

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0435.09 Chelsea Princell x4335

SENATE BILL 24-136

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

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.

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 THE GUARDIAN ALL POWERS AVAILABLE PURSUANT TO THIS ARTICLE 14.7.

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

6 (10) "GUARDIAN AD LITEM" MEANS A PERSON APPOINTED TO
7 INFORM THE COURT ABOUT, AND TO REPRESENT, THE NEEDS AND BEST
8 INTEREST OF AN INDIVIDUAL.

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

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

15 (13) "LESS RESTRICTIVE ALTERNATIVE" MEANS AN APPROACH TO
16 MEETING AN INDIVIDUAL'S NEEDS WHICH RESTRICTS FEWER RIGHTS OF THE
17 INDIVIDUAL THAN WOULD THE APPOINTMENT OF A GUARDIAN OR
18 CONSERVATOR. THE TERM INCLUDES SUPPORTED DECISION-MAKING,
19 APPROPRIATE TECHNOLOGICAL ASSISTANCE, APPOINTMENT OF A
20 REPRESENTATIVE PAYEE, AND APPOINTMENT OF AN AGENT BY THE
21 INDIVIDUAL, INCLUDING APPOINTMENT UNDER A POWER OF ATTORNEY FOR
22 HEALTH CARE OR POWER OF ATTORNEY FOR FINANCES.

23 (14) "LETTERS OF OFFICE" MEANS A RECORD ISSUED BY A COURT
24 CERTIFYING A GUARDIAN'S OR CONSERVATOR'S AUTHORITY TO ACT.

25 (15) "LIMITED CONSERVATORSHIP" MEANS A CONSERVATORSHIP
26 THAT GRANTS THE CONSERVATOR LESS THAN ALL POWERS AVAILABLE
27 PURSUANT TO THIS ARTICLE 14.7, GRANTS POWERS OVER ONLY CERTAIN

1 PROPERTY, OR OTHERWISE RESTRICTS THE POWERS OF THE CONSERVATOR.

2 (16) "LIMITED GUARDIANSHIP" MEANS A GUARDIANSHIP THAT
3 GRANTS THE GUARDIAN LESS THAN ALL POWERS AVAILABLE PURSUANT TO
4 THIS ARTICLE 14.7 OR OTHERWISE RESTRICTS THE POWERS OF THE
5 GUARDIAN.

6 (17) "MINOR" MEANS AN UNEMANCIPATED INDIVIDUAL UNDER
7 EIGHTEEN YEARS OF AGE.

8 (18) "MINOR SUBJECT TO CONSERVATORSHIP" MEANS A MINOR FOR
9 WHOM A CONSERVATOR HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE
10 14.7.

11 (19) "MINOR SUBJECT TO GUARDIANSHIP" MEANS A MINOR FOR
12 WHOM A GUARDIAN HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE
13 14.7.

14 (20) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE
15 NOT BEEN TERMINATED.

16 (21) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR
17 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR
18 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER
19 LEGAL ENTITY.

20 (22) "PROPERTY" INCLUDES TANGIBLE AND INTANGIBLE PROPERTY.

21 (23) "PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP"
22 MEANS A COURT ORDER ENTERED PURSUANT TO SECTION 15-14.7-503.

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

25 (25) "PROTECTIVE ARRANGEMENT UNDER PART 5 OF THIS ARTICLE
26 14.7" MEANS A COURT ORDER ENTERED PURSUANT TO SECTION
27 15-14.7-502 OR 15-14.7-503.

1 (26) "RECORD", USED AS A NOUN, MEANS INFORMATION THAT IS
2 INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC
3 OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

4 (27) "RESPONDENT" MEANS AN INDIVIDUAL FOR WHOM
5 APPOINTMENT OF A GUARDIAN OR CONSERVATOR OR A PROTECTIVE
6 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR CONSERVATORSHIP IS
7 SOUGHT.

8 (28) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR
9 ADOPT A RECORD:

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

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

13 (29) "STANDBY GUARDIAN" MEANS A PERSON APPOINTED BY THE
14 COURT PURSUANT TO SECTION 15-14.7-207.

15 (30) "STATE" MEANS A STATE OF THE UNITED STATES, THE
16 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
17 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
18 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY
19 RECOGNIZED INDIAN TRIBE.

20 (31) "SUPPORTED DECISION MAKING" MEANS ASSISTANCE FROM
21 ONE OR MORE PERSONS OF AN INDIVIDUAL'S CHOOSING IN UNDERSTANDING
22 THE NATURE AND CONSEQUENCES OF POTENTIAL PERSONAL AND
23 FINANCIAL DECISIONS, WHICH ENABLES THE INDIVIDUAL TO MAKE THE
24 DECISIONS, AND IN COMMUNICATING A DECISION ONCE MADE IF
25 CONSISTENT WITH THE INDIVIDUAL'S WISHES.

