDUAL'S
25 FINANCIAL AFFAIRS AND THE CONSERVATORSHIP ESTATE;

26 (II) THE ACCUSTOMED STANDARD OF LIVING OF THE INDIVIDUAL
27 SUBJECT TO CONSERVATORSHIP AND INDIVIDUAL WHO IS DEPENDENT ON

1 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

2 (III) OTHER FUNDS OR SOURCE USED FOR THE SUPPORT OF THE
3 INDIVIDUAL SUBJECT TO CONSERVATORSHIP; AND

4 (IV) THE PREFERENCES, VALUES, AND PRIOR DIRECTIONS OF THE
5 INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

6 (d) FUNDS EXPENDED OR DISTRIBUTED PURSUANT TO THIS SECTION
7 MAY BE PAID BY THE CONSERVATOR TO ANY PERSON, INCLUDING THE
8 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, AS REIMBURSEMENT FOR
9 EXPENDITURES THE CONSERVATOR MIGHT HAVE MADE, OR IN ADVANCE
10 FOR SERVICES TO BE PROVIDED TO THE INDIVIDUAL SUBJECT TO
11 CONSERVATORSHIP OR INDIVIDUAL WHO IS DEPENDENT ON THE INDIVIDUAL
12 SUBJECT TO CONSERVATORSHIP IF IT IS REASONABLE TO EXPECT THE
13 SERVICES WILL BE PERFORMED AND ADVANCE PAYMENT IS CUSTOMARY OR
14 REASONABLY NECESSARY UNDER THE CIRCUMSTANCES.

15 **15-14.7-423. Conservator's report and accounting -**
16 **monitoring.** (1) A CONSERVATOR SHALL FILE WITH THE COURT A REPORT
17 IN A RECORD REGARDING THE ADMINISTRATION OF THE CONSERVATORSHIP
18 ESTATE ANNUALLY UNLESS THE COURT OTHERWISE DIRECTS, ON
19 RESIGNATION OR REMOVAL, ON TERMINATION OF THE CONSERVATORSHIP,
20 AND AT ANY OTHER TIME THE COURT DIRECTS.

21 (2) A REPORT PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST
22 STATE OR CONTAIN:

23 (a) AN ACCOUNTING THAT LISTS PROPERTY INCLUDED IN THE
24 CONSERVATORSHIP ESTATE AND THE RECEIPTS, DISBURSEMENTS,
25 LIABILITIES, AND DISTRIBUTIONS DURING THE PERIOD FOR WHICH THE
26 REPORT IS MADE;

27 (b) A LIST OF THE SERVICES PROVIDED TO THE INDIVIDUAL SUBJECT

1 TO CONSERVATORSHIP;

2 (c) A COPY OF THE CONSERVATOR'S MOST RECENTLY APPROVED
3 PLAN AND A STATEMENT WHETHER THE CONSERVATOR HAS DEVIATED
4 FROM THE PLAN AND, IF SO, HOW THE CONSERVATOR HAS DEVIATED AND
5 WHY;

6 (d) A RECOMMENDATION AS TO THE NEED FOR CONTINUED
7 CONSERVATORSHIP AND ANY RECOMMENDED CHANGE IN THE SCOPE OF THE
8 CONSERVATORSHIP;

9 (e) TO THE EXTENT FEASIBLE, A COPY OF THE MOST RECENT
10 REASONABLY AVAILABLE FINANCIAL STATEMENTS EVIDENCING THE
11 STATUS OF BANK ACCOUNTS, INVESTMENT ACCOUNTS, AND MORTGAGES OR
12 OTHER DEBTS OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP WITH ALL
13 BUT THE LAST FOUR DIGITS OF THE ACCOUNT NUMBERS AND SOCIAL
14 SECURITY NUMBER REDACTED;

15 (f) ANYTHING OF MORE THAN DE MINIMIS VALUE WHICH THE
16 CONSERVATOR, ANY INDIVIDUAL WHO RESIDES WITH THE CONSERVATOR,
17 OR THE SPOUSE, DOMESTIC PARTNER, PARENT, CHILD, OR SIBLING OF THE
18 CONSERVATOR HAS RECEIVED FROM A PERSON PROVIDING GOODS OR
19 SERVICES TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

20 (g) ANY BUSINESS RELATION THE CONSERVATOR HAS WITH A
21 PERSON THE CONSERVATOR HAS PAID OR THAT HAS BENEFITTED FROM THE
22 PROPERTY OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP; AND

23 (h) WHETHER ANY CO-CONSERVATOR OR SUCCESSOR
24 CONSERVATOR APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS
25 IS ALIVE AND ABLE TO SERVE.

26 (3) THE COURT MAY APPOINT A VISITOR TO REVIEW A REPORT
27 PURSUANT TO THIS SECTION OR CONSERVATOR'S PLAN PURSUANT TO

1 SECTION 15-14.7-419, INTERVIEW THE INDIVIDUAL SUBJECT TO
2 CONSERVATORSHIP OR CONSERVATOR, OR INVESTIGATE ANY OTHER
3 MATTER INVOLVING THE CONSERVATORSHIP. IN CONNECTION WITH THE
4 REPORT, THE COURT MAY ORDER THE CONSERVATOR TO SUBMIT THE
5 CONSERVATORSHIP ESTATE TO APPROPRIATE EXAMINATION IN A MANNER
6 THE COURT DIRECTS.

7 (4) NOTICE OF THE FILING PURSUANT TO THIS SECTION OF A
8 CONSERVATOR'S REPORT, TOGETHER WITH A COPY OF THE REPORT, MUST
9 BE PROVIDED TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A
10 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR A
11 SUBSEQUENT ORDER, AND OTHER PERSONS THE COURT DETERMINES. THE
12 NOTICE AND REPORT MUST BE GIVEN NOT LATER THAN FOURTEEN DAYS
13 AFTER FILING.

14 (5) THE COURT SHALL ESTABLISH PROCEDURES FOR MONITORING
15 A REPORT SUBMITTED PURSUANT TO THIS SECTION AND REVIEW EACH
16 REPORT AT LEAST ANNUALLY TO DETERMINE WHETHER:

17 (a) THE REPORTS PROVIDE SUFFICIENT INFORMATION TO ESTABLISH
18 THE CONSERVATOR HAS COMPLIED WITH THE CONSERVATOR'S DUTIES;

19 (b) THE CONSERVATORSHIP SHOULD CONTINUE; AND

20 (c) THE CONSERVATOR'S REQUESTED FEES, IF ANY, ARE
21 REASONABLE PURSUANT TO SECTION 15-10-603.

22 (6) IF THE COURT DETERMINES THERE IS REASON TO BELIEVE A
23 CONSERVATOR HAS NOT COMPLIED WITH THE CONSERVATOR'S DUTIES OR
24 THE CONSERVATORSHIP SHOULD NOT CONTINUE, THE COURT:

25 (a) SHALL NOTIFY THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP,
26 THE CONSERVATOR, AND ANY OTHER PERSON ENTITLED TO NOTICE
27 PURSUANT TO SECTION 15-14.7-411 OR A SUBSEQUENT ORDER;

1 (b) MAY REQUIRE ADDITIONAL INFORMATION FROM THE
2 CONSERVATOR;

3 (c) MAY APPOINT A VISITOR TO INTERVIEW THE INDIVIDUAL
4 SUBJECT TO CONSERVATORSHIP OR CONSERVATOR OR INVESTIGATE ANY
5 MATTER INVOLVING THE CONSERVATORSHIP; AND

6 (d) CONSISTENT WITH SECTIONS 15-14.7-430 AND 15-14.7-431,
7 MAY HOLD A HEARING TO CONSIDER REMOVAL OF THE CONSERVATOR,
8 TERMINATION OF THE CONSERVATORSHIP, OR A CHANGE IN THE POWERS
9 GRANTED TO THE CONSERVATOR OR TERMS OF THE CONSERVATORSHIP.

10 (7) IF THE COURT HAS REASON TO BELIEVE FEES REQUESTED BY A
11 CONSERVATOR ARE NOT REASONABLE, THE COURT SHALL HOLD A HEARING
12 PURSUANT TO SECTION 15-10-604 TO DETERMINE WHETHER TO ADJUST THE
13 REQUESTED FEES.

14 (8) A CONSERVATOR MAY PETITION THE COURT FOR APPROVAL OF
15 A REPORT FILED PURSUANT TO THIS SECTION. THE COURT AFTER REVIEW
16 MAY APPROVE THE REPORT. IF THE COURT APPROVES THE REPORT, THERE
17 IS A REBUTTABLE PRESUMPTION THE REPORT IS ACCURATE AS TO A MATTER
18 ADEQUATELY DISCLOSED IN THE REPORT.

19 (9) AN ORDER, AFTER NOTICE AND HEARING, APPROVING AN
20 INTERIM REPORT OF A CONSERVATOR FILED PURSUANT TO THIS SECTION
21 ADJUDICATES LIABILITIES CONCERNING A MATTER ADEQUATELY DISCLOSED
22 IN THE REPORT, AS TO A PERSON GIVEN NOTICE OF THE REPORT OR
23 ACCOUNTING.

24 (10) AN ORDER, AFTER NOTICE AND HEARING, APPROVING A FINAL
25 REPORT FILED PURSUANT TO THIS SECTION DISCHARGES THE CONSERVATOR
26 FROM ALL LIABILITIES, CLAIMS, AND CAUSES OF ACTION BY A PERSON
27 GIVEN NOTICE OF THE REPORT AND THE HEARING AS TO A MATTER

1 ADEQUATELY DISCLOSED IN THE REPORT.

2 **15-14.7-424. Attempted transfer of property by individual**
3 **subject to conservatorship.** (1) THE INTEREST OF AN INDIVIDUAL
4 SUBJECT TO CONSERVATORSHIP IN PROPERTY INCLUDED IN THE
5 CONSERVATORSHIP ESTATE IS NOT TRANSFERRABLE OR ASSIGNABLE BY THE
6 INDIVIDUAL AND IS NOT SUBJECT TO LEVY, GARNISHMENT, OR SIMILAR
7 PROCESS FOR CLAIMS AGAINST THE INDIVIDUAL UNLESS ALLOWED
8 PURSUANT TO SECTION 15-14.7-428.

9 (2) IF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP ENTERS INTO
10 A CONTRACT AFTER HAVING THE RIGHT TO ENTER THE CONTRACT REMOVED
11 BY THE COURT, THE CONTRACT IS VOID AGAINST THE INDIVIDUAL AND THE
12 INDIVIDUAL'S PROPERTY BUT IS ENFORCEABLE AGAINST THE PERSON THAT
13 CONTRACTED WITH THE INDIVIDUAL.

14 (3) A PERSON OTHER THAN THE CONSERVATOR THAT DEALS WITH
15 AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP WITH RESPECT TO
16 PROPERTY INCLUDED IN THE CONSERVATORSHIP ESTATE IS ENTITLED TO
17 PROTECTION PROVIDED BY LAW OF THIS STATE OTHER THAN THIS ARTICLE
18 14.7.

19 **15-14.7-425. Transaction involving conflict of interest.** A
20 TRANSACTION INVOLVING A CONSERVATORSHIP ESTATE WHICH IS
21 AFFECTED BY A SUBSTANTIAL CONFLICT BETWEEN THE CONSERVATOR'S
22 FIDUCIARY DUTIES AND PERSONAL INTERESTS IS VOIDABLE UNLESS THE
23 TRANSACTION IS AUTHORIZED BY COURT ORDER AFTER NOTICE TO PERSONS
24 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR A
25 SUBSEQUENT ORDER. A TRANSACTION AFFECTED BY A SUBSTANTIAL
26 CONFLICT INCLUDES A SALE, ENCUMBRANCE, OR OTHER TRANSACTION
27 INVOLVING THE CONSERVATORSHIP ESTATE ENTERED INTO BY THE

1 CONSERVATOR; AN INDIVIDUAL WITH WHOM THE CONSERVATOR RESIDES;
2 THE SPOUSE, DOMESTIC PARTNER, DESCENDANT, SIBLING, AGENT, OR
3 ATTORNEY OF THE CONSERVATOR; OR A CORPORATION OR OTHER
4 ENTERPRISE IN WHICH THE CONSERVATOR HAS A SUBSTANTIAL BENEFICIAL
5 INTEREST.

6 **15-14.7-426. Protection of person dealing with conservator.**

7 (1) A PERSON THAT ASSISTS OR DEALS WITH A CONSERVATOR IN GOOD
8 FAITH AND FOR VALUE IN ANY TRANSACTION, OTHER THAN A TRANSACTION
9 REQUIRING A COURT ORDER PURSUANT TO SECTION 15-14.7-414, IS
10 PROTECTED AS THOUGH THE CONSERVATOR PROPERLY EXERCISED ANY
11 POWER IN QUESTION. KNOWLEDGE BY A PERSON THAT THE PERSON IS
12 DEALING WITH A CONSERVATOR ALONE DOES NOT REQUIRE THE PERSON TO
13 INQUIRE INTO THE EXISTENCE OF AUTHORITY OF THE CONSERVATOR OR THE
14 PROPRIETY OF THE CONSERVATOR'S EXERCISE OF AUTHORITY, BUT
15 RESTRICTIONS ON AUTHORITY STATED IN LETTERS OF OFFICE, OR
16 OTHERWISE PROVIDED BY LAW, ARE EFFECTIVE AS TO THE PERSON. A
17 PERSON THAT PAYS OR DELIVERS PROPERTY TO A CONSERVATOR IS NOT
18 RESPONSIBLE FOR PROPER APPLICATION OF THE PROPERTY.

19 (2) PROTECTION PURSUANT TO SUBSECTION (1) OF THIS SECTION
20 EXTENDS TO A PROCEDURAL IRREGULARITY OR JURISDICTIONAL DEFECT IN
21 THE PROCEEDING LEADING TO THE ISSUANCE OF LETTERS OF OFFICE AND
22 DOES NOT SUBSTITUTE FOR PROTECTION FOR A PERSON THAT ASSISTS OR
23 DEALS WITH A CONSERVATOR PROVIDED BY COMPARABLE PROVISIONS IN
24 LAW OF THIS STATE OTHER THAN THIS ARTICLE 14.7 RELATING TO A
25 COMMERCIAL TRANSACTION OR SIMPLIFYING A TRANSFER OF SECURITIES
26 BY A FIDUCIARY.

27 **15-14.7-427. Death of individual subject to conservatorship.**

1 (1) IF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP DIES, THE
2 CONSERVATOR SHALL DELIVER TO THE COURT FOR SAFEKEEPING ANY WILL
3 OF THE INDIVIDUAL IN THE CONSERVATOR'S POSSESSION AND INFORM THE
4 PERSONAL REPRESENTATIVE NAMED IN THE WILL IF FEASIBLE, OR IF NOT
5 FEASIBLE, A BENEFICIARY NAMED IN THE WILL, OF THE DELIVERY.

6 (2) IF FORTY DAYS AFTER THE DEATH OF AN INDIVIDUAL SUBJECT
7 TO CONSERVATORSHIP A PERSONAL REPRESENTATIVE HAS NOT BEEN
8 APPOINTED AND APPLICATION OR PETITION FOR APPOINTMENT IS NOT
9 BEFORE THE COURT, THE CONSERVATOR MAY APPLY TO EXERCISE THE
10 POWERS AND DUTIES OF A PERSONAL REPRESENTATIVE TO ADMINISTER AND
11 DISTRIBUTE THE DECEDENT'S ESTATE. THE CONSERVATOR SHALL GIVE
12 NOTICE TO A PERSON NOMINATED AS PERSONAL REPRESENTATIVE BY A
13 WILL OF THE DECEDENT OF WHICH THE CONSERVATOR IS AWARE. THE
14 COURT MAY GRANT THE APPLICATION IF THERE IS NO OBJECTION AND
15 ENDORSE THE LETTERS OF OFFICE TO NOTE THAT THE INDIVIDUAL
16 FORMERLY SUBJECT TO CONSERVATORSHIP IS DECEASED AND THE
17 CONSERVATOR HAS ACQUIRED THE POWERS AND DUTIES OF A PERSONAL
18 REPRESENTATIVE.

19 (3) ISSUANCE OF AN ORDER PURSUANT TO THIS SECTION HAS THE
20 EFFECT OF AN ORDER OF APPOINTMENT OF A PERSONAL REPRESENTATIVE
21 PURSUANT TO SECTION 15-12-414.

22 (4) ON THE DEATH OF AN INDIVIDUAL SUBJECT TO
23 CONSERVATORSHIP, THE CONSERVATOR SHALL CONCLUDE THE
24 ADMINISTRATION OF THE CONSERVATORSHIP ESTATE AS PROVIDED IN
25 SECTION 15-14.7-431.

26 **15-14.7-428. Presentation and allowance of claim.** (1) A
27 CONSERVATOR MAY PAY, OR SECURE BY ENCUMBERING PROPERTY

1 INCLUDED IN THE CONSERVATORSHIP ESTATE, A CLAIM AGAINST THE
2 CONSERVATORSHIP ESTATE OR THE INDIVIDUAL SUBJECT TO
3 CONSERVATORSHIP ARISING BEFORE OR DURING THE CONSERVATORSHIP,
4 ON PRESENTATION AND ALLOWANCE IN ACCORDANCE WITH THE PRIORITIES
5 PURSUANT TO SUBSECTION (4) OF THIS SECTION. A CLAIMANT MAY
6 PRESENT A CLAIM BY:

7 (a) SENDING OR DELIVERING TO THE CONSERVATOR A STATEMENT
8 IN A RECORD OF THE CLAIM, INDICATING ITS BASIS, THE NAME AND
9 ADDRESS OF THE CLAIMANT, AND THE AMOUNT CLAIMED; OR

10 (b) FILING THE CLAIM WITH THE COURT, IN A FORM ACCEPTABLE TO
11 THE COURT, AND SENDING OR DELIVERING A COPY OF THE CLAIM TO THE
12 CONSERVATOR.

13 (2) A CLAIM PURSUANT TO SUBSECTION (1) OF THIS SECTION IS
14 PRESENTED ON RECEIPT BY THE CONSERVATOR OF THE STATEMENT OF THE
15 CLAIM OR THE FILING WITH THE COURT OF THE CLAIM, WHICHEVER FIRST
16 OCCURS. A PRESENTED CLAIM IS ALLOWED IF IT IS NOT DISALLOWED IN
17 WHOLE OR IN PART BY THE CONSERVATOR IN A RECORD SENT OR
18 DELIVERED TO THE CLAIMANT NOT LATER THAN SIXTY DAYS AFTER ITS
19 PRESENTATION. BEFORE PAYMENT, THE CONSERVATOR MAY CHANGE AN
20 ALLOWANCE OF THE CLAIM TO A DISALLOWANCE IN WHOLE OR IN PART,
21 BUT NOT AFTER ALLOWANCE UNDER A COURT ORDER OR ORDER DIRECTING
22 PAYMENT OF THE CLAIM. PRESENTATION OF A CLAIM TOLLS UNTIL THIRTY
23 DAYS AFTER DISALLOWANCE OF THE CLAIM OR THE RUNNING OF A STATUTE
24 OF LIMITATIONS THAT HAS NOT EXPIRED RELATING TO THE CLAIM.

25 (3) A CLAIMANT WHOSE CLAIM PURSUANT TO SUBSECTION (1) OF
26 THIS SECTION HAS NOT BEEN PAID MAY PETITION THE COURT TO DETERMINE
27 THE CLAIM AT ANY TIME BEFORE IT IS BARRED BY A STATUTE OF

1 LIMITATIONS, AND THE COURT MAY ORDER ITS ALLOWANCE, PAYMENT, OR
2 SECURITY BY ENCUMBERING PROPERTY INCLUDED IN THE
3 CONSERVATORSHIP ESTATE. IF A PROCEEDING IS PENDING AGAINST THE
4 INDIVIDUAL SUBJECT TO CONSERVATORSHIP AT THE TIME OF APPOINTMENT
5 OF THE CONSERVATOR OR IS INITIATED THEREAFTER, THE MOVING PARTY
6 SHALL GIVE THE CONSERVATOR NOTICE OF THE PROCEEDING IF IT COULD
7 RESULT IN CREATING A CLAIM AGAINST THE CONSERVATORSHIP ESTATE.

8 (4) IF A CONSERVATORSHIP ESTATE IS LIKELY TO BE EXHAUSTED
9 BEFORE ALL EXISTING CLAIMS ARE PAID, THE CONSERVATOR SHALL
10 DISTRIBUTE THE ESTATE IN MONEY OR IN KIND IN PAYMENT OF CLAIMS IN
11 THE FOLLOWING ORDER:

12 (a) COSTS AND EXPENSES OF ADMINISTRATION;

13 (b) A CLAIM OF THE FEDERAL OR STATE GOVERNMENT HAVING
14 PRIORITY UNDER LAW OTHER THAN THIS ARTICLE 14.7;

15 (c) A CLAIM INCURRED BY THE CONSERVATOR FOR SUPPORT, CARE,
16 EDUCATION, HEALTH, OR WELFARE PREVIOUSLY PROVIDED TO THE
17 INDIVIDUAL SUBJECT TO CONSERVATORSHIP OR AN INDIVIDUAL WHO IS IN
18 FACT DEPENDENT ON THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

19 (d) A CLAIM ARISING BEFORE THE CONSERVATORSHIP; AND

20 (e) ALL OTHER CLAIMS.

21 (5) PREFERENCE MAY NOT BE GIVEN IN THE PAYMENT OF A CLAIM
22 PURSUANT TO SUBSECTION (4) OF THIS SECTION OVER ANOTHER CLAIM OF
23 THE SAME CLASS. A CLAIM DUE AND PAYABLE MAY NOT BE PREFERRED
24 OVER A CLAIM NOT DUE UNLESS:

25 (a) DOING SO WOULD LEAVE THE CONSERVATORSHIP ESTATE
26 WITHOUT SUFFICIENT FUNDS TO PAY THE BASIC LIVING AND HEALTH-CARE
27 EXPENSES OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP; AND

1 (b) THE COURT AUTHORIZES THE PREFERENCE PURSUANT TO
2 SECTION 15-14.7-414.

3 (6) IF ASSETS OF A CONSERVATORSHIP ESTATE ARE ADEQUATE TO
4 MEET ALL EXISTING CLAIMS, THE COURT, ACTING IN THE BEST INTEREST OF
5 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, MAY ORDER THE
6 CONSERVATOR TO GRANT A SECURITY INTEREST IN THE CONSERVATORSHIP
7 ESTATE FOR PAYMENT OF A CLAIM AT A FUTURE DATE.

8 **15-14.7-429. Personal liability of conservator.** (1) EXCEPT AS
9 OTHERWISE AGREED BY A CONSERVATOR, THE CONSERVATOR IS NOT
10 PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO IN A
11 FIDUCIARY CAPACITY IN THE COURSE OF ADMINISTRATION OF THE
12 CONSERVATORSHIP ESTATE UNLESS THE CONSERVATOR FAILS TO REVEAL
13 THE CONSERVATOR'S REPRESENTATIVE CAPACITY IN THE CONTRACT OR
14 BEFORE ENTERING INTO THE CONTRACT.

15 (2) A CONSERVATOR IS PERSONALLY LIABLE FOR AN OBLIGATION
16 ARISING FROM CONTROL OF PROPERTY OF THE CONSERVATORSHIP ESTATE
17 OR AN ACT OR OMISSION OCCURRING IN THE COURSE OF ADMINISTRATION
18 OF THE CONSERVATORSHIP ESTATE ONLY IF THE CONSERVATOR IS
19 PERSONALLY AT FAULT.

20 (3) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A
21 CONSERVATOR IN A FIDUCIARY CAPACITY, AN OBLIGATION ARISING FROM
22 CONTROL OF PROPERTY INCLUDED IN THE CONSERVATORSHIP ESTATE, OR
23 A TORT COMMITTED IN THE COURSE OF ADMINISTRATION OF THE
24 CONSERVATORSHIP ESTATE MAY BE ASSERTED AGAINST THE
25 CONSERVATORSHIP ESTATE IN A PROCEEDING AGAINST THE CONSERVATOR
26 IN A FIDUCIARY CAPACITY, WHETHER OR NOT THE CONSERVATOR IS
27 PERSONALLY LIABLE FOR THE CLAIM.

1 (4) A QUESTION OF LIABILITY BETWEEN A CONSERVATORSHIP
2 ESTATE AND THE CONSERVATOR PERSONALLY MAY BE DETERMINED IN A
3 PROCEEDING FOR ACCOUNTING, SURCHARGE, OR INDEMNIFICATION OR
4 ANOTHER APPROPRIATE PROCEEDING OR ACTION.

5 **15-14.7-430. Removal of conservator - appointment of**
6 **successor.** (1) THE COURT MAY REMOVE A CONSERVATOR FOR FAILURE TO
7 PERFORM THE CONSERVATOR'S DUTIES OR OTHER GOOD CAUSE AND
8 APPOINT A SUCCESSOR CONSERVATOR TO ASSUME THE DUTIES OF THE
9 CONSERVATOR, PURSUANT TO SECTION 15-10-503.

10 (2) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
11 TO REMOVE A CONSERVATOR AND APPOINT A SUCCESSOR ON:

12 (a) PETITION OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP,
13 CONSERVATOR, OR PERSON INTERESTED IN THE WELFARE OF THE
14 INDIVIDUAL WHICH CONTAINS ALLEGATIONS THAT, IF TRUE, WOULD
15 SUPPORT A REASONABLE BELIEF THAT REMOVAL OF THE CONSERVATOR
16 AND APPOINTMENT OF A SUCCESSOR MAY BE APPROPRIATE, BUT THE COURT
17 MAY DECLINE TO HOLD A HEARING IF A PETITION BASED ON THE SAME OR
18 SUBSTANTIALLY SIMILAR FACTS WAS FILED DURING THE PRECEDING SIX
19 MONTHS;

20 (b) COMMUNICATION, PURSUANT TO SECTION 15-14.7-127, FROM
21 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, CONSERVATOR, OR
22 PERSON INTERESTED IN THE WELFARE OF THE INDIVIDUAL WHICH SUPPORTS
23 A REASONABLE BELIEF THAT REMOVAL OF THE CONSERVATOR AND
24 APPOINTMENT OF A SUCCESSOR MAY BE APPROPRIATE; OR

25 (c) DETERMINATION BY THE COURT THAT A HEARING WOULD BE IN
26 THE BEST INTEREST OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

27 (3) NOTICE OF A HEARING PURSUANT TO SECTION 15-10-604

1 MUST BE PERSONALLY SERVED ON THE INDIVIDUAL SUBJECT TO
2 CONSERVATORSHIP, AND GIVEN PURSUANT TO SECTION 15-10-401 TO THE
3 CONSERVATOR AND ANY OTHER PERSON THE COURT DETERMINES.

4 (4) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP WHO SEEKS TO
5 REMOVE THE CONSERVATOR AND HAVE A SUCCESSOR APPOINTED HAS THE
6 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE INDIVIDUAL IN THIS
7 MATTER. IF THE INDIVIDUAL IS NOT REPRESENTED BY AN ATTORNEY, THE
8 COURT SHALL APPOINT AN ATTORNEY UNDER THE SAME CONDITIONS AS SET
9 FORTH IN SECTION 15-14.7-406. ==

10 (5) IN SELECTING A SUCCESSOR CONSERVATOR, THE COURT SHALL
11 FOLLOW THE PRIORITIES PURSUANT TO SECTION 15-14.7-410.

12 (6) NOT LATER THAN THIRTY DAYS AFTER APPOINTING A
13 SUCCESSOR CONSERVATOR, THE COURT SHALL GIVE NOTICE, PURSUANT TO
14 SECTION 15-10-401, OF THE APPOINTMENT TO THE INDIVIDUAL SUBJECT TO
15 CONSERVATORSHIP AND ANY PERSON ENTITLED TO NOTICE PURSUANT TO
16 SECTION 15-14.7-411 OR A SUBSEQUENT ORDER.

17 **15-14.7-431. Termination or modification of conservatorship.**

18 (1) A CONSERVATORSHIP FOR A MINOR TERMINATES ON THE EARLIEST OF:

- 19 (a) A COURT ORDER TERMINATING THE CONSERVATORSHIP;
- 20 (b) THE MINOR BECOMING AN ADULT OR, IF THE MINOR CONSENTS
21 OR THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
22 SUBSTANTIAL HARM TO THE MINOR'S INTERESTS IS OTHERWISE LIKELY,
23 ATTAINING TWENTY-ONE YEARS OF AGE;
- 24 (c) EMANCIPATION OF THE MINOR; OR
- 25 (d) DEATH OF THE MINOR.

26 (2) A CONSERVATORSHIP FOR AN ADULT TERMINATES ON ORDER OF
27 THE COURT OR WHEN THE ADULT DIES.

1 (3) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP, THE
2 CONSERVATOR, OR A PERSON INTERESTED IN THE WELFARE OF THE
3 INDIVIDUAL MAY PETITION FOR:

4 (a) TERMINATION OF THE CONSERVATORSHIP ON THE GROUND THAT
5 A BASIS FOR APPOINTMENT PURSUANT TO SECTION 15-14.7-401 DOES NOT
6 EXIST OR TERMINATION WOULD BE IN THE BEST INTEREST OF THE
7 INDIVIDUAL OR FOR OTHER GOOD CAUSE; OR

8 (b) MODIFICATION OF THE CONSERVATORSHIP ON THE GROUND
9 THAT THE EXTENT OF PROTECTION OR ASSISTANCE GRANTED IS NOT
10 APPROPRIATE OR FOR OTHER GOOD CAUSE.

11 (4) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
12 TERMINATION OR MODIFICATION OF A CONSERVATORSHIP IS APPROPRIATE
13 ON:

14 (a) PETITION PURSUANT TO SUBSECTION (3) OF THIS SECTION WHICH
15 CONTAINS ALLEGATIONS THAT, IF TRUE, WOULD SUPPORT A REASONABLE
16 BELIEF THAT TERMINATION OR MODIFICATION OF THE CONSERVATORSHIP
17 MAY BE APPROPRIATE, BUT THE COURT MAY DECLINE TO HOLD A HEARING
18 IF A PETITION BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS WAS
19 FILED WITHIN THE PRECEDING SIX MONTHS;

20 (b) A COMMUNICATION, PURSUANT TO SECTION 15-14.7-127, FROM
21 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, THE CONSERVATOR, OR
22 PERSON INTERESTED IN THE WELFARE OF THE INDIVIDUAL WHICH SUPPORTS
23 A REASONABLE BELIEF THAT TERMINATION OR MODIFICATION OF THE
24 CONSERVATORSHIP MAY BE APPROPRIATE, INCLUDING BECAUSE THE
25 FUNCTIONAL NEEDS OF THE INDIVIDUAL OR SUPPORTS OR SERVICES
26 AVAILABLE TO THE INDIVIDUAL HAVE CHANGED;

27 (c) A REPORT FROM A GUARDIAN OR CONSERVATOR WHICH

1 INDICATES THAT TERMINATION OR MODIFICATION MAY BE APPROPRIATE
2 BECAUSE THE FUNCTIONAL NEEDS OR SUPPORTS OR SERVICES AVAILABLE
3 TO THE INDIVIDUAL HAVE CHANGED OR A PROTECTIVE ARRANGEMENT
4 INSTEAD OF CONSERVATORSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE
5 IS AVAILABLE; OR

6 (d) A DETERMINATION BY THE COURT THAT A HEARING WOULD BE
7 IN THE BEST INTEREST OF THE INDIVIDUAL.

8 (5) NOTICE OF A PETITION PURSUANT TO SUBSECTION (3) OF THIS
9 SECTION MUST BE GIVEN TO THE INDIVIDUAL SUBJECT TO
10 CONSERVATORSHIP, THE CONSERVATOR, AND ANY SUCH OTHER PERSON
11 THE COURT DETERMINES.

12 (6) ON PRESENTATION OF PRIMA FACIE EVIDENCE FOR TERMINATION
13 OF A CONSERVATORSHIP, THE COURT SHALL ORDER TERMINATION UNLESS
14 IT IS PROVEN THAT A BASIS FOR APPOINTMENT OF A CONSERVATOR
15 PURSUANT TO SECTION 15-14.7-401 EXISTS.

16 (7) THE COURT SHALL MODIFY THE POWERS GRANTED TO A
17 CONSERVATOR IF THE POWERS ARE EXCESSIVE OR INADEQUATE DUE TO A
18 CHANGE IN THE ABILITIES OR LIMITATIONS OF THE INDIVIDUAL SUBJECT TO
19 CONSERVATORSHIP, THE INDIVIDUAL'S SUPPORTS, OR OTHER
20 CIRCUMSTANCES.

21 (8) UNLESS THE COURT OTHERWISE ORDERS FOR GOOD CAUSE,
22 BEFORE TERMINATING A CONSERVATORSHIP, THE COURT SHALL FOLLOW
23 THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS OF THE INDIVIDUAL
24 SUBJECT TO CONSERVATORSHIP WHICH APPLY TO A PETITION FOR
25 CONSERVATORSHIP.

26 (9) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP WHO SEEKS TO
27 TERMINATE OR MODIFY THE TERMS OF THE CONSERVATORSHIP HAS THE

1 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE INDIVIDUAL IN THIS
2 MATTER. IF THE INDIVIDUAL IS NOT REPRESENTED BY AN ATTORNEY, THE
3 COURT SHALL APPOINT AN ATTORNEY UNDER THE SAME CONDITIONS AS SET
4 FORTH IN SECTION 15-14.7-406. ==

5 (10) ON TERMINATION OF A CONSERVATORSHIP OTHER THAN BY
6 REASON OF THE DEATH OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP,
7 PROPERTY OF THE CONSERVATORSHIP ESTATE PASSES TO THE INDIVIDUAL.
8 THE ORDER OF TERMINATION MUST DIRECT THE CONSERVATOR TO FILE A
9 FINAL REPORT AND PETITION FOR DISCHARGE ON APPROVAL BY THE COURT
10 OF THE FINAL REPORT.