26 **15-14.7-103. Supplemental principles of law and equity**
27 **applicable.** UNLESS DISPLACED BY A PARTICULAR PROVISION OF THIS

1 ARTICLE 14.7, THE PRINCIPLES OF LAW AND EQUITY SUPPLEMENT ITS
2 PROVISIONS.

3 **15-14.7-104. Subject matter jurisdiction.** (1) EXCEPT TO THE
4 EXTENT JURISDICTION IS PRECLUDED BY THE "UNIFORM CHILD-CUSTODY
5 JURISDICTION AND ENFORCEMENT ACT" PURSUANT TO ARTICLE 13 OF
6 TITLE 14, THE COURT HAS JURISDICTION OVER A GUARDIANSHIP FOR A
7 MINOR DOMICILED OR PRESENT IN THIS STATE. THE COURT HAS
8 JURISDICTION OVER A CONSERVATORSHIP OR PROTECTIVE ARRANGEMENT
9 INSTEAD OF CONSERVATORSHIP FOR A MINOR DOMICILED OR HAVING
10 PROPERTY IN THIS STATE.

11 (2) THE COURT HAS JURISDICTION OVER A GUARDIANSHIP,
12 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT PURSUANT TO PART
13 5 OF THIS ARTICLE 14.7 FOR AN ADULT AS PROVIDED IN THE "UNIFORM
14 ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION
15 ACT" PURSUANT TO ARTICLE 14.5 OF TITLE 15.

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

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

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

26 (c) NONEXCLUSIVE JURISDICTION TO DETERMINE THE VALIDITY OF
27 A CLAIM AGAINST THE RESPONDENT OR PROPERTY OF THE RESPONDENT OR

1 A QUESTION OF TITLE CONCERNING THE PROPERTY; AND

2 (d) IF A GUARDIAN OR CONSERVATOR IS APPOINTED, EXCLUSIVE
3 JURISDICTION OVER ISSUES RELATED TO ADMINISTRATION OF THE
4 GUARDIANSHIP OR CONSERVATORSHIP.

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

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

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

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

27 (4) A GUARDIAN OR CONSERVATOR APPOINTED IN ANOTHER STATE

1 OR COUNTRY MAY PETITION THE COURT FOR APPOINTMENT AS A GUARDIAN
2 OR CONSERVATOR IN THIS STATE FOR THE SAME INDIVIDUAL IF
3 JURISDICTION IN THIS STATE IS OR WILL BE ESTABLISHED. THE
4 APPOINTMENT MAY BE MADE ON PROOF OF APPOINTMENT IN THE OTHER
5 STATE OR FOREIGN COUNTRY AND PRESENTATION OF A CERTIFIED COPY OF
6 THE PART OF THE COURT RECORD IN THE OTHER STATE OR COUNTRY
7 SPECIFIED BY THE COURT IN THIS STATE.

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

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

23 **15-14.7-106. Venue.** (1) VENUE FOR A GUARDIANSHIP
24 PROCEEDING FOR A MINOR IS IN:

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

27 (b) THE COUNTY IN WHICH ANOTHER PROCEEDING CONCERNING

1 THE CUSTODY OR PARENTAL RIGHTS OF THE MINOR IS PENDING.

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

4 (a) THE COUNTY IN WHICH THE RESPONDENT RESIDES;

5 (b) IF THE RESPONDENT HAS BEEN ADMITTED TO AN INSTITUTION
6 BY COURT ORDER, THE COUNTY IN WHICH THE COURT IS LOCATED; OR

7 (c) IF THE PROCEEDING IS FOR APPOINTMENT OF AN EMERGENCY
8 GUARDIAN FOR AN ADULT, THE COUNTY IN WHICH THE RESPONDENT IS
9 PRESENT.

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

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

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

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

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

27 (2) IF PROCEEDINGS FOR A GUARDIANSHIP, CONSERVATORSHIP, OR

1 PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF THIS ARTICLE 14.7
2 FOR THE SAME INDIVIDUAL ARE COMMENCED OR PENDING IN THE SAME
3 COURT, THE PROCEEDINGS MAY BE CONSOLIDATED.

4 **15-14.7-108. Letters of office.** (1) THE COURT SHALL ISSUE
5 LETTERS OF OFFICE TO A GUARDIAN ON FILING BY THE GUARDIAN OF AN
6 ACCEPTANCE OF APPOINTMENT.

7 (2) THE COURT SHALL ISSUE LETTERS OF OFFICE TO A
8 CONSERVATOR ON FILING BY THE CONSERVATOR OF AN ACCEPTANCE OF
9 APPOINTMENT AND FILING OF ANY REQUIRED BOND OR COMPLIANCE WITH
10 ANY OTHER ASSET PROTECTION ARRANGEMENT REQUIRED BY THE COURT.