11 (11) ON TERMINATION OF A CONSERVATORSHIP BY REASON OF THE
12 DEATH OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, THE
13 CONSERVATOR PROMPTLY SHALL FILE A FINAL REPORT AND PETITION FOR
14 DISCHARGE ON APPROVAL BY THE COURT OF THE FINAL REPORT. ON
15 APPROVAL OF THE FINAL REPORT, THE CONSERVATOR SHALL PROCEED
16 EXPEDITIOUSLY TO DISTRIBUTE THE CONSERVATORSHIP ESTATE TO THE
17 INDIVIDUAL'S ESTATE OR AS OTHERWISE ORDERED BY THE COURT. THE
18 CONSERVATOR MAY TAKE REASONABLE MEASURES NECESSARY TO
19 PRESERVE THE CONSERVATORSHIP ESTATE UNTIL DISTRIBUTION CAN BE
20 MADE.

21 (12) THE COURT SHALL ISSUE A FINAL ORDER OF DISCHARGE ON THE
22 APPROVAL BY THE COURT OF THE FINAL REPORT AND SATISFACTION BY THE
23 CONSERVATOR OF ANY OTHER CONDITION THE COURT IMPOSED ON THE
24 CONSERVATOR'S DISCHARGE.

25 (13) THE FOLLOWING PROVISIONS APPLY IN A CONTESTED
26 TERMINATION PROCEEDING:

27 (a) THE CONSERVATOR MAY FILE A WRITTEN REPORT TO THE COURT

1 REGARDING ANY MATTER RELEVANT TO THE TERMINATION PROCEEDING,
2 AND THE CONSERVATOR MAY FILE A MOTION FOR INSTRUCTIONS
3 REGARDING ANY RELEVANT MATTER, INCLUDING, BUT NOT LIMITED TO:
4 (I) WHETHER AN ATTORNEY, GUARDIAN AD LITEM, OR VISITOR
5 MUST BE APPOINTED FOR THE MINOR;
6 (II) WHETHER ANY FURTHER INVESTIGATION OR PROFESSIONAL
7 EVALUATION OF THE MINOR MUST BE CONDUCTED, THE SCOPE OF THE
8 INVESTIGATION OR PROFESSIONAL EVALUATION, AND WHEN THE
9 INVESTIGATION OR PROFESSIONAL EVALUATION MUST BE COMPLETED; AND
10 (III) WHETHER THE CONSERVATOR MUST BE INVOLVED IN THE
11 TERMINATION PROCEEDINGS AND, IF SO, TO WHAT EXTENT;
12 (b) IF THE CONSERVATOR ELECTS TO FILE A WRITTEN REPORT OR A
13 MOTION FOR INSTRUCTIONS, THE CONSERVATOR SHALL FILE INITIAL
14 PLEADINGS WITHIN TWENTY-ONE DAYS AFTER THE PETITION TO TERMINATE
15 IS FILED. ANY PERSON INTERESTED IN THE WELFARE OF THE MINOR HAS
16 FOURTEEN DAYS AFTER THE INITIAL PLEADINGS ARE FILED TO FILE A
17 RESPONSE. IF A RESPONSE IS FILED, THE CONSERVATOR HAS SEVEN DAYS
18 AFTER THE RESPONSE IS FILED TO FILE A REPLY. IF A MOTION FOR
19 INSTRUCTIONS IS FILED BY THE CONSERVATOR AS THE CONSERVATOR'S
20 INITIAL PLEADING, THE COURT MUST RULE ON THE MOTION BEFORE THE
21 PETITION FOR TERMINATION OF THE CONSERVATORSHIP IS SET FOR
22 HEARING. UNLESS A HEARING ON THE MOTION FOR INSTRUCTIONS IS
23 REQUESTED BY THE COURT, THE COURT MAY RULE ON THE PLEADINGS
24 WITHOUT A HEARING AFTER THE TIME PERIOD FOR THE FILING OF THE LAST
25 RESPONSIVE PLEADING HAS EXPIRED. AFTER THE FILING OF THE
26 CONSERVATOR'S INITIAL MOTION FOR INSTRUCTIONS, THE CONSERVATOR
27 MAY FILE SUBSEQUENT MOTIONS FOR INSTRUCTION, AS APPROPRIATE.

1 (c) EXCEPT FOR THE ACTIONS AUTHORIZED IN SUBSECTIONS (13)(a),
2 (13)(b), OR (13)(e) OF THIS SECTION, OR AS OTHERWISE ORDERED BY THE
3 COURT, THE CONSERVATOR SHALL NOT TAKE ANY ACTION TO OPPOSE OR
4 INTERFERE IN THE TERMINATION PROCEEDING. THE FILING OF THE INITIAL
5 OR SUBSEQUENT MOTION FOR INSTRUCTIONS BY THE CONSERVATOR MUST
6 NOT ALONE BE DEEMED OPPOSITION OR INTERFERENCE.

7 (d) UNLESS ORDERED BY THE COURT, THE CONSERVATOR DOES NOT
8 HAVE A DUTY TO PARTICIPATE IN THE TERMINATION PROCEEDING, AND THE
9 CONSERVATOR DOES NOT INCUR LIABILITY FOR FILING THE REPORT OR
10 MOTION FOR INSTRUCTION OR FOR FAILING TO PARTICIPATE IN THE
11 PROCEEDING;

12 (e) NOTHING IN THIS SUBSECTION (13) PREVENTS:

13 (I) THE COURT, ON ITS OWN MOTION, AND REGARDLESS OF
14 WHETHER THE CONSERVATOR HAS FILED A REPORT OR MOTION FOR
15 INSTRUCTIONS, FROM ORDERING THE CONSERVATOR TO TAKE ANY ACTION
16 THAT THE COURT DEEMS APPROPRIATE OR FROM APPOINTING AN
17 ATTORNEY, GUARDIAN AD LITEM, VISITOR, OR PROFESSIONAL EVALUATOR;

18 (II) THE COURT FROM ORDERING THE CONSERVATOR TO APPEAR AT
19 THE TERMINATION PROCEEDING AND GIVE TESTIMONY; OR

20 (III) ANY PERSON INTERESTED IN THE WELFARE OF THE MINOR
21 FROM CALLING THE CONSERVATOR AS A WITNESS IN THE TERMINATION
22 PROCEEDING; AND

23 (f) ANY INDIVIDUAL WHO HAS BEEN APPOINTED AS A
24 CONSERVATOR, AND IS ALSO A PERSON INTERESTED IN THE WELFARE OF
25 THE MINOR, AND WHO WANTS TO PARTICIPATE IN THE TERMINATION
26 PROCEEDING IN THE INDIVIDUAL'S INDIVIDUAL CAPACITY AND NOT IN THE
27 INDIVIDUAL'S FIDUCIARY CAPACITY MAY DO SO WITHOUT RESTRICTION OR

1 LIMITATION. THE PAYMENT OF ANY FEES AND COSTS TO THAT INDIVIDUAL
2 RELATED TO THE INDIVIDUAL'S DECISION TO PARTICIPATE IN THE
3 TERMINATION PROCEEDING IS GOVERNED BY SECTION 15-10-602 (7) AND
4 NOT BY SECTION 15-10-602 (1).

5 **15-14.7-432. Transfer for benefit of minor without**
6 **appointment of conservator.** (1) UNLESS A PERSON REQUIRED TO
7 TRANSFER FUNDS OR OTHER PROPERTY TO A MINOR KNOWS THAT A
8 CONSERVATOR FOR THE MINOR HAS BEEN APPOINTED OR A PROCEEDING IS
9 PENDING FOR CONSERVATORSHIP, THE PERSON MAY TRANSFER AN AMOUNT
10 OR VALUE NOT EXCEEDING FIFTEEN THOUSAND DOLLARS IN A
11 TWELVE-MONTH PERIOD TO:

12 (a) A PERSON THAT HAS CARE OR CUSTODY OF THE MINOR AND
13 WITH WHOM THE MINOR RESIDES;

14 (b) A GUARDIAN FOR THE MINOR;

15 (c) A CUSTODIAN PURSUANT TO THE "COLORADO UNIFORM
16 TRANSFERS TO MINORS ACT" OR "UNIFORM GIFTS TO MINORS ACT", PART
17 1 OF ARTICLE 50 OF TITLE 11; OR

18 (d) A FINANCIAL INSTITUTION AS A DEPOSIT IN AN
19 INTEREST-BEARING ACCOUNT OR CERTIFICATE SOLELY IN THE NAME OF THE
20 MINOR AND SHALL GIVE NOTICE, PURSUANT TO SECTION 15-10-401, TO THE
21 MINOR OF THE DEPOSIT.

22 (2) A PERSON THAT TRANSFERS FUNDS OR OTHER PROPERTY
23 PURSUANT TO THIS SECTION IS NOT RESPONSIBLE FOR ITS PROPER
24 APPLICATION.

25 (3) A PERSON THAT RECEIVES FUNDS OR OTHER PROPERTY FOR A
26 MINOR PURSUANT TO SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION MAY
27 APPLY IT ONLY TO THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE

1 OF THE MINOR, AND MAY NOT DERIVE A PERSONAL FINANCIAL BENEFIT
2 FROM IT, EXCEPT FOR REIMBURSEMENT FOR NECESSARY EXPENSES. FUNDS
3 NOT APPLIED FOR THESE PURPOSES MUST BE PRESERVED FOR THE FUTURE
4 SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF THE MINOR, AND
5 THE BALANCE, IF ANY, TRANSFERRED TO THE MINOR WHEN THE MINOR
6 BECOMES AN ADULT OR OTHERWISE IS EMANCIPATED.

7 **15-14.7-433. Effect of conservator's action on third parties. A**
8 **CONSERVATOR'S RATIFICATION OR INVALIDATION OF A CONTRACT, TRUST,**
9 **WILL, OR OTHER TRANSACTION, INCLUDING A TRANSACTION RELATED TO**
10 **THE PROPERTY OR BUSINESS AFFAIRS OF THE RESPONDENT PURSUANT TO**
11 **THIS ARTICLE 14.7, IS NOT BINDING ON AN INTERESTED PERSON, AS DEFINED**
12 **IN SECTION 15-10-201 (27), WITHOUT NOTICE.**

13 PART 5

14 OTHER PROTECTIVE ARRANGEMENTS

15 **15-14.7-501. Authority for protective arrangement.**

16 (1) PURSUANT TO THIS PART 14.7, A COURT:

17 (a) ON RECEIVING A PETITION FOR A GUARDIANSHIP FOR AN ADULT
18 MAY ORDER A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP AS
19 A LESS RESTRICTIVE ALTERNATIVE TO GUARDIANSHIP; AND

20 (b) ON RECEIVING A PETITION FOR A CONSERVATORSHIP FOR AN
21 INDIVIDUAL MAY ORDER A PROTECTIVE ARRANGEMENT INSTEAD OF
22 CONSERVATORSHIP AS A LESS RESTRICTIVE ALTERNATIVE TO
23 CONSERVATORSHIP.

24 (2) A PERSON INTERESTED IN AN ADULT'S WELFARE, INCLUDING THE
25 ADULT OR A CONSERVATOR FOR THE ADULT, MAY PETITION PURSUANT TO
26 THIS PART 14.7 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
27 GUARDIANSHIP.

1 (3) THE FOLLOWING PERSONS MAY PETITION PURSUANT TO THIS
2 PART 14.7 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
3 CONSERVATORSHIP:

4 (a) THE INDIVIDUAL FOR WHOM THE PROTECTIVE ARRANGEMENT
5 IS SOUGHT;

6 (b) A PERSON INTERESTED IN THE PROPERTY, FINANCIAL AFFAIRS,
7 OR WELFARE OF THE INDIVIDUAL, INCLUDING A PERSON WHO WOULD BE
8 AFFECTED ADVERSELY BY LACK OF EFFECTIVE MANAGEMENT OF PROPERTY
9 OR FINANCIAL AFFAIRS OF THE INDIVIDUAL; AND

10 (c) THE GUARDIAN FOR THE INDIVIDUAL.

11 **15-14.7-502. Basis for protective arrangement instead of**

12 **guardianship for adult.** (1) AFTER THE HEARING ON A PETITION HELD
13 PURSUANT TO SECTION 15-14.7-302 FOR A GUARDIANSHIP OR HELD
14 PURSUANT TO SECTION 15-14.7-501(2) FOR A PROTECTIVE ARRANGEMENT
15 INSTEAD OF GUARDIANSHIP, THE COURT MAY ISSUE AN ORDER PURSUANT
16 TO SUBSECTION (2) OF THIS SECTION FOR A PROTECTIVE ARRANGEMENT
17 INSTEAD OF GUARDIANSHIP IF THE COURT FINDS BY CLEAR AND
18 CONVINCING EVIDENCE THAT:

19 (a) THE RESPONDENT LACKS THE ABILITY TO MEET ESSENTIAL
20 REQUIREMENTS FOR _____ HEALTH, SAFETY, OR WELFARE BECAUSE THE
21 RESPONDENT IS UNABLE TO RECEIVE AND EVALUATE INFORMATION OR
22 MAKE OR COMMUNICATE DECISIONS, EVEN WITH APPROPRIATE SUPPORTIVE
23 SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED DECISION MAKING;
24 AND

25 (b) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
26 LESS RESTRICTIVE ALTERNATIVE.

27 (2) IF THE COURT MAKES THE FINDINGS PURSUANT TO SUBSECTION

1 (1) OF THIS SECTION, THE COURT, INSTEAD OF APPOINTING A GUARDIAN,
2 MAY:

3 (a) AUTHORIZE OR DIRECT A TRANSACTION NECESSARY TO MEET
4 THE RESPONDENT'S NEED FOR HEALTH, SAFETY, OR CARE, INCLUDING:

5 (I) A PARTICULAR MEDICAL TREATMENT OR REFUSAL OF A
6 PARTICULAR MEDICAL TREATMENT;

7 (II) A MOVE TO A SPECIFIED PLACE OF DWELLING; OR

8 (III) VISITATION OR SUPERVISED VISITATION BETWEEN THE
9 RESPONDENT AND ANOTHER PERSON;

10 (b) RESTRICT ACCESS TO THE RESPONDENT BY A SPECIFIED PERSON
11 WHOSE ACCESS PLACES THE RESPONDENT AT SUBSTANTIAL RISK OF
12 PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM; AND

13 (c) ORDER OTHER ARRANGEMENTS ON A LIMITED BASIS THAT ARE
14 APPROPRIATE.

15 (3) IN DECIDING WHETHER TO ISSUE AN ORDER PURSUANT TO THIS
16 SECTION, THE COURT SHALL CONSIDER THE FACTORS DESCRIBED IN
17 SECTIONS 15-14.7-313 AND 15-14.7-314 WHICH A GUARDIAN MUST
18 CONSIDER WHEN MAKING A DECISION ON BEHALF OF AN ADULT SUBJECT TO
19 GUARDIANSHIP.

20 **15-14.7-503. Basis for protective arrangement instead of**
21 **conservatorship.** (1) AFTER THE HEARING ON A PETITION HELD PURSUANT
22 TO SECTION 15-14.7-402 FOR CONSERVATORSHIP FOR AN ADULT OR HELD
23 PURSUANT TO SECTION 15-14.7-501(3) FOR A PROTECTIVE ARRANGEMENT
24 INSTEAD OF CONSERVATORSHIP FOR AN ADULT, THE COURT MAY ISSUE AN
25 ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR A PROTECTIVE
26 ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR THE ADULT IF THE
27 COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

1 (a) THE ADULT IS UNABLE TO MANAGE PROPERTY OR FINANCIAL
2 AFFAIRS BECAUSE:

3 (I) OF A LIMITATION IN THE ABILITY TO RECEIVE AND EVALUATE
4 INFORMATION OR MAKE OR COMMUNICATE DECISIONS, EVEN WITH
5 APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR
6 SUPPORTED DECISION MAKING; OR

7 (II) THE ADULT IS MISSING, DETAINED, OR UNABLE TO RETURN TO
8 THE UNITED STATES;

9 (b) AN ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION IS
10 NECESSARY TO:

11 (I) AVOID FINANCIAL HARM TO THE ADULT OR MATERIAL
12 DISSIPATION OF THE PROPERTY OF THE ADULT; OR

13 (II) OBTAIN OR PROVIDE FUNDS OR OTHER PROPERTY NEEDED FOR
14 THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF THE ADULT OR
15 AN INDIVIDUAL ENTITLED TO THE ADULT'S SUPPORT; AND

16 (c) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
17 LESS RESTRICTIVE ALTERNATIVE.

18 (2) AFTER THE HEARING ON A PETITION HELD PURSUANT TO
19 SECTION 15-14.7-402 FOR CONSERVATORSHIP FOR A MINOR OR HELD
20 PURSUANT TO SECTION 15-14.7-501 FOR A PROTECTIVE ARRANGEMENT
21 INSTEAD OF CONSERVATORSHIP FOR A MINOR, THE COURT MAY ISSUE AN
22 ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR A PROTECTIVE
23 ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR THE RESPONDENT IF
24 THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT THE
25 ARRANGEMENT IS IN THE MINOR'S BEST INTEREST, AND:

26 (a) IF THE MINOR HAS A PARENT, THE COURT GIVES WEIGHT TO ANY
27 RECOMMENDATION OF THE PARENT WHETHER AN ARRANGEMENT IS IN THE

1 MINOR'S BEST INTEREST;

2 (b) EITHER:

3 (I) THE MINOR OWNS MONEY OR PROPERTY REQUIRING

4 MANAGEMENT OR PROTECTION THAT OTHERWISE CANNOT BE PROVIDED;

5 (II) THE MINOR HAS OR MAY HAVE FINANCIAL AFFAIRS THAT MAY

6 BE PUT AT UNREASONABLE RISK OR HINDERED BECAUSE OF THE MINOR'S

7 AGE; OR

8 (III) THE ARRANGEMENT IS NECESSARY OR DESIRABLE TO OBTAIN

9 OR PROVIDE FUNDS OR OTHER PROPERTY NEEDED FOR THE SUPPORT, CARE,

10 EDUCATION, HEALTH, OR WELFARE OF THE MINOR; AND

11 (c) THE ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION IS

12 NECESSARY OR DESIRABLE TO OBTAIN OR PROVIDE MONEY NEEDED FOR

13 THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF THE MINOR.

14 (3) IF THE COURT MAKES THE FINDINGS PURSUANT TO SUBSECTION

15 (1) OR (2) OF THIS SECTION, THE COURT, INSTEAD OF APPOINTING A

16 CONSERVATOR, MAY:

17 (a) AUTHORIZE OR DIRECT A TRANSACTION NECESSARY TO PROTECT

18 THE FINANCIAL INTEREST OR PROPERTY OF THE RESPONDENT, INCLUDING:

19 (I) AN ACTION TO ESTABLISH ELIGIBILITY FOR BENEFITS;

20 (II) PAYMENT, DELIVERY, DEPOSIT, OR RETENTION OF FUNDS OR

21 PROPERTY;

22 (III) SALE, MORTGAGE, LEASE, OR OTHER TRANSFER OF PROPERTY;

23 (IV) PURCHASE OF AN ANNUITY;

24 (V) ENTRY INTO A CONTRACTUAL RELATIONSHIP, INCLUDING A

25 CONTRACT TO PROVIDE FOR PERSONAL CARE, SUPPORTIVE SERVICES,

26 EDUCATION, TRAINING, OR EMPLOYMENT;

27 (VI) ADDITION TO OR ESTABLISHMENT OF A TRUST;

1 (VII) RATIFICATION OR INVALIDATION OF A CONTRACT, TRUST,
2 WILL, OR OTHER TRANSACTION, INCLUDING A TRANSACTION RELATED TO
3 THE PROPERTY OR BUSINESS AFFAIRS OF THE RESPONDENT; OR

4 (VIII) SETTLEMENT OF A CLAIM; OR

5 (b) RESTRICT ACCESS TO THE RESPONDENT'S PROPERTY BY A
6 SPECIFIED PERSON WHOSE ACCESS TO THE PROPERTY PLACES THE
7 RESPONDENT AT SUBSTANTIAL RISK OF FINANCIAL HARM.

8 (4) AFTER THE HEARING ON A PETITION HELD PURSUANT TO
9 SECTION 15-14.7-501(1) OR 15-14.7-501(3), WHETHER OR NOT THE COURT
10 MAKES THE FINDINGS PURSUANT TO SUBSECTION (1) OR (2) OF THIS
11 SECTION, THE COURT MAY ISSUE AN ORDER TO RESTRICT ACCESS TO THE
12 RESPONDENT OR THE RESPONDENT'S PROPERTY BY A SPECIFIED PERSON
13 WHO THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE:

14 (a) THROUGH FRAUD, COERCION, DURESS, OR THE USE OF
15 DECEPTION AND CONTROL CAUSED OR ATTEMPTED TO CAUSE AN ACTION
16 THAT WOULD HAVE RESULTED IN FINANCIAL HARM TO THE RESPONDENT OR
17 THE RESPONDENT'S PROPERTY; AND

18 (b) POSES A SERIOUS RISK OF SUBSTANTIAL FINANCIAL HARM TO
19 THE RESPONDENT OR THE RESPONDENT'S PROPERTY.

20 (5) BEFORE ISSUING AN ORDER PURSUANT TO SUBSECTION (3) OR
21 (4) OF THIS SECTION, THE COURT SHALL CONSIDER THE FACTORS DESCRIBED
22 IN SECTION 15-14.7-418 A CONSERVATOR MUST CONSIDER WHEN MAKING
23 A DECISION ON BEHALF OF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

24 (6) BEFORE ISSUING AN ORDER PURSUANT TO SUBSECTION (3) OR
25 (4) OF THIS SECTION FOR A RESPONDENT WHO IS A MINOR, THE COURT ALSO
26 SHALL CONSIDER THE BEST INTEREST OF THE MINOR, THE PREFERENCE OF
27 THE PARENTS OF THE MINOR, AND THE PREFERENCE OF THE MINOR, IF THE

1 MINOR IS TWELVE YEARS OF AGE OR OLDER.

2 **15-14.7-504. Petition for protective arrangement.** (1) A
3 PETITION FOR A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP OR
4 CONSERVATORSHIP MUST STATE THE PETITIONER'S NAME, PRINCIPAL
5 RESIDENCE, CURRENT STREET ADDRESS, IF DIFFERENT, RELATIONSHIP TO
6 THE RESPONDENT, INTEREST IN THE PROTECTIVE ARRANGEMENT, THE NAME
7 AND ADDRESS OF ANY ATTORNEY REPRESENTING THE PETITIONER, AND, TO
8 THE EXTENT KNOWN, THE FOLLOWING:

9 (a) THE RESPONDENT'S NAME, AGE, PRINCIPAL RESIDENCE,
10 CURRENT STREET ADDRESS, IF DIFFERENT, AND, IF DIFFERENT, ADDRESS OF
11 THE DWELLING IN WHICH IT IS PROPOSED THE RESPONDENT WILL RESIDE IF
12 THE PETITION IS GRANTED;

13 (b) THE NAME AND ADDRESS OF THE RESPONDENT'S:

14 (I) SPOUSE OR DOMESTIC PARTNER OR, IF THE RESPONDENT HAS
15 NONE, AN ADULT WITH WHOM THE RESPONDENT HAS SHARED HOUSEHOLD
16 RESPONSIBILITIES FOR MORE THAN SIX MONTHS IN THE TWELVE-MONTH
17 PERIOD BEFORE THE FILING OF THE PETITION;

18 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
19 SIBLING OF THE RESPONDENT; AND

20 (III) ADULT STEPCHILDREN WHOM THE RESPONDENT ACTIVELY
21 PARENTED DURING THE STEPCHILDREN'S MINOR YEARS AND WITH WHOM
22 THE RESPONDENT HAD AN ONGOING RELATIONSHIP IN THE TWO YEAR
23 PERIOD IMMEDIATELY BEFORE THE FILING OF THE PETITION;

24 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
25 FOLLOWING, IF APPLICABLE:

26 (I) A PERSON RESPONSIBLE FOR THE CARE OR CUSTODY OF THE
27 RESPONDENT;

- 1 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;
- 2 (III) THE REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
3 SECURITY ADMINISTRATION FOR THE RESPONDENT;
- 4 (IV) A GUARDIAN OR CONSERVATOR ACTING FOR THE RESPONDENT
5 IN THIS STATE OR ANOTHER JURISDICTION;
- 6 (V) A TRUSTEE OR CUSTODIAN OF A TRUST OR CUSTODIANSHIP OF
7 WHICH THE RESPONDENT IS A BENEFICIARY;
- 8 (VI) THE FIDUCIARY APPOINTED FOR THE RESPONDENT BY THE
9 DEPARTMENT OF VETERANS AFFAIRS;
- 10 (VII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
11 HEALTH CARE IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;
- 12 (VIII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
13 FINANCES IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;
- 14 (IX) A PERSON NOMINATED AS GUARDIAN OR CONSERVATOR BY
15 THE RESPONDENT IF THE RESPONDENT IS TWELVE YEARS OF AGE OR OLDER;
- 16 (X) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT'S
17 PARENT, SPOUSE, OR DOMESTIC PARTNER IN A WILL OR OTHER SIGNED
18 RECORD;
- 19 (XI) A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY;
- 20 AND
- 21 (XII) IF THE RESPONDENT IS A MINOR:
- 22 (A) AN ADULT NOT OTHERWISE LISTED WITH WHOM THE
23 RESPONDENT RESIDES; AND
- 24 (B) EACH PERSON NOT OTHERWISE LISTED THAT HAD PRIMARY
25 CARE OR CUSTODY OF THE RESPONDENT FOR AT LEAST SIXTY DAYS DURING
26 THE TWO YEARS IMMEDIATELY BEFORE THE FILING OF THE PETITION OR FOR
27 AT LEAST SEVEN HUNDRED AND THIRTY DAYS DURING THE FIVE YEARS

1 IMMEDIATELY BEFORE THE FILING OF THE PETITION;

2 (d) THE NATURE OF THE PROTECTIVE ARRANGEMENT SOUGHT;

3 (e) THE REASON THE PROTECTIVE ARRANGEMENT SOUGHT IS

4 NECESSARY, INCLUDING A BRIEF DESCRIPTION OF:

5 (I) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED

6 NEED;

7 (II) ANY LESS RESTRICTIVE ALTERNATIVE FOR MEETING THE

8 RESPONDENT'S ALLEGED NEED WHICH HAS BEEN CONSIDERED OR

9 IMPLEMENTED;

10 (III) IF NO LESS RESTRICTIVE ALTERNATIVE HAS BEEN CONSIDERED

11 OR IMPLEMENTED, THE REASON LESS RESTRICTIVE ALTERNATIVES HAVE

12 NOT BEEN CONSIDERED OR IMPLEMENTED; AND

13 (IV) THE REASON OTHER LESS RESTRICTIVE ALTERNATIVES ARE

14 INSUFFICIENT TO MEET THE RESPONDENT'S ALLEGED NEED;

15 (f) THE NAME AND CURRENT ADDRESS, IF KNOWN, OF ANY PERSON

16 WITH WHOM THE PETITIONER SEEKS TO LIMIT THE RESPONDENT'S CONTACT;

17 (g) WHETHER THE RESPONDENT NEEDS AN INTERPRETER,

18 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE EFFECTIVELY

19 WITH THE COURT OR UNDERSTAND COURT PROCEEDINGS;

20 (h) IF A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP IS

21 SOUGHT AND THE RESPONDENT HAS PROPERTY OTHER THAN PERSONAL

22 EFFECTS, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH

23 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND

24 THE SOURCE AND AMOUNT OF ANY OTHER ANTICIPATED INCOME OR

25 RECEIPTS; AND

26 (i) IF A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP

27 IS SOUGHT, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH

1 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
2 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS.

3 **15-14.7-505. Notice and hearing.** (1) ON FILING OF A PETITION
4 PURSUANT TO SECTION 15-14.7-501, THE COURT SHALL SET A DATE, TIME,
5 AND PLACE FOR A HEARING ON THE PETITION.

6 (2) A COPY OF A PETITION DESCRIBED IN SECTION 15-14.7-501 AND
7 NOTICE OF A HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON
8 THE RESPONDENT. THE NOTICE MUST INFORM THE RESPONDENT OF THE
9 RESPONDENT'S RIGHTS AT THE HEARING, INCLUDING THE RIGHT TO AN
10 ATTORNEY AND TO ATTEND THE HEARING. THE NOTICE MUST INCLUDE A
11 DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF GRANTING
12 THE PETITION. THE COURT SHALL NOT GRANT THE PETITION IF NOTICE
13 SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (2) IS NOT SERVED ON
14 THE RESPONDENT.

15 (3) IN A PROCEEDING ON A PETITION HELD PURSUANT TO SECTION
16 15-14.7-501, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
17 SECTION MUST BE GIVEN, PURSUANT TO SECTION 15-10-401, TO THE
18 PERSONS REQUIRED TO BE LISTED IN THE PETITION PURSUANT TO SECTION
19 15-14.7-504(1) TO 15-14.7-504(3) AND ANY OTHER PERSON INTERESTED
20 IN THE RESPONDENT'S WELFARE THE COURT DETERMINES. FAILURE TO GIVE
21 NOTICE, PURSUANT TO SECTION 15-10-401, PURSUANT TO THIS SUBSECTION
22 (3) DOES NOT PRECLUDE THE COURT FROM GRANTING THE PETITION.

23 (4) IF A PETITION FILED PURSUANT TO SECTION 15-14.7-504 DOES
24 NOT INCLUDE THE NAME OF AT LEAST ONE PERSON DESCRIBED IN SECTION
25 15-14.7-504 (1)(b), THE PETITIONER MUST SEARCH WITH REASONABLE
26 DILIGENCE FOR AN ADULT RELATIVE OF THE RESPONDENT AND, IF AN
27 ADULT RELATIVE IS FOUND, GIVE THE ADULT RELATIVE NOTICE, IN

1 ACCORDANCE WITH SECTION 15-10-401, THAT A PETITION FOR A
2 PROTECTIVE ARRANGEMENT OF THE RESPONDENT HAS BEEN FILED AND
3 GIVE NOTICE OF A HEARING ON THE PETITION. THE NOTICE SENT TO THE
4 ADULT RELATIVE OF THE RESPONDENT MUST NOT INCLUDE A COPY OF THE
5 PETITION. FAILURE TO GIVE NOTICE PURSUANT TO THIS SUBSECTION (4)
6 DOES NOT PRECLUDE THE COURT FROM APPOINTING A PROTECTIVE
7 ARRANGEMENT.

8 (5) AFTER THE COURT HAS ORDERED A PROTECTIVE ARRANGEMENT
9 PURSUANT TO THIS PART 5, NOTICE OF A HEARING ON A PETITION FILED
10 PURSUANT TO THIS ARTICLE 14.7, TOGETHER WITH A COPY OF THE
11 PETITION, MUST BE GIVEN TO THE RESPONDENT AND ANY OTHER PERSON
12 THE COURT DETERMINES.

13 **15-14.7-506. Appointment and role of visitor.** (1) ON FILING OF
14 A PETITION PURSUANT TO SECTION 15-14.7-501 FOR A PROTECTIVE
15 ARRANGEMENT INSTEAD OF GUARDIANSHIP, THE COURT SHALL APPOINT A
16 VISITOR. THE COURT SHALL DISCLOSE IN THE ORDER APPOINTING THE
17 VISITOR THE SPECIFIC TRAINING OR EXPERIENCE THE VISITOR HAS WITH
18 RESPECT TO THE TYPE OF ABILITIES, LIMITATIONS, AND NEEDS OF THE
19 RESPONDENT ALLEGED IN THE PETITION AND THE BASIS FOR FEES TO BE
20 PAID TO THE VISITOR.

21 (2) ON FILING OF A PETITION PURSUANT TO SECTION 15-14.7-501
22 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR A
23 MINOR, THE COURT MAY APPOINT A VISITOR TO INVESTIGATE A MATTER
24 RELATED TO THE PETITION OR INFORM THE MINOR OR A PARENT OF THE
25 MINOR ABOUT THE PETITION OR A RELATED MATTER.

26 (3) ON FILING OF A PETITION PURSUANT TO SECTION 15-14.7-501
27 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR AN

1 ADULT, THE COURT SHALL APPOINT A VISITOR UNLESS THE RESPONDENT IS
2 REPRESENTED BY AN ATTORNEY APPOINTED BY THE COURT. THE VISITOR
3 MUST BE AN INDIVIDUAL WITH TRAINING OR EXPERIENCE IN THE TYPES OF
4 ABILITIES, LIMITATIONS, AND NEEDS ALLEGED IN THE PETITION.