11 (3) LIMITATIONS ON THE POWERS OF A GUARDIAN OR
12 CONSERVATOR OR ON THE PROPERTY SUBJECT TO CONSERVATORSHIP MUST
13 BE STATED IN THE LETTERS OF OFFICE.

14 (4) AT ANY TIME, THE COURT MAY LIMIT THE POWERS CONFERRED
15 ON A GUARDIAN OR CONSERVATOR. THE COURT SHALL ISSUE NEW LETTERS
16 OF OFFICE TO REFLECT THE LIMITATION. THE COURT SHALL GIVE NOTICE
17 OF THE LIMITATION TO THE GUARDIAN OR CONSERVATOR, INDIVIDUAL
18 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, EACH PARENT OF A
19 MINOR SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, AND ANY OTHER
20 PERSON THE COURT DETERMINES.

21 **15-14.7-109. Effect of acceptance of appointment.** ON
22 ACCEPTANCE OF APPOINTMENT, A GUARDIAN OR CONSERVATOR SUBMITS
23 TO PERSONAL JURISDICTION OF THE COURT IN THIS STATE IN ANY
24 PROCEEDING RELATING TO THE GUARDIANSHIP OR CONSERVATORSHIP.

25 **15-14.7-110. Co-guardian and co-conservator.** (1) AT ANY
26 TIME, THE COURT MAY APPOINT A CO-GUARDIAN OR CO-CONSERVATOR TO
27 SERVE IMMEDIATELY OR WHEN A DESIGNATED EVENT OCCURS.

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

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

6 (a) THE EVENT OCCURS; AND

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

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

12 **15-14.7-111. Judicial appointment of successor guardian or**
13 **successor conservator.** (1) AT ANY TIME, THE COURT MAY APPOINT A
14 SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR TO SERVE
15 IMMEDIATELY OR WHEN A DESIGNATED EVENT OCCURS.

16 (2) A PERSON ENTITLED PURSUANT TO SECTION 15-14.7-202 OR
17 15-14.7-302 TO PETITION THE COURT TO APPOINT A GUARDIAN MAY
18 PETITION THE COURT TO APPOINT A SUCCESSOR GUARDIAN. A PERSON
19 ENTITLED PURSUANT TO SECTION 15-14.7-402 TO PETITION THE COURT TO
20 APPOINT A CONSERVATOR MAY PETITION THE COURT TO APPOINT A
21 SUCCESSOR CONSERVATOR.

22 (3) A SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR
23 APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS MAY ACT AS
24 GUARDIAN OR CONSERVATOR WHEN:

25 (a) THE EVENT OCCURS; AND

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

27 (4) A SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR HAS

1 THE PREDECESSOR'S POWERS UNLESS OTHERWISE PROVIDED BY THE
2 COURT.

3 **15-14.7-112. Effect of death, removal, or resignation of**
4 **guardian or conservator.** (1) APPOINTMENT OF A GUARDIAN OR
5 CONSERVATOR TERMINATES ON THE DEATH OR REMOVAL OF THE
6 GUARDIAN OR CONSERVATOR, OR WHEN THE COURT APPROVES A
7 RESIGNATION OF THE GUARDIAN OR CONSERVATOR PURSUANT TO
8 SUBSECTION (2) OF THIS SECTION.

9 (2) A GUARDIAN OR CONSERVATOR MUST PETITION THE COURT TO
10 RESIGN. THE PETITION MAY INCLUDE A REQUEST THAT THE COURT APPOINT
11 A SUCCESSOR. RESIGNATION OF A GUARDIAN OR CONSERVATOR IS
12 EFFECTIVE ON THE DATE THE RESIGNATION IS APPROVED BY THE COURT.

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

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

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

19 **15-14.7-113. Notice of hearing generally.** (1) EXCEPT AS
20 OTHERWISE PROVIDED IN SECTIONS 15-14.7-203, 15-14.7-207,
21 15-14.7-303, 15-14.7-403, AND 15-14.7-505, IF NOTICE OF A HEARING
22 PURSUANT TO THIS ARTICLE 14.7 IS REQUIRED, THE MOVANT MUST GIVE
23 NOTICE OF THE DATE, TIME, AND PLACE OF THE HEARING TO THE PERSON
24 TO BE NOTIFIED UNLESS OTHERWISE ORDERED BY THE COURT FOR GOOD
25 CAUSE. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 14.7, NOTICE
26 MUST BE PROVIDED IN COMPLIANCE WITH COLORADO RULES OF PROBATE
27 PROCEDURE AT LEAST FOURTEEN DAYS BEFORE THE HEARING.