5 (4) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OR (3) OF
6 THIS SECTION SHALL INTERVIEW THE RESPONDENT IN PERSON AND, IN A
7 MANNER THE RESPONDENT IS BEST ABLE TO UNDERSTAND:

8 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE PETITION,
9 THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING, AND THE
10 RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION;

11 (b) DETERMINE THE RESPONDENT'S VIEWS WITH RESPECT TO THE
12 ORDER SOUGHT;

13 (c) INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHT TO
14 EMPLOY AND CONSULT WITH AN ATTORNEY AT THE RESPONDENT'S EXPENSE
15 AND THE RIGHT TO REQUEST A COURT-APPOINTED ATTORNEY;

16 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF
17 THE PROCEEDING, INCLUDING RESPONDENT'S ATTORNEY'S FEES, MAY BE
18 PAID FROM THE RESPONDENT'S ASSETS;

19 (e) IF THE PETITIONER SEEKS AN ORDER RELATED TO THE DWELLING
20 OF THE RESPONDENT, VISIT THE RESPONDENT'S PRESENT DWELLING AND
21 ANY DWELLING IN WHICH IT IS REASONABLY BELIEVED THE RESPONDENT
22 WILL LIVE IF THE ORDER IS GRANTED;

23 (f) IF A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP IS
24 SOUGHT, OBTAIN INFORMATION FROM ANY PHYSICIAN OR OTHER PERSON
25 KNOWN TO HAVE TREATED, ADVISED, OR ASSESSED THE RESPONDENT'S
26 RELEVANT PHYSICAL OR MENTAL CONDITION;

27 (g) IF A PROTECTIVE ARRANGEMENT INSTEAD OF

1 CONSERVATORSHIP IS SOUGHT, REVIEW FINANCIAL RECORDS OF THE
2 RESPONDENT, IF RELEVANT TO THE VISITOR'S RECOMMENDATION
3 PURSUANT TO SUBSECTION (5)(c) OF THIS SECTION; AND

4 (h) INVESTIGATE THE ALLEGATIONS IN THE PETITION AND ANY
5 OTHER MATTER RELATING TO THE PETITION THE COURT DIRECTS.

6 (5) A VISITOR DESCRIBED IN THIS SECTION PROMPTLY SHALL FILE
7 A REPORT IN A RECORD WITH THE COURT, WHICH MUST INCLUDE:

8 (a) A RECOMMENDATION WHETHER AN ATTORNEY SHOULD BE
9 APPOINTED TO REPRESENT THE RESPONDENT;

10 (b) TO THE EXTENT RELEVANT TO THE ORDER SOUGHT, A SUMMARY
11 OF SELF-CARE, INDEPENDENT-LIVING TASKS, AND FINANCIAL MANAGEMENT
12 TASKS THE RESPONDENT:

13 (I) CAN MANAGE WITHOUT ASSISTANCE OR WITH EXISTING
14 SUPPORTS;

15 (II) COULD MANAGE WITH THE ASSISTANCE OF APPROPRIATE
16 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
17 DECISION MAKING; AND

18 (III) CANNOT MANAGE;

19 (c) A RECOMMENDATION REGARDING THE APPROPRIATENESS OF
20 THE PROTECTIVE ARRANGEMENT SOUGHT AND WHETHER A LESS
21 RESTRICTIVE ALTERNATIVE FOR MEETING THE RESPONDENT'S NEEDS IS
22 AVAILABLE;

23 (d) IF THE PETITION SEEKS TO CHANGE THE PHYSICAL LOCATION OF
24 THE DWELLING OF THE RESPONDENT, A STATEMENT WHETHER THE
25 PROPOSED DWELLING MEETS THE RESPONDENT'S NEEDS AND WHETHER THE
26 RESPONDENT HAS EXPRESSED A PREFERENCE AS TO THE RESPONDENT'S
27 DWELLING;

1 (e) A RECOMMENDATION WHETHER A PROFESSIONAL EVALUATION
2 PURSUANT TO SECTION 15-14.7-508 IS NECESSARY;

3 (f) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO ATTEND
4 A HEARING AT THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD;

5 (g) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
6 PARTICIPATE IN A HEARING AND WHICH IDENTIFIES ANY TECHNOLOGY OR
7 OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE RESPONDENT'S
8 ABILITY TO PARTICIPATE; AND

9 (h) ANY OTHER MATTER THE COURT DIRECTS.

10 **15-14.7-507. Appointment and role of attorney.** (1) THE COURT
11 SHALL APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT IN A
12 PROCEEDING PURSUANT TO THIS PART 5 IF:

13 (a) THE RESPONDENT REQUESTS THE APPOINTMENT;

14 (b) THE VISITOR RECOMMENDS THE APPOINTMENT; OR

15 (c) THE COURT DETERMINES THE RESPONDENT NEEDS
16 REPRESENTATION.

17 (2) AN ATTORNEY REPRESENTING THE RESPONDENT IN A
18 PROCEEDING PURSUANT TO THIS PART 5 SHALL:

19 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
20 WISHES;

21 (b) ADVOCATE FOR THE RESPONDENT'S WISHES TO THE EXTENT
22 REASONABLY ASCERTAINABLE; AND

23 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
24 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
25 RESTRICTIVE ALTERNATIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT
26 WITH THE RESPONDENT'S INTERESTS.

27 ==

1 **15-14.7-508. Professional evaluation.** (1) AT OR BEFORE A
2 HEARING ON A PETITION HELD PURSUANT TO THIS PART 5 FOR A
3 PROTECTIVE ARRANGEMENT, THE COURT SHALL ORDER A PROFESSIONAL
4 EVALUATION OF THE RESPONDENT:

5 (a) IF THE RESPONDENT REQUESTS THE EVALUATION; OR

6 (b) IN OTHER CASES, UNLESS THE COURT FINDS THAT IT HAS
7 SUFFICIENT INFORMATION TO DETERMINE THE RESPONDENT'S NEEDS AND
8 ABILITIES WITHOUT THE EVALUATION.

9 (2) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
10 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED BY
11 A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
12 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE
13 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND
14 LIMITATIONS AND WILL NOT BE ADVANTAGED OR DISADVANTAGED BY A
15 DECISION TO GRANT THE PETITION OR OTHERWISE HAVE A CONFLICT OF
16 INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION PROMPTLY
17 SHALL FILE A REPORT IN A RECORD WITH THE COURT. UNLESS OTHERWISE
18 DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

19 (a) A DESCRIPTION OF THE NATURE, TYPE, AND EXTENT OF THE
20 RESPONDENT'S COGNITIVE AND FUNCTIONAL ABILITIES AND LIMITATIONS;

21 (b) AN EVALUATION OF THE RESPONDENT'S MENTAL AND PHYSICAL
22 CONDITION AND, IF APPROPRIATE, EDUCATIONAL POTENTIAL, ADAPTIVE
23 BEHAVIOR, AND SOCIAL SKILLS;

24 (c) A PROGNOSIS FOR IMPROVEMENT, INCLUDING WITH REGARD TO
25 THE ABILITY TO MANAGE THE RESPONDENT'S PROPERTY AND FINANCIAL
26 AFFAIRS IF A LIMITATION IN THAT ABILITY IS ALLEGED, AND
27 RECOMMENDATION FOR THE APPROPRIATE TREATMENT, SUPPORT, OR

1 HABILITATION PLAN; AND

2 (d) THE DATE OF THE EXAMINATION ON WHICH THE REPORT IS
3 BASED.

4 (3) THE RESPONDENT MAY DECLINE TO PARTICIPATE IN AN
5 EVALUATION ORDERED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

6 **15-14.7-509. Attendance and rights at hearing.** (1) EXCEPT AS
7 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A HEARING
8 HELD PURSUANT TO THIS PART 5 MAY NOT PROCEED UNLESS THE
9 RESPONDENT ATTENDS THE HEARING. IF IT IS NOT REASONABLY FEASIBLE
10 FOR THE RESPONDENT TO ATTEND A HEARING AT THE LOCATION COURT
11 PROCEEDINGS TYPICALLY ARE HELD, THE COURT SHALL HOLD A HEARING
12 USING REAL-TIME AUDIO-VISUAL TECHNOLOGY OR, AT THE COURT'S
13 DISCRETION, HOLD THE HEARING AT AN ALTERNATIVE LOCATION WHERE
14 THE RESPONDENT CAN ATTEND USING REAL-TIME AUDIO-VISUAL
15 TECHNOLOGY. == ==

16 (2) A HEARING HELD PURSUANT TO THIS PART 5 MAY PROCEED
17 WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS BY
18 CLEAR-AND-CONVINCING EVIDENCE THAT:

19 (a) THE RESPONDENT == HAS REFUSED TO ATTEND THE HEARING
20 AFTER HAVING BEEN FULLY INFORMED OF THE RIGHT TO ATTEND AND THE
21 POTENTIAL CONSEQUENCES OF FAILING TO DO SO;

22 (b) THERE IS NO PRACTICABLE WAY FOR THE RESPONDENT TO
23 ATTEND AND PARTICIPATE IN THE HEARING EVEN WITH APPROPRIATE
24 SUPPORTIVE SERVICES AND TECHNOLOGICAL ASSISTANCE; OR

25 (c) THE RESPONDENT IS A MINOR WHO HAS RECEIVED PROPER
26 NOTICE AND ATTENDANCE WOULD BE HARMFUL TO THE MINOR.

27 (3) THE RESPONDENT MAY BE ASSISTED IN A HEARING HELD

1 PURSUANT TO THIS PART 5 BY A PERSON OR PERSONS OF THE RESPONDENT'S
2 CHOOSING, ASSISTIVE TECHNOLOGY, OR AN INTERPRETER OR TRANSLATOR,
3 OR A COMBINATION OF THESE SUPPORTS. IF ASSISTANCE WOULD FACILITATE
4 THE RESPONDENT'S PARTICIPATION IN THE HEARING, BUT IS NOT OTHERWISE
5 AVAILABLE TO THE RESPONDENT, THE COURT SHALL MAKE REASONABLE
6 EFFORTS TO PROVIDE IT.

7 (4) THE RESPONDENT HAS A RIGHT TO CHOOSE AN ATTORNEY TO
8 REPRESENT THE RESPONDENT AT A HEARING HELD PURSUANT TO THIS PART
9 5.

10 (5) AT A HEARING HELD PURSUANT TO THIS PART 5, THE
11 RESPONDENT MAY:

12 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
13 DOCUMENTS;

14 (b) EXAMINE WITNESSES, INCLUDING ANY COURT-APPOINTED
15 EVALUATOR AND THE VISITOR; AND

16 (c) OTHERWISE PARTICIPATE IN THE HEARING.

17 (6) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE CLOSED
18 ON REQUEST OF THE RESPONDENT AND A SHOWING OF GOOD CAUSE.

19 (7) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING HELD
20 PURSUANT TO THIS PART 5. THE COURT MAY GRANT THE REQUEST, WITH OR
21 WITHOUT A HEARING, ON DETERMINING THAT THE BEST INTEREST OF THE
22 RESPONDENT WILL BE SERVED. THE COURT MAY IMPOSE APPROPRIATE
23 CONDITIONS ON THE PERSON'S PARTICIPATION.

24 **15-14.7-510. Notice of order.** THE COURT SHALL GIVE NOTICE,
25 PURSUANT TO SECTION 15-10-401, OF AN ORDER PURSUANT TO THIS PART
26 5 TO THE INDIVIDUAL WHO IS SUBJECT TO THE PROTECTIVE ARRANGEMENT
27 INSTEAD OF GUARDIANSHIP OR CONSERVATORSHIP, A PERSON WHOSE

1 ACCESS TO THE INDIVIDUAL IS RESTRICTED BY THE ORDER, AND ANY OTHER
2 PERSON THE COURT DETERMINES.

3 **15-14.7-511. Confidentiality of records.** THE COURT SHALL
4 COMPLY WITH THE ADMINISTRATIVE RULES PROMULGATED BY THE
5 JUDICIAL DEPARTMENT CONCERNING THE CONFIDENTIALITY OF COURT
6 RECORDS. ==

7 == ==
8 **15-14.7-512. Appointment of special conservator.** THE COURT
9 MAY APPOINT A SPECIAL CONSERVATOR TO ASSIST IN IMPLEMENTING A
10 PROTECTIVE ARRANGEMENT PURSUANT TO THIS PART 5. THE SPECIAL
11 CONSERVATOR HAS THE AUTHORITY CONFERRED BY THE ORDER OF
12 APPOINTMENT AND SERVES UNTIL DISCHARGED BY COURT ORDER.

13 == == ==

14 PART 6

15 MISCELLANEOUS PROVISIONS

16 **15-14.7-601. Uniformity of application and construction.** IN
17 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
18 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
19 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

20 **15-14.7-602. Relation to electronic signatures in global and**
21 **national commerce act.** THIS ARTICLE 14.7 MODIFIES, LIMITS, OR
22 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
23 COMMERCE ACT", 15 U.S.C. SEC 7001 ET SEQ., BUT DOES NOT MODIFY,
24 LIMIT, OR SUPERSEDE SECTION 101(c) OF 15 U.S.C. SEC 7001(c), OR
25 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN
26 SECTION 103(b) OF 15 U.S.C. SEC 7003(b).

27 **15-14.7-603. Applicability.** (1) THIS ARTICLE 14.7 APPLIES TO:

1 (a) A PROCEEDING FOR APPOINTMENT OF A GUARDIAN OR
2 CONSERVATOR OR FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
3 GUARDIANSHIP OR CONSERVATORSHIP COMMENCED AFTER JULY 1, 2026;
4 AND

5 (b) A GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE
6 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR CONSERVATORSHIP IN
7 EXISTENCE ON JULY 1, 2026, UNLESS THE COURT FINDS APPLICATION OF A
8 PARTICULAR PROVISION OF THIS ARTICLE 14.7 WOULD SUBSTANTIALLY
9 INTERFERE WITH THE EFFECTIVE CONDUCT OF THE PROCEEDING OR
10 PREJUDICE THE RIGHTS OF A PARTY, IN WHICH CASE THE PARTICULAR
11 PROVISION OF THIS ARTICLE 14.7 DOES NOT APPLY AND THE SUPERSEDED
12 LAW APPLIES.

13 (2) A GUARDIAN OR CONSERVATOR APPOINTED PRIOR TO JULY 1,
14 2026, IS NOT REQUIRED TO PETITION A COURT TO REVIEW THE TERMS OF AN
15 ESTABLISHED GUARDIANSHIP OR CONSERVATORSHIP IN COMPLIANCE WITH
16 THIS ARTICLE 14.7.

17 **15-14.7-604. Severability.** IF ANY PROVISION OF THIS ARTICLE 14.7
18 OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID,
19 THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF
20 THIS ARTICLE 14.7 WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID
21 PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
22 ARTICLE 14.7 ARE SEVERABLE.

23 **15-14.7-605. Acceptance of gifts, grants, or donations.** THE
24 JUDICIAL DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,
25 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
26 THIS ARTICLE 14.7.

27 **15-14.7-606. Effective date.** THIS ARTICLE 14.7 TAKES EFFECT

1 JULY 1, 2026.

2 **SECTION 2.** In Colorado Revised Statutes, 7-60-132, **amend** (1)
3 introductory portion and (1)(a) as follows:

4 **7-60-132. Dissolution by decree of court.** (1) ~~On~~ UPON
5 application by or for a partner, the court ~~shall~~ MUST decree a dissolution
6 if:

7 (a) A partner has been determined by the court to be mentally
8 incompetent to such a degree that the partner is incapable of performing
9 the partner's part of the partnership contract or a court of competent
10 jurisdiction has made such a finding pursuant to ~~part 3 or part 4 of article~~
11 ~~14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or section
12 27-65-110 (4) or 27-65-127;

13 **SECTION 3.** In Colorado Revised Statutes, 11-50-102, **amend**
14 the introductory portion and (5) as follows:

15 **11-50-102. Definitions.** As used in this ~~article~~ ARTICLE 50, unless
16 the context otherwise requires:

17 (5) "Court" means the district or probate court ~~which~~ THAT would
18 have jurisdiction of the minor's estate, if ~~he~~ THE MINOR had property other
19 than custodial property, as provided in ~~section 15-14-108 (1), C.R.S.~~
20 SECTION 15-14.7-106 (1).

21 **SECTION 4.** In Colorado Revised Statutes, 12-215-115, **amend**
22 (7) as follows:

23 **12-215-115. Discipline of licensees - suspension, revocation,**
24 **denial, and probation - grounds - definitions.** (7) In the event any
25 person holding a license to practice chiropractic in this state is determined
26 to be mentally incompetent or insane by a court of competent jurisdiction
27 and a court enters, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3,

1 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or
2 27-65-127, an order specifically finding that the mental incompetency or
3 insanity is of such a degree that the person holding a license is incapable
4 of continuing to practice chiropractic, ~~the person's license shall~~
5 ~~automatically be suspended by the board~~ THE BOARD MUST
6 AUTOMATICALLY SUSPEND THE PERSON'S LICENSE, and, anything in this
7 article 215 to the contrary notwithstanding, the suspension must continue
8 until the licensee is found by the court to be competent to practice
9 chiropractic.

10 **SECTION 5.** In Colorado Revised Statutes, 12-240-125, **amend**
11 (7) as follows:

12 **12-240-125. Disciplinary action by board - rules.** (7) If any
13 licensee is determined to be mentally incompetent or insane by a court of
14 competent jurisdiction and a court enters, pursuant to ~~part 3 or 4 of article~~
15 ~~14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or section
16 27-65-110 (4) or 27-65-127, an order specifically finding that the mental
17 incompetency or insanity is of such a degree that the licensee is incapable
18 of continuing to practice medicine, practice as a physician assistant, or
19 practice as an anesthesiologist assistant, the board ~~shall~~ MUST
20 automatically suspend the licensee's license, and, anything in this article
21 240 to the contrary notwithstanding, the suspension must continue until
22 the licensee is found by the court to be competent to practice medicine,
23 practice as a physician assistant, or practice as an anesthesiologist
24 assistant.