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

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

8 **15-14.7-114. Waiver of notice.** (1) EXCEPT AS OTHERWISE
9 PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PERSON MAY WAIVE
10 NOTICE PURSUANT TO THIS ARTICLE 14.7 IN A RECORD SIGNED BY THE
11 PERSON OR PERSON'S ATTORNEY AND FILED IN THE PROCEEDING.

12 (2) A RESPONDENT, INDIVIDUAL SUBJECT TO GUARDIANSHIP,
13 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, OR INDIVIDUAL SUBJECT TO
14 A PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF THIS ARTICLE 14.7
15 MAY NOT WAIVE NOTICE PURSUANT TO THIS ARTICLE 14.7.

16 **15-14.7-115. Guardian ad litem.** AT ANY TIME, THE COURT MAY
17 APPOINT A GUARDIAN AD LITEM FOR AN INDIVIDUAL IF THE COURT
18 DETERMINES THE INDIVIDUAL'S INTEREST OTHERWISE WOULD NOT BE
19 ADEQUATELY REPRESENTED. IF NO CONFLICT OF INTEREST EXISTS, A
20 GUARDIAN AD LITEM MAY BE APPOINTED TO REPRESENT MULTIPLE
21 INDIVIDUALS OR INTERESTS. THE GUARDIAN AD LITEM MAY NOT BE THE
22 SAME INDIVIDUAL AS THE ATTORNEY REPRESENTING THE RESPONDENT.
23 THE COURT SHALL STATE THE DUTIES OF THE GUARDIAN AD LITEM AND
24 THE REASONS FOR THE APPOINTMENT.

25 **15-14.7-116. Request for notice.** (1) A PERSON MAY FILE A
26 REQUEST FOR NOTICE WITH THE COURT PURSUANT TO THIS ARTICLE 14.7
27 IF THE PERSON IS:

1 (a) NOT OTHERWISE ENTITLED TO NOTICE; AND
2 (b) INTERESTED IN THE WELFARE OF A RESPONDENT, THE
3 INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, OR THE
4 INDIVIDUAL SUBJECT TO A PROTECTIVE ARRANGEMENT PURSUANT TO PART
5 OF THIS ARTICLE 14.7.

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

10 (3) IF THE COURT APPROVES A REQUEST PURSUANT TO SUBSECTION
11 (1) OF THIS SECTION, THE COURT MUST GIVE NOTICE OF THE APPROVAL TO
12 THE GUARDIAN OR CONSERVATOR, IF ONE HAS BEEN APPOINTED, OR THE
13 RESPONDENT IF NO GUARDIAN OR CONSERVATOR HAS BEEN APPOINTED.

14 **15-14.7-117. Disclosure of bankruptcy or criminal history.**

15 (1) BEFORE ACCEPTING APPOINTMENT AS A GUARDIAN OR CONSERVATOR,
16 A PERSON SHALL DISCLOSE TO THE COURT WHETHER THE PERSON:

17 (a) IS OR HAS BEEN A DEBTOR IN A BANKRUPTCY, INSOLVENCY, OR
18 RECEIVERSHIP PROCEEDING; OR

19 (b) HAS BEEN CONVICTED OF:

20 (I) A FELONY;

21 (II) A CRIME INVOLVING DISHONESTY, NEGLIGENCE, VIOLENCE, OR USE
22 OF PHYSICAL FORCE; OR

23 (III) OTHER CRIME RELEVANT TO THE FUNCTIONS THE INDIVIDUAL
24 WOULD ASSUME AS GUARDIAN OR CONSERVATOR.

25 (2) A GUARDIAN OR CONSERVATOR THAT ENGAGES OR
26 ANTICIPATES ENGAGING AN AGENT THE GUARDIAN OR CONSERVATOR
27 KNOWS HAS BEEN CONVICTED OF A FELONY, A CRIME INVOLVING

1 DISHONESTY, NEGLIGENCE, VIOLENCE, OR USE OF PHYSICAL FORCE, OR OTHER
2 CRIME RELEVANT TO THE FUNCTIONS THE AGENT IS BEING ENGAGED TO
3 PERFORM PROMPTLY MUST DISCLOSE THAT KNOWLEDGE TO THE COURT.

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

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

13 **15-14.7-119. Compensation and expenses - in general.**

14 (1) UNLESS OTHERWISE COMPENSATED OR REIMBURSED, AN ATTORNEY
15 FOR A RESPONDENT IN A PROCEEDING PURSUANT TO THIS ARTICLE 14.7 IS
16 ENTITLED TO REASONABLE COMPENSATION FOR SERVICES AND
17 REIMBURSEMENT OF REASONABLE EXPENSES FROM THE PROPERTY OF THE
18 RESPONDENT.

19 (2) UNLESS OTHERWISE COMPENSATED OR REIMBURSED, AN
20 ATTORNEY OR OTHER PERSON WHOSE SERVICES RESULTED IN AN ORDER
21 BENEFICIAL TO AN INDIVIDUAL SUBJECT TO GUARDIANSHIP OR
22 CONSERVATORSHIP OR FOR WHOM A PROTECTIVE ARRANGEMENT
23 PURSUANT TO PART 5 OF THIS ARTICLE 14.7 WAS ORDERED IS ENTITLED TO
24 REASONABLE COMPENSATION FOR SERVICES AND REIMBURSEMENT OF
25 REASONABLE EXPENSES FROM THE PROPERTY OF THE INDIVIDUAL.

26 (3) THE COURT MUST APPROVE COMPENSATION AND EXPENSES
27 PAYABLE PURSUANT TO THIS SECTION BEFORE PAYMENT. APPROVAL IS NOT

1 REQUIRED BEFORE A SERVICE IS PROVIDED OR AN EXPENSE IS INCURRED.

2 (4) IF THE COURT DISMISSES A PETITION PURSUANT TO THIS
3 ARTICLE 14.7 AND DETERMINES THE PETITION WAS FILED IN BAD FAITH,
4 THE COURT MAY ASSESS THE COST OF ANY COURT-ORDERED PROFESSIONAL
5 EVALUATION OR VISITOR AGAINST THE PETITIONER.

6 **15-14.7-120. Compensation of guardian or conservator.**

7 (1) SUBJECT TO COURT APPROVAL, A GUARDIAN IS ENTITLED TO
8 REASONABLE COMPENSATION FOR SERVICES AS GUARDIAN AND TO
9 REIMBURSEMENT FOR ROOM, BOARD, CLOTHING, AND OTHER APPROPRIATE
10 EXPENSES ADVANCED FOR THE BENEFIT OF THE INDIVIDUAL SUBJECT TO
11 GUARDIANSHIP. IF A CONSERVATOR, OTHER THAN THE GUARDIAN OR A
12 PERSON AFFILIATED WITH THE GUARDIAN, IS APPOINTED FOR THE
13 INDIVIDUAL, REASONABLE COMPENSATION AND REIMBURSEMENT TO THE
14 GUARDIAN MAY BE APPROVED AND PAID BY THE CONSERVATOR WITHOUT
15 COURT APPROVAL.

16 (2) SUBJECT TO COURT APPROVAL, A CONSERVATOR IS ENTITLED
17 TO REASONABLE COMPENSATION FOR SERVICES AND REIMBURSEMENT FOR
18 APPROPRIATE EXPENSES FROM THE PROPERTY OF THE INDIVIDUAL SUBJECT
19 TO CONSERVATORSHIP.

20 (3) IN DETERMINING REASONABLE COMPENSATION FOR A
21 GUARDIAN OR CONSERVATOR, THE COURT, OR A CONSERVATOR IN
22 DETERMINING REASONABLE COMPENSATION FOR A GUARDIAN AS
23 PROVIDED IN SUBSECTION (1) OF THIS SECTION, SHALL CONSIDER:

- 24 (a) THE NECESSITY AND QUALITY OF THE SERVICES PROVIDED;
- 25 (b) THE EXPERIENCE, TRAINING, PROFESSIONAL STANDING, AND
26 SKILLS OF THE GUARDIAN OR CONSERVATOR;
- 27 (c) THE DIFFICULTY OF THE SERVICES PERFORMED, INCLUDING THE

1 DEGREE OF SKILL AND CARE REQUIRED;

2 (d) THE CONDITIONS AND CIRCUMSTANCES UNDER WHICH A
3 SERVICE WAS PERFORMED, INCLUDING WHETHER THE SERVICE WAS
4 PROVIDED OUTSIDE REGULAR BUSINESS HOURS OR UNDER DANGEROUS OR
5 EXTRAORDINARY CONDITIONS;

6 (e) THE EFFECT OF THE SERVICES ON THE INDIVIDUAL SUBJECT TO
7 GUARDIANSHIP OR CONSERVATORSHIP;

8 (f) THE EXTENT TO WHICH THE SERVICES PROVIDED WERE OR WERE
9 NOT CONSISTENT WITH THE GUARDIAN'S PLAN PURSUANT TO SECTION
10 15-14.7-316 OR CONSERVATOR'S PLAN PURSUANT TO SECTION
11 15-14.7-419; AND

12 (g) THE FEES CUSTOMARILY PAID TO A PERSON THAT PERFORMS A
13 LIKE SERVICE IN THE COMMUNITY.

14 (4) A GUARDIAN OR CONSERVATOR NEED NOT USE PERSONAL
15 FUNDS OF THE GUARDIAN OR CONSERVATOR FOR THE EXPENSES OF THE
16 INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP.