25 **SECTION 6.** In Colorado Revised Statutes, 12-255-119, **amend**
26 (7) as follows:

27 **12-255-119. Disciplinary procedures of the board - inquiry and**

1 **hearings panels - mental and physical examinations - definitions -**
2 **rules.** (7) In case any nurse or certified midwife is determined to be
3 mentally incompetent or insane by a court of competent jurisdiction and
4 a court enters, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR
5 5 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or 27-65-127, an
6 order specifically finding that the mental incompetency or insanity is of
7 such a degree that the nurse or certified midwife is incapable of
8 continuing the practice of nursing or as a certified midwife, the board ~~shall~~
9 MUST automatically suspend the nurse's or certified midwife's license, and,
10 notwithstanding any provision of this part 1 to the contrary, the suspension
11 must continue until the nurse or certified midwife is found by the court to
12 be competent to continue the practice of nursing or the practice as a
13 certified midwife, as applicable.

14 **SECTION 7.** In Colorado Revised Statutes, 12-290-113, **amend**
15 (8) as follows:

16 **12-290-113. Disciplinary action by board.** (8) If a person
17 holding a license to practice podiatry in this state is determined to be
18 mentally incompetent or insane by a court of competent jurisdiction and
19 a court enters, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR
20 5 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or 27-65-127, an
21 order specifically finding that the mental incompetency or insanity is of
22 such a degree that the person holding a license is incapable of continuing
23 to practice podiatry, the board ~~shall~~ MUST automatically suspend the
24 license, and, anything in this article 290 to the contrary notwithstanding,
25 the suspension must continue until the licensee is found by the court to be
26 competent to practice podiatry.

27 **SECTION 8.** In Colorado Revised Statutes, 12-315-112, **amend**

1 (1)(v) as follows:

2 **12-315-112. Discipline of licensees.** (1) Upon receipt of a signed
3 complaint by a complainant or upon its own motion, the board may
4 proceed to a hearing in accordance with section 12-315-113. After a
5 hearing, and by a concurrence of a majority of members, the board may
6 take disciplinary or other action as authorized in section 12-20-404 against
7 an applicant for a license or a licensed veterinarian for any of the
8 following reasons:

9 (v) A determination that the individual is mentally incompetent by
10 a court of competent jurisdiction and the court has entered, pursuant to
11 ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE
12 15 or section 27-65-110 (4) or 27-65-127, an order specifically finding
13 that the mental incompetency is of such a degree that the individual is
14 incapable of continuing to practice veterinary medicine;

15 **SECTION 9.** In Colorado Revised Statutes, 12-315-207, **amend**
16 (1)(l) as follows:

17 **12-315-207. Discipline of a registered veterinary technician -**
18 **repeal.** (1) Upon receipt of a signed complaint by a complainant or upon
19 its own motion, the board may proceed to a hearing in accordance with
20 section 12-315-113. After a hearing, and by a concurrence of a majority
21 of members, the board may take disciplinary action as authorized in
22 section 12-20-404 against an applicant for a registration or a registered
23 veterinary technician for any of the following reasons:

24 (l) A determination that the individual is mentally incompetent by
25 a court of competent jurisdiction, and the court has entered, pursuant to
26 ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE
27 15 or section 27-65-110 (4) or 27-65-127, an order specifically finding

1 that the mental incompetency is of such a degree that the individual is
2 incapable of continuing to hold a registration as a veterinary technician;

3 **SECTION 10.** In Colorado Revised Statutes, 13-5-142, **amend**
4 (1)(a), (3) introductory portion, and (3)(b)(I) as follows:

5 **13-5-142. National instant criminal background check system**
6 **- reporting.** (1) On and after March 20, 2013, the state court administrator
7 shall send electronically the following information to the Colorado bureau
8 of investigation created pursuant to section 24-33.5-401, referred to in this
9 section as the "bureau":

10 (a) The name of each person who has been found to be
11 ~~incapacitated~~ A PERSON SUBJECT TO GUARDIANSHIP by order of the court
12 pursuant to ~~part 3 of article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7
13 OF TITLE 15;

14 (3) The state court administrator ~~shall~~ MUST take all necessary steps
15 to cancel a record made by the state court administrator in the national
16 instant criminal background check system if:

17 (b) No less than three years before the date of the written request:

18 (I) The court entered an order pursuant to ~~section 15-14-318,~~
19 ~~C.R.S.,~~ SECTION 15-14.7-319 terminating a guardianship on a finding that
20 the person is no longer ~~an incapacitated person~~ A PERSON SUBJECT TO
21 GUARDIANSHIP, if the record in the national instant criminal background
22 check system is based on a ~~finding of incapacity~~ FINDING THE PERSON IS
23 SUBJECT TO GUARDIANSHIP;

24 **SECTION 11.** In Colorado Revised Statutes, 13-5-142.5, **amend**
25 (2)(a)(I) as follows:

26 **13-5-142.5. National instant criminal background check system**
27 **- judicial process for awarding relief from federal prohibitions -**

1 **legislative declaration.** (2) **Eligibility.** A person may petition for relief
2 pursuant to this section if:

3 (a) (I) ~~He or she~~ THE PERSON has been found to be ~~incapacitated~~
4 SUBJECT TO GUARDIANSHIP by order of the court pursuant to ~~part 3 of~~
5 ~~article 14 of title 15, C.R.S.~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15;

6

7 **SECTION 12.** In Colorado Revised Statutes, 13-9-123, **amend**
8 (1)(a), (3) introductory portion, and (3)(b)(I) as follows:

9 **13-9-123. National instant criminal background check system**
10 **- reporting.** (1) On and after March 20, 2013, the state court
11 administrator shall send electronically the following information to the
12 Colorado bureau of investigation created pursuant to section 24-33.5-401,
13 referred to in this section as the "bureau":

14 (a) The name of each person who has been found to be
15 ~~incapacitated~~ SUBJECT TO GUARDIANSHIP by order of the court pursuant to
16 ~~part 3 of article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7 OF TITLE 15;

17 (3) The state court administrator ~~shall~~ MUST take all necessary
18 steps to cancel a record made by the state court administrator in the
19 national instant criminal background check system if:

20 (b) No less than three years before the date of the written request:

21 (I) The court entered an order pursuant to ~~section 15-14-318,~~
22 ~~C.R.S.,~~ SECTION 15-14.7-319 terminating a guardianship on a finding that
23 the person is no longer ~~an incapacitated person~~ A PERSON SUBJECT TO
24 GUARDIANSHIP, if the record in the national instant criminal background
25 check system is based on a ~~finding of incapacity~~ FINDING THE PERSON IS
26 SUBJECT TO GUARDIANSHIP;

27 **SECTION 13.** In Colorado Revised Statutes, 13-9-124, **amend**

1 (2)(a)(I) as follows:

2 **13-9-124. National instant criminal background check system**
3 **- judicial process for awarding relief from federal prohibitions -**
4 **legislative declaration. (2) Eligibility.** A person may petition for relief
5 pursuant to this section if:

6 (a) (I) ~~He or she~~ THE PERSON has been found to be ~~incapacitated~~
7 SUBJECT TO GUARDIANSHIP by order of the court pursuant to ~~part 3 of~~
8 ~~article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7 OF TITLE 15;

9 **SECTION 14.** In Colorado Revised Statutes, 13-32-101, **amend**
10 (3)(b)(I) as follows:

11 **13-32-101. Docket fees in civil actions - judicial stabilization**
12 **cash fund - justice center cash fund - justice center maintenance fund**
13 **- created - report - legislative declaration. (3) (b) (I) ~~No~~** A docket fee
14 ~~shall~~ MUST NOT be charged in mental health proceedings ~~under~~ PURSUANT
15 TO article 10 or 10.5 of title 27 ~~C.R.S.~~; but, where an estate is thereafter
16 probated for any mental incompetent, the committing court has a claim
17 against ~~such~~ THE estate, as a cost of the mental health proceedings, in the
18 sum of twenty dollars, in addition to any other expense of commitment
19 allowed and paid by the county, to be paid by the conservator of such
20 estate as a claim pursuant to ~~section 15-14-429, C.R.S.~~ SECTION
21 15-14.7-428.

22 **SECTION 15.** In Colorado Revised Statutes, 13-32-102, **amend**
23 (1) introductory portion and (1)(a) as follows:

24 **13-32-102. Fees in probate proceedings. (1)** On and after July
25 1, 2019, for services rendered by judges and clerks of district or probate
26 courts in all counties of the state of Colorado in proceedings ~~had~~ HELD
27 pursuant to articles 10 to 17 of title 15, the court shall charge the

1 following fees:

2 (a) Docket fee at the time of filing first papers in any decedent's
3 estate eligible for summary administrative procedures ~~under~~ PURSUANT TO
4 section 15-12-1203 ~~or in any small estate of a person under disability~~
5 ~~qualifying under section 15-14-118, which estates involve no real property~~
6 \$ 83.00

7 **SECTION 16.** In Colorado Revised Statutes, 13-64-205, **amend**
8 (1)(f)(I)(B) as follows:

9 **13-64-205. Determination of judgment to be entered.** (1) In
10 order to determine what judgment is to be entered on a verdict requiring
11 findings of special damages under this part 2, the court shall proceed as
12 follows:

13 (f) The plaintiff who meets the criteria set forth in this subsection
14 (1) may elect to receive the immediate payment to the plaintiff of the
15 present value of the future damage award in a lump-sum amount in lieu
16 of periodic payments. In order to exercise this right, the plaintiff must
17 either:

18 (I) (B) ~~Not be an incapacitated person, as defined in section~~
19 ~~15-14-102 (5), C.R.S. A PERSON SUBJECT TO GUARDIANSHIP PURSUANT TO~~
20 SECTION 15-14.7-201 OR 15-14.7-301 OR A PERSON SUBJECT TO
21 CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401; and

22 == ==

23 **SECTION 17.** In Colorado Revised Statutes, 13-94-103, **amend**
24 (1) as follows:

25 **13-94-103. Definitions.** (1) Except as otherwise indicated in this
26 section, the definitions set forth in ~~section 15-14-102~~ SECTION 15-14.7-102
27 apply to this article 94.

1 **SECTION 18.** In Colorado Revised Statutes, 13-94-105, **amend**
2 (1.5)(a)(II) as follows:

3 **13-94-105. Office of public guardianship - director - duties -**
4 **memorandum of understanding - annual report - repeal.** (1.5) In
5 addition to any other duties or responsibilities set forth in this article 94,
6 the office:

7 (a) May:

8 (II) Take any action on behalf of an indigent PERSON and
9 ~~incapacitated person~~ A PERSON SUBJECT TO GUARDIANSHIP PURSUANT TO
10 SECTION 15-14.7-201 OR 15-14.7-301 OR A PERSON SUBJECT TO
11 CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401 that a private
12 guardian may take, except as otherwise limited by law or court order; and

13 **SECTION 19.** In Colorado Revised Statutes, 14-10-107, **amend**
14 (3) as follows:

15 **14-10-107. Commencement - pleadings - abolition of existing**
16 **defenses - automatic, temporary injunction - enforcement.** (3) Either
17 or both parties to the marriage may initiate the proceeding. In addition, a
18 legal guardian with court approval OR A GUARDIAN WITH COURT APPROVAL
19 pursuant to section 15-14-315.5, C.R.S., or a conservator, with court
20 approval pursuant to section 15-14-425.5, C.R.S., SECTION 15-14.7-314
21 may initiate the proceeding. If a legal guardian ~~or conservator~~ initiates the
22 proceeding, the legal guardian ~~or conservator shall~~ MUST receive notice in
23 the same manner as the parties to the proceeding.

24 **SECTION 20.** In Colorado Revised Statutes, 15-1-1515, amend
25 (9) as follows:

26 **15-1-1515. Fiduciary duty and authority.** (9) A foreign
27 conservator is not required to comply with the provisions of section

1 ~~15-14-433~~ SECTION 15-14.5-402 as a condition to obtaining disclosure of
2 a digital asset pursuant to this part 15.

3

4 SECTION 21. In Colorado Revised Statutes, 15-10-201, **amend**
5 (14), (25), (26), (27), (43), (44), and (58) as follows:

6 **15-10-201. General definitions.** Subject to additional definitions
7 contained in this article 10 and the subsequent articles that are applicable
8 to specific articles, parts, or sections, and unless the context otherwise
9 requires, in this code:

10 (14) "Disability" means cause for a protective order as described
11 in ~~section 15-14-401~~ SECTION 15-14.7-401.

12 (25) "Incapacitated person" means an individual ~~described in~~
13 ~~section 15-14-102 (5)~~ OTHER THAN A MINOR WHO LACKS THE ABILITY
14 TO MEET ESSENTIAL REQUIREMENTS FOR HEALTH, SAFETY, OR WELFARE
15 BECAUSE THE INDIVIDUAL IS UNABLE TO RECEIVE AND EVALUATE
16 INFORMATION OR MAKE OR COMMUNICATE DECISIONS, EVEN WITH
17 APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR
18 SUPPORTED DECISION-MAKING, EXCEPT AS OTHERWISE DEFINED BY THE
19 TERMS OF A GOVERNING INSTRUMENT. A DETERMINATION BY A COURT
20 UNDER SECTIONS 15-14.7-301, 15-14.7-502, 15-14.7-503, IS NOT A
21 DETERMINATION THAT A PERSON IS OR IS NOT AN INCAPACITATED PERSON
22 FOR ANY OTHER PURPOSES UNDER THE LAWS OF THIS STATE UNLESS
23 SPECIFICALLY ORDERED BY THE COURT IN THOSE PROCEEDINGS. A
24 PROCEEDING TO DETERMINE WHETHER A PERSON IS OR IS NOT AN
25 INCAPACITATED PERSON FOR ANY OTHER PURPOSE UNDER THE LAWS OF
26 THIS STATE MAY BE BROUGHT UNDER ANY APPLICABLE PROVISIONS OR
27 PROCEDURES OF THE LAWS OF THIS STATE.

1 (26) "Informal proceedings" means those conducted without notice
2 to interested persons by an officer of the court acting as a registrar for
3 probate of a will, appointment of a personal representative, or
4 determination of a guardian ~~under sections 15-14-202 and 15-14-301~~
5 PURSUANT TO SECTIONS 15-14.7-201 AND 15-14.7-301.

6 (27) "Interested person" includes heirs, devisees, children, spouses,
7 creditors, beneficiaries, trust directors, and any others having a property
8 right in or claim against a trust estate or the estate of a decedent, ward, or
9 protected person, which PERSON SUBJECT TO GUARDIANSHIP, PERSON
10 SUBJECT TO CONSERVATORSHIP, OR PERSON SUBJECT TO A PROTECTIVE
11 ARRANGEMENT WHO may be affected by the proceeding. It also includes
12 persons having priority for an appointment as a personal representative
13 and other fiduciaries representing the interested person. The meaning as
14 it relates to particular persons may vary from time to time and is
15 determined according to the particular purposes of, and matter involved
16 in, any proceeding.

17 (43) "Protected person" ~~has the same meaning as set forth in~~
18 ~~section 15-14-102 (11)~~ MEANS A MINOR OR OTHER INDIVIDUAL FOR WHOM
19 A CONSERVATOR HAS BEEN APPOINTED OR OTHER PROTECTIVE ORDER HAS
20 BEEN MADE.

21 (44) "Protective proceeding" ~~has the same meaning as used in~~
22 ~~section 15-14-401~~ MEANS THE PROCEEDING TO APPOINT A GUARDIAN
23 PURSUANT TO PART 3 OF ARTICLE 14.7 OF THIS TITLE 15, CONSERVATOR
24 PURSUANT PART 4 OF ARTICLE 14.7 OF THIS TITLE 15, OR PROTECTIVE
25 ARRANGEMENT PURSUANT TO PART 5 OF ARTICLE 14.7 OF THIS TITLE 15.

26 (58) "Ward" means an individual ~~described in section 15-14-102~~
27 ~~(15)~~ FOR WHOM A GUARDIAN HAS BEEN APPOINTED.

1 **SECTION 22.** In Colorado Revised Statutes, 15-10-601, **amend**
2 (3)(a)(VII) as follows:

3 **15-10-601. Definitions.** As used in this part 6, unless the context
4 otherwise requires:

5 (3) (a) "Governing instrument" means a will or a trust or a
6 donative, appointive, or nominative instrument of any other type,
7 including but not limited to:

8 (VII) A court order appointing a conservator as described in ~~part~~
9 ~~4 of article 14 of this title~~ PART 4 OF ARTICLE 14.7 OF THIS TITLE 15 OR
10 GRANTING A PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF ARTICLE
11 14.7 OF THIS TITLE 15.