17 (5) IF AN INDIVIDUAL SUBJECT TO GUARDIANSHIP OR
18 CONSERVATORSHIP SEEKS TO MODIFY OR TERMINATE THE GUARDIANSHIP
19 OR CONSERVATORSHIP OR REMOVE THE GUARDIAN OR CONSERVATOR, THE
20 COURT MAY ORDER COMPENSATION TO THE GUARDIAN OR CONSERVATOR
21 FOR TIME SPENT OPPOSING MODIFICATION, TERMINATION, OR REMOVAL
22 ONLY TO THE EXTENT THE COURT DETERMINES THE OPPOSITION WAS
23 REASONABLY NECESSARY TO PROTECT THE INTEREST OF THE INDIVIDUAL
24 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP.

25 **15-14.7-121. Liability of guardian or conservator for act of**
26 **individual subject to guardianship or conservatorship.** A GUARDIAN
27 OR CONSERVATOR IS NOT PERSONALLY LIABLE TO ANOTHER PERSON

1 SOLELY BECAUSE OF THE GUARDIANSHIP OR CONSERVATORSHIP FOR AN
2 ACT OR OMISSION OF THE INDIVIDUAL SUBJECT TO GUARDIANSHIP OR
3 CONSERVATORSHIP.

4 **15-14.7-122. Petition after appointment for instruction or**
5 **ratification.** (1) A GUARDIAN OR CONSERVATOR MAY PETITION THE
6 COURT FOR INSTRUCTION CONCERNING FIDUCIARY RESPONSIBILITY OR
7 RATIFICATION OF A PARTICULAR ACT RELATED TO THE GUARDIANSHIP OR
8 CONSERVATORSHIP.

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

12 **15-14.7-123. Third-party acceptance of authority of guardian**
13 **or conservator.** (1) A PERSON MUST NOT RECOGNIZE THE AUTHORITY OF
14 A GUARDIAN OR CONSERVATOR TO ACT ON BEHALF OF AN INDIVIDUAL
15 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP IF:

16 (a) THE PERSON HAS ACTUAL KNOWLEDGE OR A REASONABLE
17 BELIEF THAT THE LETTERS OF OFFICE OF THE GUARDIAN OR CONSERVATOR
18 ARE INVALID OR THAT THE CONSERVATOR OR GUARDIAN IS EXCEEDING OR
19 IMPROPERLY EXERCISING AUTHORITY GRANTED BY THE COURT; OR

20 (b) THE PERSON HAS ACTUAL KNOWLEDGE THAT THE INDIVIDUAL
21 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP IS SUBJECT TO
22 PHYSICAL OR FINANCIAL ABUSE, NEGLECT, EXPLOITATION, OR
23 ABANDONMENT BY THE GUARDIAN OR CONSERVATOR OR A PERSON ACTING
24 FOR OR WITH THE GUARDIAN OR CONSERVATOR.

25 (2) A PERSON MAY REFUSE TO RECOGNIZE THE AUTHORITY OF A
26 GUARDIAN OR CONSERVATOR TO ACT ON BEHALF OF AN INDIVIDUAL
27 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP IF:

1 (a) THE GUARDIAN'S OR CONSERVATOR'S PROPOSED ACTION
2 WOULD BE INCONSISTENT WITH THIS ARTICLE 14.7; OR

3 (b) THE PERSON MAKES, OR HAS ACTUAL KNOWLEDGE THAT
4 ANOTHER PERSON HAS MADE, A REPORT TO THE STATE DEPARTMENT OF
5 HUMAN SERVICES STATING A GOOD-FAITH BELIEF THAT THE INDIVIDUAL
6 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP IS SUBJECT TO
7 PHYSICAL OR FINANCIAL ABUSE, NEGLECT, EXPLOITATION, OR
8 ABANDONMENT BY THE GUARDIAN OR CONSERVATOR OR A PERSON ACTING
9 FOR OR WITH THE GUARDIAN OR CONSERVATOR.

10 (3) A PERSON THAT REFUSES TO ACCEPT THE AUTHORITY OF A
11 GUARDIAN OR CONSERVATOR IN ACCORDANCE WITH SUBSECTION (2) OF
12 THIS SECTION MAY REPORT THE REFUSAL AND THE REASON FOR REFUSAL
13 TO THE COURT. THE COURT, ON RECEIVING THE REPORT, SHALL CONSIDER
14 WHETHER REMOVAL OF THE GUARDIAN OR CONSERVATOR OR OTHER
15 ACTION IS APPROPRIATE. THE COURT MAY ASSESS COSTS AND EXPENSES
16 AGAINST A PARTY THAT REFUSES TO ACCEPT A GUARDIAN OR
17 CONSERVATOR'S AUTHORITY WITHOUT GOOD CAUSE.

18 (4) A GUARDIAN OR CONSERVATOR MAY PETITION THE COURT TO
19 REQUIRE A THIRD PARTY TO ACCEPT A DECISION MADE BY THE GUARDIAN
20 OR CONSERVATOR ON BEHALF OF THE INDIVIDUAL SUBJECT TO
21 GUARDIANSHIP OR CONSERVATORSHIP.

22 **15-14.7-124. Use of agent by guardian or conservator. (1)**
23 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, A
24 GUARDIAN OR CONSERVATOR MAY DELEGATE A POWER TO AN AGENT
25 WHICH A PRUDENT GUARDIAN OR CONSERVATOR OF COMPARABLE SKILLS
26 COULD DELEGATE PRUDENTLY UNDER THE CIRCUMSTANCES IF THE
27 DELEGATION IS CONSISTENT WITH THE GUARDIAN'S OR CONSERVATOR'S

1 FIDUCIARY DUTIES AND THE GUARDIAN'S PLAN PURSUANT TO SECTION
2 15-14.7-316 OR CONSERVATOR'S PLAN PURSUANT TO SECTION
3 15-14.7-419.

4 (2) IN DELEGATING A POWER PURSUANT TO SUBSECTION (1) OF
5 THIS SECTION, THE GUARDIAN OR CONSERVATOR SHALL EXERCISE
6 REASONABLE CARE, SKILL, AND CAUTION IN:

7 (a) SELECTING THE AGENT;

8 (b) ESTABLISHING THE SCOPE AND TERMS OF THE AGENT'S WORK
9 IN ACCORDANCE WITH THE GUARDIAN'S PLAN PURSUANT TO SECTION
10 15-14.7-316 OR CONSERVATOR'S PLAN PURSUANT TO SECTION
11 15-14.7-419;

12 (c) MONITORING THE AGENT'S PERFORMANCE AND COMPLIANCE
13 WITH THE DELEGATION; AND

14 (d) REDRESSING AN ACT OR OMISSION OF THE AGENT WHICH
15 WOULD CONSTITUTE A BREACH OF THE GUARDIAN'S OR CONSERVATOR'S
16 DUTIES IF DONE BY THE GUARDIAN OR CONSERVATOR.

17 (3) A GUARDIAN OR CONSERVATOR MAY NOT DELEGATE ALL
18 POWERS TO AN AGENT.

19 (4) IN PERFORMING A POWER DELEGATED PURSUANT TO THIS
20 SECTION, AN AGENT SHALL:

21 (a) EXERCISE REASONABLE CARE TO COMPLY WITH THE TERMS OF
22 THE DELEGATION AND USE REASONABLE CARE IN THE PERFORMANCE OF
23 THE POWER; AND

24 (b) IF THE GUARDIAN OR CONSERVATOR HAS DELEGATED TO THE
25 AGENT THE POWER TO MAKE A DECISION ON BEHALF OF THE INDIVIDUAL
26 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, USE THE SAME
27 DECISION-MAKING STANDARD THE GUARDIAN OR CONSERVATOR WOULD

1 BE REQUIRED TO USE.

2 (5) BY ACCEPTING A DELEGATION OF A POWER PURSUANT TO
3 SUBSECTION (1) OF THIS SECTION FROM A GUARDIAN OR CONSERVATOR, AN
4 AGENT SUBMITS TO THE PERSONAL JURISDICTION OF THE COURTS OF THIS
5 STATE IN AN ACTION INVOLVING THE AGENT'S PERFORMANCE AS AGENT.

6 (6) A GUARDIAN OR CONSERVATOR THAT DELEGATES AND
7 MONITORS A POWER IN COMPLIANCE WITH THIS SECTION IS NOT LIABLE FOR
8 THE DECISION, ACT, OR OMISSION OF THE AGENT.

9 **15-14.7-125. Temporary substitute guardian or conservator.**

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

13 (a) A PROCEEDING TO REMOVE A GUARDIAN FOR THE INDIVIDUAL
14 IS PENDING; OR

15 (b) THE COURT FINDS A GUARDIAN IS NOT EFFECTIVELY
16 PERFORMING THE GUARDIAN'S DUTIES AND THE WELFARE OF THE
17 INDIVIDUAL REQUIRES IMMEDIATE ACTION.

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

21 (a) A PROCEEDING TO REMOVE A CONSERVATOR FOR THE
22 INDIVIDUAL IS PENDING; OR

23 (b) THE COURT FINDS THAT A CONSERVATOR FOR THE INDIVIDUAL
24 IS NOT EFFECTIVELY PERFORMING THE CONSERVATOR'S DUTIES AND THE
25 WELFARE OF THE INDIVIDUAL OR THE CONSERVATORSHIP ESTATE
26 REQUIRES IMMEDIATE ACTION.