12 **SECTION 23.** In Colorado Revised Statutes, 15-10-602, **amend**
13 (6) and (9) as follows:

14 **15-10-602. Recovery of reasonable compensation and costs.**

15 (6) Except as provided in sections 15-10-605 (2), (3), and (4); ~~15-14-318~~
16 ~~(4); and 15-14-431 (5); 15-14.7-318; AND 15-14.7-431,~~ if any fiduciary or
17 person with priority for appointment as personal representative,
18 conservator, guardian, agent, custodian, or trustee defends or prosecutes
19 a proceeding in good faith, whether successful or not, the fiduciary or
20 person is entitled to receive from the estate reimbursement for reasonable
21 costs and disbursements, including but not limited to reasonable attorney
22 fees.

23 (9) Every application or petition for appointment of a fiduciary
24 filed under this code, including without limitation those required ~~under~~
25 PURSUANT TO sections 15-12-301, 15-12-402, 15-12-614, 15-12-621,
26 15-12-622, ~~15-14-202, 15-14-204, 15-14-304, and 15-14-403,~~ shall
27 15-14.7-201, 15-14.7-208, 15-14.7-312, 15-14.7-402, AND 15-14.7-504,

1 MUST include a statement by the applicant or petitioner disclosing the
2 basis upon which any compensation is to be charged to the estate by the
3 fiduciary and ~~his or her or its~~ THE FIDUCIARY'S counsel or ~~shall~~ MUST state
4 that the basis has not yet been determined. The disclosure statement ~~shall~~
5 MUST specifically describe, as is applicable, the hourly rates to be charged,
6 any amounts to be charged pursuant to a published fee schedule, including
7 the rates and basis for charging fees for any extraordinary services, and
8 any other bases upon which a fee charged to the estate will be calculated.
9 This disclosure obligation ~~shall~~ MUST be continuing in nature so as to
10 require supplemental disclosures if material changes to the basis for
11 charging fees take place.

12 SECTION 24. In Colorado Revised Statutes, 15-10-603, add (3.5)
13 as follows:

14 15-10-603. Factors in determining the reasonableness of
15 compensation and costs. (3.5) THE COURT SHALL CONSIDER ALL OF THE
16 FACTORS DESCRIBED IN THIS SUBSECTION (3.5) IN DETERMINING THE
17 REASONABLENESS OF ANY COMPENSATION OR COSTS ASSESSED PURSUANT
18 TO ARTICLE 14.7 OF THIS TITLE 15. THE COURT MAY DETERMINE THE
19 WEIGHT TO BE GIVEN TO EACH FACTOR AND TO ANY OTHER FACTOR THE
20 COURT CONSIDERS RELEVANT IN REACHING ITS DECISION:

21 (a) THE NECESSITY AND QUALITY OF THE SERVICE PROVIDED;

22 (b) THE DIFFICULTY OF THE SERVICE PROVIDED, INCLUDING THE
23 DEGREE OF SKILL AND CARE REQUIRED;

24 (c) THE CONDITIONS AND CIRCUMSTANCES UNDER WHICH A
25 SERVICE WAS PERFORMED, INCLUDING WHETHER THE SERVICE WAS
26 PROVIDED OUTSIDE REGULAR BUSINESS HOURS OR UNDER DANGEROUS OR
27 EXTRAORDINARY CONDITIONS;

1 (d) THE EFFECT OF THE SERVICE ON THE INDIVIDUAL SUBJECT TO
2 GUARDIANSHIP OR CONSERVATORSHIP; AND

3 (e) THE EXTENT TO WHICH THE SERVICE PROVIDED WAS OR WAS
4 NOT CONSISTENT WITH THE GUARDIAN'S PLAN PURSUANT TO SECTION
5 15-14.7-316, THE CONSERVATOR'S PLAN PURSUANT TO SECTION
6 15-14.7-419, OR THE ROLE OF A SPECIAL CONSERVATOR PURSUANT TO
7 SECTION 15-14.7-512.

8

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9 **SECTION 25.** In Colorado Revised Statutes, 15-14-501, **amend**
10 (1) as follows:

11 **15-14-501. When power of attorney not affected by disability.**

12 (1) Whenever a principal designates another ~~his~~ AS THE PRINCIPAL'S
13 attorney-in-fact or agent by a power of attorney in writing and the writing
14 contains the words "This power of attorney ~~shall not be~~ IS NOT affected by
15 disability of the principal" or "This power of attorney ~~shall become~~
16 BECOMES effective upon the disability of the principal" or similar words
17 showing the intent of the principal that the authority conferred ~~shall be~~ IS
18 exercisable notwithstanding ~~his~~ THE PRINCIPAL'S disability, the authority
19 of the attorney-in-fact or agent is exercisable by ~~him~~ THE
20 ATTORNEY-IN-FACT OR AGENT as provided in the power on behalf of the
21 principal notwithstanding later disability or incapacity of the principal at
22 law or later uncertainty as to whether the principal is dead or alive. The
23 authority of the attorney-in-fact or agent to act on behalf of the principal
24 ~~shall be~~ IS set forth in the power and may relate to any act, power, duty,
25 right, or obligation ~~which~~ THAT the principal has or ~~after~~ acquires LATER
26 relating to the principal or any matter, transaction, or property, real or
27 personal, tangible or intangible. The authority of the agent with regard to

1 medical treatment decisions on behalf of a principal is set forth in sections
2 15-14-503 to 15-14-509. The attorney-in-fact or agent, however, is subject
3 to the same limitations imposed upon court-appointed guardians contained
4 in ~~section 15-14-312 (1)(a)~~ SECTION 15-14.7-312. Additionally, the
5 principal may expressly empower ~~his~~ THE PRINCIPAL'S attorney-in-fact or
6 agent to renounce and disclaim interests and powers; to make gifts, in trust
7 or otherwise; and to release and exercise powers of appointment. All acts
8 done by the attorney-in-fact or agent pursuant to the power during any
9 period of disability or incompetence or uncertainty as to whether the
10 principal is dead or alive have the same effect and inure to the benefit of
11 and bind the principal or ~~his~~ THE PRINCIPAL'S heirs, devisees, and personal
12 representative as if the principal were alive, competent, and not disabled.
13 If a guardian or conservator thereafter is appointed for the principal, the
14 attorney-in-fact or agent, during the continuance of the appointment, shall
15 consult with the guardian on matters concerning the principal's personal
16 care or account to the conservator on matters concerning the principal's
17 financial affairs. The conservator has the same power the principal would
18 have had if ~~he~~ THE PRINCIPAL were not disabled or incompetent to revoke,
19 suspend, or terminate all or any part of the power of attorney or agency as
20 it relates to financial matters. Subject to any limitation or restriction of the
21 guardian's powers or duties set forth in the order of appointment and
22 endorsed on the letters of guardianship, a guardian has the same power to
23 revoke, suspend, or terminate all or any part of the power of attorney or
24 agency as it relates to matters concerning the principal's personal care that
25 the principal would have had if the principal were not disabled or
26 incompetent, except with respect to medical treatment decisions made by
27 an agent pursuant to sections 15-14-506 to 15-14-509; however, such

1 exception ~~shall~~ MUST not preclude a court from removing an agent in the
2 event an agent becomes incapacitated or is unwilling or unable to serve as
3 an agent.

4 **SECTION 26.** In Colorado Revised Statutes, 15-14.5-102, **amend**
5 the introductory portion, (2), and (3) as follows:

6 **15-14.5-102. Definitions.** In this ~~article~~ ARTICLE 14.5:

7 (2) "Conservator" means a person appointed by the court to
8 administer the property of an adult, including a person appointed ~~under~~
9 ~~section 15-14-401~~ PURSUANT TO SECTION 15-14.7-401.

10 (3) "Guardian" means a person appointed by the court to make
11 decisions regarding ~~the person of~~ an adult, including a person appointed
12 ~~under section 15-14-301~~ PURSUANT TO SECTION 15-14.7-301.

13 **SECTION 27.** In Colorado Revised Statutes, 15-18.5-103, **amend**
14 (4)(a) and (4)(b) as follows:

15 **15-18.5-103. Proxy decision-makers for medical treatment**
16 **authorized - definitions.** (4) (a) Interested persons who are informed of
17 the patient's lack of decisional capacity shall make reasonable efforts to
18 reach a consensus as to who among them shall make medical treatment
19 decisions on behalf of the patient. The person selected to act as the
20 patient's proxy decision-maker should be the person who has a close
21 relationship with the patient and who is most likely to be currently
22 informed of the patient's wishes regarding medical treatment decisions. If
23 any of the interested persons disagrees with the selection or the decision
24 of the proxy decision-maker or, if, after reasonable efforts, the interested
25 persons are unable to reach a consensus as to who should act as the proxy
26 decision-maker, then any of the interested persons may seek guardianship
27 of the patient by initiating guardianship proceedings pursuant to part 3 of

1 ~~article 14~~ ARTICLE 14.7 of this ~~title~~ TITLE 15. Only ~~said~~ THE interested
2 persons may initiate such proceedings with regard to the patient.

3 (b) Nothing in this section precludes any interested person from
4 initiating a guardianship proceeding pursuant to part 3 of ~~article 14~~
5 ARTICLE 14.7 of this ~~title~~ TITLE 15 for any reason any time after ~~said~~ THE
6 persons have conformed with ~~paragraph (a) of this subsection (4)~~
7 SUBSECTION (4)(a) OF THIS SECTION.

8 **SECTION 28.** In Colorado Revised Statutes, 15-23-103, **amend**
9 (13) as follows:

10 **15-23-103. Definitions.** As used in this article 23, unless the
11 context otherwise requires:

12 (13) "Original estate planning document" and "original document"
13 mean an original instrument in writing that is any will document,
14 including, but not limited to, wills, as defined in section 15-10-201 (59);
15 codicils; holographic wills; documents purporting to be wills; instruments
16 that revoke or revise a testamentary instrument; testamentary instruments
17 that merely appoint a personal representative; AND other testamentary
18 instruments, such as memoranda distributing tangible personal property,
19 as described in section 15-11-513. ~~and testamentary appointments of~~
20 ~~guardian as described in section 15-14-202 (1).~~

21 **SECTION 29.** In Colorado Revised Statutes, 19-1-103, **amend**
22 (49)(a) as follows:

23 **19-1-103. Definitions.** As used in this title 19 or in the specified
24 portion of this title 19, unless the context otherwise requires:

25 (49) "Custodial adoption", as used in part 2 of article 5 of this title
26 19, means an adoption of a child by any person and the person's spouse,
27 as required pursuant to section 19-5-202 (3), who:

1 (a) Has been awarded custody or allocated parental responsibilities
2 by a court of law in a dissolution of marriage, custody or allocation of
3 parental responsibilities proceeding, or has been awarded guardianship of
4 the child by a court of law in a probate action, such as pursuant to ~~part 2~~
5 ~~of article 14 of title 15~~ PART 2 OF ARTICLE 14.7 OF TITLE 15; and

6 **SECTION 30.** In Colorado Revised Statutes, 19-1-104, **amend**
7 (1)(c) as follows:

8 **19-1-104. Jurisdiction.** (1) Except as otherwise provided by law,
9 the juvenile court has exclusive original jurisdiction in proceedings:

10 (c) To determine the legal custody of any child or to appoint a
11 guardian of the person or legal custodian of any child who comes within
12 the juvenile court's jurisdiction ~~under provisions of~~ PURSUANT TO this
13 section, and THE JUVENILE COURT may also enter findings and orders as
14 described in ~~section~~ SECTIONS 14-10-123 (1.5) and ~~section 15-14-204(2.5)~~
15 AND 15-14.7-208;

16 **SECTION 31.** In Colorado Revised Statutes, 19-3-205, **amend** (1)
17 introductory portion and (1)(a) as follows:

18 **19-3-205. Continuing jurisdiction.** (1) Except as otherwise
19 provided in this article 3, the jurisdiction of the court over any child or
20 youth adjudicated as neglected or dependent ~~shall continue~~ CONTINUES
21 until the child or youth becomes eighteen and one-half years of age, unless
22 earlier terminated by court order; except that:

23 (a) If a determination is pending or the youth has been determined
24 to be ~~an incapacitated person pursuant to section 15-14-102~~ A MINOR
25 SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION 15-14.7-201 OR A
26 MINOR SUBJECT TO CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401,
27 then jurisdiction continues until either the youth has made a complete

1 transition into adult disability services and it is in the youth's best interests
2 for the juvenile court to terminate jurisdiction or the youth reaches
3 twenty-one years of age or such greater age of foster care eligibility as
4 required by federal law, whichever comes first;

5 **SECTION 32.** In Colorado Revised Statutes, **amend** 19-3-704 as
6 follows:

7 **19-3-704. Youth with disabilities - minors subject to**
8 **guardianship or conservatorship.** (1) A party may request the court to
9 determine whether a youth is ~~an incapacitated person, as defined in section~~
10 ~~15-14-102~~ A MINOR SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION
11 15-14.7-201 OR A MINOR SUBJECT TO CONSERVATORSHIP PURSUANT TO
12 SECTION 15-14.7-401. The motion must be filed with the court prior to the
13 youth's eighteenth birthday.

14 (2) If there has been a determination, or if a determination is
15 pending, that a youth is ~~an incapacitated person, as defined in section~~
16 ~~15-14-102~~ A MINOR SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION
17 15-14.7-201 OR A MINOR SUBJECT TO CONSERVATORSHIP PURSUANT TO
18 SECTION 15-14.7-401, then jurisdiction continues as provided in section
19 19-3-205.

20 **SECTION 33.** In Colorado Revised Statutes, 19-5-105.5, **amend**
21 (5)(b) as follows:

22 **19-5-105.5. Termination of parent-child legal relationship**
23 **upon a finding that the child was conceived as a result of sexual**
24 **assault - legislative declaration - definitions.** (5) (b) The court ~~will~~
25 SHALL work to ensure that a petitioner or a respondent who has a disability
26 has equal access to participate in the proceeding. If the petitioner or
27 respondent has a disability, ~~he or she~~ THE PETITIONER OR RESPONDENT has

1 the right to request reasonable accommodations in order to participate in
2 the proceeding; except that the disability of the petitioner, the respondent,
3 or the child must not be the cause for the unnecessary delay of the process.
4 The court shall presume that a petitioner or a respondent with a disability
5 is legally competent and able to understand and participate in the
6 proceeding unless the petitioner or respondent is determined to be ~~an~~
7 ~~incapacitated person, as defined in section 15-14-102 (5), C.R.S.~~ A
8 PERSON SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION 15-14.7-301 OR
9 A PERSON SUBJECT TO CONSERVATORSHIP PURSUANT TO SECTION
10 15-14.7-401.

11 **SECTION 34.** In Colorado Revised Statutes, 19-5-105.7, **amend**
12 (5)(b) as follows:

13 **19-5-105.7. Termination of parent-child legal relationship in**
14 **a case of an allegation that a child was conceived as a result of sexual**
15 **assault but in which no conviction occurred - legislative declaration**
16 **- definitions.** (5) (b) The court ~~will~~ SHALL work to ensure that a petitioner
17 or a respondent who has a disability has equal access to participate in the
18 proceeding. If the petitioner or respondent has a disability, ~~he or she~~ THE
19 PETITIONER OR RESPONDENT has the right to request reasonable
20 accommodations in order to participate in the proceeding; except that the
21 disability of the petitioner, the respondent, or the child must not be the
22 cause for the unnecessary delay of the process. The court shall presume
23 that a petitioner or a respondent with a disability is legally competent and
24 able to understand and participate in the proceeding unless the petitioner
25 or respondent is determined to be ~~an incapacitated person, as defined in~~
26 ~~section 15-14-102 (5), C.R.S.~~ A PERSON SUBJECT TO GUARDIANSHIP
27 PURSUANT TO SECTION 15-14.7-301 OR A PERSON SUBJECT TO

1 CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401.

2 **SECTION 35.** In Colorado Revised Statutes, 22-31-129, **amend**
3 (1) introductory portion and (1)(g) as follows:

4 **22-31-129. Vacancies.** (1) A school director office ~~shall be~~ IS
5 deemed to be vacant upon the occurrence of any one of the following
6 events prior to the expiration of the term of office:

7 (g) If a court of competent jurisdiction determines that the person
8 duly elected or appointed is insane or otherwise mentally incompetent, but
9 only after the right to appeal has been waived or otherwise exhausted, and
10 a court enters, pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3,
11 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or ~~section 27-65-109 (4)~~ SECTION
12 27-65-110 (4) or 27-65-127, ~~C.R.S.~~, an order specifically finding that the
13 insanity or mental incompetency is of such a degree that the person is
14 incapable of serving as a school director;

15 **SECTION 36.** In Colorado Revised Statutes, 22-60.5-107, **amend**
16 (2)(a) as follows:

17 **22-60.5-107. Grounds for denying, annulling, suspending, or**
18 **revoking license, certificate, endorsement, or authorization -**
19 **definitions.** (2) Any license, certificate, endorsement, or authorization
20 may be denied, annulled, suspended, or revoked in the manner prescribed
21 in section 22-60.5-108, notwithstanding the provisions of subsection (1)
22 of this section:

23 (a) When the holder has been determined to be mentally
24 incompetent by a court of competent jurisdiction and a court has entered,
25 pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
26 ARTICLE 14.7 OF TITLE 15 or ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4)
27 or 27-65-127, ~~C.R.S.~~, an order specifically finding that the mental

1 incompetency is of such a degree that the holder is incapable of continuing
2 to perform ~~his or her~~ THE HOLDER'S job; except that the license, certificate,
3 endorsement, or authorization held by a person who has been determined
4 to be mentally incompetent and for whom such an order has been entered
5 ~~shall~~ MUST be revoked or suspended by operation of law without a
6 hearing, notwithstanding the provisions of section 22-60.5-108;

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8 **SECTION 37.** In Colorado Revised Statutes, 26-3.1-104, **amend**
9 (2) as follows:

10 **26-3.1-104. Provision of protective services for at-risk adults**
11 **- consent - nonconsent - least restrictive intervention.** (2) If a county
12 director or ~~his or her~~ THE COUNTY DIRECTOR'S designee determines that an
13 at-risk adult is being or has been mistreated or self-neglected, or is at risk
14 thereof, and if the at-risk adult appears to lack capacity to make decisions
15 and does not consent to the receipt of protective services, the county
16 director is urged, if no other appropriate person is able or willing, to
17 petition the court, pursuant to ~~part 3 of article 14 of title 15, C.R.S. PART~~
18 ~~3 OF ARTICLE 14.7 OF TITLE 15,~~ for an order authorizing the provision of
19 specific protective services and for the appointment of a guardian, for an
20 order authorizing the appointment of a conservator pursuant to ~~part 4 of~~
21 ~~article 14 of title 15, C.R.S. PART 4 OF ARTICLE 14.7 OF TITLE 15, FOR AN~~
22 ORDER AUTHORIZING A PROTECTIVE ARRANGEMENT PURSUANT TO PART 5
23 OF ARTICLE 14.7 OF TITLE 15, or for a court order providing for any
24 combination of these actions.

25 **SECTION 38.** In Colorado Revised Statutes, 26-3.1-111, **amend**
26 (8.5)(e) as follows:

27 **26-3.1-111. Access to CAPS - employment checks -**

1 **conservatorship and guardianship checks - confidentiality - fees -**
2 **rules - legislative declaration - definitions.** (8.5) (e) Nothing in this
3 subsection (8.5) delays or precludes the court's appointment of an
4 emergency guardian or conservator of an at-risk adult pursuant to ~~section~~
5 ~~15-14-312 or 15-14-412~~ SECTION 15-14.7-312, 15-14.7-413, OR
6 15-14.7-503, regardless of the timing of the state department's notification
7 of the CAPS check results.

8 **SECTION 39.** In Colorado Revised Statutes, **amend** 26-6-702 as
9 follows:

10 **26-6-702. Definitions.** As used in this part 7, unless the context
11 otherwise requires:

12 (1) "Approved temporary caregiver" means a person approved by
13 a temporary care assistance program pursuant to this part 7 who is
14 delegated temporary care responsibility of a minor by a parent or guardian
15 through a power of attorney. as described in section 15-14-105.

16 (2) "Temporary care assistance program" means a program
17 operated by a child placement agency that assists a parent or guardian with
18 recruiting and identifying an appropriate and safe approved temporary
19 caregiver to whom the parent or guardian can choose to delegate
20 temporary care responsibility of a minor through a power of attorney.
21 pursuant to section 15-14-105.

22 **SECTION 40.** In Colorado Revised Statutes, 26-6-704, **amend**
23 (1)(a)(I) as follows:

24 **26-6-704. Temporary care assistance program - limitations on**
25 **duration of delegation - approved temporary caregiver.** (1) (a) (I) A
26 parent or guardian of a minor may use the assistance of a temporary care
27 assistance program to identify an approved temporary caregiver to

1 delegate any power regarding care, custody, or property of the minor,
2 except the power to consent to marriage or adoption, by a power of
3 attorney. as described in section 15-14-105.

4 **SECTION 41.** In Colorado Revised Statutes, 26-6-905, **amend**
5 (10) as follows:

6 **26-6-905. Licenses - out-of-state notices and consent -**
7 **demonstration pilot program - report - rules - definition.** (10) The
8 state department shall not issue a license to operate a residential or day
9 treatment child care facility, foster care home, or child placement agency
10 if the person applying for the license or an affiliate of the applicant, a
11 person employed by the applicant, or a person who resides with the
12 applicant at the facility has been determined to be insane or mentally
13 incompetent by a court of competent jurisdiction and, if the court enters,
14 pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
15 ARTICLE 14.7 OF TITLE 15, or section 27-65-110 (4) or 27-65-127, an order
16 specifically finding that the mental incompetency or insanity is of such a
17 degree that the applicant is incapable of operating a residential or day
18 treatment child care facility, foster care home, or child placement agency.
19 The record of ~~such~~ THE determination and entry of ~~such~~ THE order ~~being~~
20 ARE conclusive evidence ~~thereof~~ OF THE DETERMINATION.

21 **SECTION 42.** In Colorado Revised Statutes, 26-6-914, **amend**
22 (2)(c) and (6)(a)(I)(C) as follows:

23 **26-6-914. Denial of license - suspension - revocation -**
24 **probation - refusal to renew license - fines - definitions.** (2) The
25 department may deny an application, or suspend, revoke, or make
26 probationary the license, of any facility or agency regulated and licensed
27 pursuant to this part 9 or assess a fine against the licensee pursuant to

1 section 26-6-921 if the licensee, an affiliate of the licensee, a person
2 employed by the licensee, or a person who resides with the licensee at the
3 facility or agency:

4 (c) Is determined to be insane or mentally incompetent by a court
5 of competent jurisdiction; ~~and~~, a court has entered, pursuant to ~~part 3 or~~
6 ~~part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15,
7 or section 27-65-110 (4) or 27-65-127, an order specifically finding that
8 the mental incompetency or insanity is of such a degree that the licensee
9 is incapable of operating a facility or agency; AND the record of ~~such~~ THE
10 determination and entry of ~~such~~ THE order ~~being~~ ARE conclusive evidence
11 ~~thereof~~ OF THE DETERMINATION; or

12 (6) (a) (I) The state department shall deny an application for a
13 license under the circumstances described in section 26-6-905 (8). The
14 state department shall revoke or suspend a license previously issued if:

15 (C) The licensee, an affiliate of the licensee, a person employed by
16 the licensee, or a person who resides with the licensee at the facility or
17 agency has been determined to be insane or mentally incompetent by a
18 court of competent jurisdiction and a court has entered, pursuant to ~~part~~
19 ~~3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE
20 15, or section 27-65-110 (4) or 27-65-127, an order specifically finding
21 that the mental incompetency or insanity is of such a degree that the
22 licensee is incapable of operating a facility or agency. The record of ~~such~~
23 THE determination and entry of ~~such~~ THE order ~~being~~ ARE conclusive
24 evidence ~~thereof~~ OF THE DETERMINATION.

25 **SECTION 43.** In Colorado Revised Statutes, 26.5-4-112, **amend**
26 (2) as follows:

27 **26.5-4-112. Exemptions - requirements.** (2) As a prerequisite to

1 entering into a valid CCCAP contract with a county office or to being a
2 party to any other payment agreement for the provision of care for a child
3 whose care is funded in whole or in part with money received on the
4 child's behalf from publicly funded state child care assistance programs,
5 an exempt family child care home provider shall sign an attestation that
6 affirms the provider, and any qualified adult residing in the exempt family
7 child care home, has not been determined to be insane or mentally
8 incompetent by a court of competent jurisdiction and a court has not
9 entered, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
10 ARTICLE 14.7 OF TITLE 15, or section 27-65-110 (4) or 27-65-127, an order
11 specifically finding that the mental incompetency or insanity is of such a
12 degree that the provider cannot safely operate an exempt family child care
13 home.

14 **SECTION 44.** In Colorado Revised Statutes, 26.5-5-309, **amend**
15 (5) as follows:

16 **26.5-5-309. Licenses - rules - definition.** (5) The department
17 shall not issue a license to operate an agency or facility defined in this part
18 3 if the person applying for the license or an affiliate of the applicant, a
19 person employed by the applicant, or a person who resides with the
20 applicant at the facility has been determined to be insane or mentally
21 incompetent by a court of competent jurisdiction and a court has entered,
22 pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
23 ARTICLE 14.7 OF TITLE 15, or section 27-65-110 (4) or 27-65-127, an order
24 specifically finding that the mental incompetency or insanity is of such a
25 degree that the applicant is incapable of operating a family child care
26 home or child care center. The record of the determination and entry of the
27 order are conclusive evidence of the determination.

1 **SECTION 45.** In Colorado Revised Statutes, 26.5-5-317, **amend**
2 (2)(c), (5)(a)(I) introductory portion, and (5)(a)(I)(C) as follows:

3 **26.5-5-317. Denial of license - suspension - revocation -**
4 **probation - refusal to renew license - fines.** (2) The department may
5 deny an application, or suspend, revoke, or make probationary the license
6 of any facility regulated and licensed pursuant to this part 3 or assess a
7 fine against the licensee pursuant to section 26.5-5-323 if the licensee, an
8 affiliate of the licensee, a person employed by the licensee, or a person
9 who resides with the licensee at the facility:

10 (c) Is determined to be insane or mentally incompetent by a court
11 of competent jurisdiction; ~~and, if a court enters, pursuant to part 3 or part~~
12 ~~4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15, or
13 section 27-65-110 (4) or 27-65-127, an order specifically finding that the
14 mental incompetency or insanity is of such a degree that the licensee is
15 incapable of operating a family child care home or child care center; AND
16 the record of ~~such~~ THE determination and entry of ~~such~~ THE order ~~being~~
17 ARE conclusive evidence ~~thereof~~ OF THE DETERMINATION; or

18 (5) (a) (I) The department shall deny an application for a license
19 under the circumstances described in section 26.5-5-309 (4). The
20 department ~~shall~~ MUST revoke or suspend a license previously issued if:

21 (C) The licensee, an affiliate of the licensee, a person employed by
22 the licensee, or a person who resides with the licensee at the facility has
23 been determined to be insane or mentally incompetent by a court of
24 competent jurisdiction; ~~and~~ the court has entered pursuant to ~~part 3 or part~~
25 ~~4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15, or
26 ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4) or 27-65-127, an order
27 specifically finding that the mental incompetency or insanity is of such a

1 degree that the licensee is incapable of operating a family child care home
2 or child care center; AND the record of the determination and entry of the
3 order ~~being~~ ARE conclusive evidence ~~thereof~~ OF THE DETERMINATION.

4 **SECTION 46.** In Colorado Revised Statutes, 26.5-5-326, **amend**
5 (4)(b) as follows:

6 **26.5-5-326. Exempt family child care home providers -**
7 **fingerprint-based criminal history record check - child care assistance**
8 **program money - temporary care - rules - definitions.** (4) The
9 department or a county department shall not issue or renew a contract to
10 provide money pursuant to the Colorado child care assistance program
11 pursuant to part 1 of article 4 of this title 26.5 to a qualified provider if the
12 qualified provider or a qualified adult:

13 (b) Has been determined to be insane or mentally incompetent by
14 a court of competent jurisdiction and a court has entered, pursuant to ~~part~~
15 ~~3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15,
16 or section 27-65-110 (4) or 27-65-127, an order specifically finding that
17 the mental incompetency or insanity is of such a degree that the qualified
18 provider cannot safely operate a child care home. The record of the
19 determination and entry of the order are conclusive evidence ~~thereof~~ OF
20 THE DETERMINATION. A qualified provider shall sign an attestation
21 affirming the lack of such a finding prior to entering into or renewing a
22 contract for money under the Colorado child care assistance program,
23 pursuant to section 26.5-4-112 (2).

24 **SECTION 47.** In Colorado Revised Statutes, 27-65-103, **amend**
25 (1) as follows:

26 **27-65-103. Voluntary applications for mental health services.**
27 (1) Nothing in this article 65 in any way limits the right of any person to

1 make a voluntary application at any time to any public or private agency
2 or professional person for mental health services, either by direct
3 application in person or by referral from any other public or private
4 agency or professional person. Subject to ~~section 15-14-316 (4), a ward,~~
5 ~~as defined in section 15-14-102 (15)~~ SECTION 15-14.7-315, AN INDIVIDUAL
6 WHO IS APPOINTED A GUARDIAN may be admitted to a hospital or
7 institutional care and treatment for a mental health disorder with the
8 guardian's consent for as long as the ~~ward~~ INDIVIDUAL agrees to ~~such~~ THE
9 care and treatment. The guardian shall immediately notify in writing the
10 court that appointed the guardian of the admission.

11 **SECTION 48.** In Colorado Revised Statutes, 27-65-127, **amend**
12 (1)(a) as follows:

13 **27-65-127. Imposition of legal disability - deprivation of legal**
14 **right - restoration - repeal.** (1) (a) When an interested person wishes to
15 obtain a determination as to the imposition of a legal disability or the
16 deprivation of a legal right for a person who has a mental health disorder
17 and who is a danger to the person's self or others, is gravely disabled, or
18 is insane, as defined in section 16-8-101, and who is not then subject to
19 proceedings pursuant to this article 65 or ~~part 3 or part 4 of article 14 of~~
20 ~~title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15, the interested person
21 may petition the court for a specific finding as to the legal disability or
22 deprivation of a legal right. Actions commenced pursuant to this
23 subsection (1) may include but are not limited to actions to determine
24 contractual rights and rights with regard to the operation of motor
25 vehicles.

26 **SECTION 49.** In Colorado Revised Statutes, 30-10-105, **amend**
27 (4)(a) as follows:

1 **30-10-105. When office becomes vacant.** (4) (a) Any county
2 officer shall be declared incapacitated when there is a judicial
3 determination that ~~he~~ THE COUNTY OFFICER is unable to routinely and fully
4 carry out the responsibilities of ~~his~~ THE office by virtue of mental or
5 physical illness or disability and ~~he~~ THE COUNTY OFFICER has been ~~so~~
6 unable TO DO SO for a continuous period of not less than six months
7 immediately preceding the finding of incapacity. The quantum of proof
8 required, the procedures to be followed, and the rights reserved to the
9 subject of any determination of incapacity ~~under~~ PURSUANT TO this
10 subsection (4) ~~shall be~~ ARE those specified for the appointment of
11 guardians in ~~part 3 of article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7
12 OF TITLE 15 to the extent applicable.

13

14 SECTION 50. In Colorado Revised Statutes, 42-2-116, **amend** (5)
15 as follows:

16 **42-2-116. Restricted license.** (5) The department is authorized
17 after examination to issue a restricted license to a person with a behavioral
18 or mental health disorder or an intellectual and developmental disability,
19 containing such restrictions as may be imposed upon ~~said~~ THE person by
20 a court pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5
21 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or 27-65-127.

22 SECTION 51. In Colorado Revised Statutes, 42-2-125, **amend**
23 (1)(h) as follows:

24 **42-2-125. Mandatory revocation of license and permit.** (1) The
25 department shall immediately revoke the license or permit of any driver
26 or minor driver upon receiving a record showing that the driver has:

27 (h) Been determined to be mentally incompetent by a court of

1 competent jurisdiction and for whom a court has entered, pursuant to ~~part~~
2 ~~3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE
3 15 or section 27-65-110 (4) or 27-65-127, an order specifically finding
4 that the mental incompetency is of such a degree that the person is
5 incapable of safely operating a motor vehicle;

6 **SECTION 52.** In Colorado Revised Statutes, repeal parts 1, 2, and
7 3 of article 14 of title 15, 15-14-401, 15-14-402, 15-14-403, 15-14-404,
8 15-14-405, 15-14-406, 15-14-406.5, 15-14-407, 15-14-408, 15-14-409,
9 15-14-410, 15-14-411, 15-14-412, 15-14-413, 15-14-414, 15-14-415,
10 15-14-416, 15-14-417, 15-14-418, 15-14-419, 15-14-420, 15-14-421,
11 15-14-422, 15-14-423, 15-14-424, 15-14-425, 15-14-425.5, 15-14-426,
12 15-14-427, 15-14-428, 15-14-429, 15-14-430, 15-14-431, 15-14-432,
13 15-14-433, and 15-14-434.

14 **SECTION 53.** Act subject to petition - effective date. This act
15 takes effect July 1, 2026; except that, if a referendum petition is filed
16 pursuant to section 1 (3) of article V of the state constitution against this
17 act or an item, section, or part of this act within the ninety-day period after
18 final adjournment of the general assembly, then the act, item, section, or
19 part will not take effect unless approved by the people at the general
20 election to be held in November 2024 and, in such case, will take effect
21 July 1, 2026, or on the date of the official declaration of the vote thereon
22 by the governor, whichever is later.