27 (3) EXCEPT AS OTHERWISE ORDERED BY THE COURT, A TEMPORARY

1 SUBSTITUTE GUARDIAN OR TEMPORARY SUBSTITUTE CONSERVATOR
2 APPOINTED PURSUANT TO THIS SECTION HAS THE POWERS STATED IN THE
3 ORDER OF APPOINTMENT OF THE GUARDIAN OR CONSERVATOR. THE
4 AUTHORITY OF THE EXISTING GUARDIAN OR CONSERVATOR IS SUSPENDED
5 FOR AS LONG AS THE TEMPORARY SUBSTITUTE GUARDIAN OR
6 CONSERVATOR HAS AUTHORITY.

7 (4) THE COURT SHALL GIVE NOTICE OF APPOINTMENT OF A
8 TEMPORARY SUBSTITUTE GUARDIAN OR TEMPORARY SUBSTITUTE
9 CONSERVATOR, NO LATER THAN FIVE DAYS AFTER THE APPOINTMENT, TO:

10 (a) THE INDIVIDUAL SUBJECT TO GUARDIANSHIP OR
11 CONSERVATORSHIP;

12 (b) THE AFFECTED GUARDIAN OR CONSERVATOR; AND

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

15 (5) THE COURT MAY REMOVE A TEMPORARY SUBSTITUTE
16 GUARDIAN OR TEMPORARY SUBSTITUTE CONSERVATOR AT ANY TIME. THE
17 TEMPORARY SUBSTITUTE GUARDIAN OR TEMPORARY SUBSTITUTE
18 CONSERVATOR SHALL MAKE ANY REPORT THE COURT REQUIRES.

19 **15-14.7-126. Registration of order - effect.** (1) IF A GUARDIAN
20 HAS BEEN APPOINTED IN ANOTHER STATE FOR AN INDIVIDUAL, AND A
21 PETITION FOR GUARDIANSHIP FOR THE INDIVIDUAL IS NOT PENDING IN THIS
22 STATE, THE GUARDIAN APPOINTED IN THE OTHER STATE, AFTER GIVING
23 NOTICE TO THE APPOINTING COURT, MAY REGISTER THE GUARDIANSHIP
24 ORDER IN THIS STATE BY FILING AS A FOREIGN JUDGMENT, IN A COURT OF
25 AN APPROPRIATE COUNTY OF THIS STATE, CERTIFIED COPIES OF THE ORDER
26 AND LETTERS OF OFFICE.

27 (2) IF A CONSERVATOR HAS BEEN APPOINTED IN ANOTHER STATE

1 FOR AN INDIVIDUAL, AND A PETITION FOR CONSERVATORSHIP FOR THE
2 INDIVIDUAL IS NOT PENDING IN THIS STATE, THE CONSERVATOR APPOINTED
3 FOR THE INDIVIDUAL IN THE OTHER STATE, AFTER GIVING NOTICE TO THE
4 APPOINTING COURT, MAY REGISTER THE CONSERVATORSHIP IN THIS STATE
5 BY FILING AS A FOREIGN JUDGMENT, IN A COURT OF A COUNTY IN WHICH
6 PROPERTY BELONGING TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP
7 IS LOCATED, CERTIFIED COPIES OF THE ORDER OF CONSERVATORSHIP,
8 LETTERS OF OFFICE, AND ANY BOND OR OTHER ASSET PROTECTION
9 ARRANGEMENT REQUIRED BY THE COURT.

10 (3) ON REGISTRATION PURSUANT TO THIS SECTION OF A
11 GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM ANOTHER STATE, THE
12 GUARDIAN OR CONSERVATOR MAY EXERCISE IN THIS STATE ALL POWERS
13 AUTHORIZED IN THE ORDER EXCEPT AS PROHIBITED BY THIS ARTICLE 14.7
14 AND LAW OF THIS STATE OTHER THAN THIS ARTICLE 14.7. IF THE
15 GUARDIAN OR CONSERVATOR IS NOT A RESIDENT OF THIS STATE, THE
16 GUARDIAN OR CONSERVATOR MAY MAINTAIN AN ACTION OR PROCEEDING
17 IN THIS STATE SUBJECT TO ANY CONDITION IMPOSED BY THIS STATE ON AN
18 ACTION OR PROCEEDING BY A NONRESIDENT PARTY.

19 (4) THE COURT MAY GRANT ANY RELIEF AVAILABLE PURSUANT TO
20 THIS ARTICLE 14.7 AND LAW OF THIS STATE OTHER THAN THIS ARTICLE
21 14.7 TO ENFORCE AN ORDER REGISTERED PURSUANT TO THIS SECTION.

22 **15-14.7-127. Grievance against guardian or conservator.**

23 (1) AN INDIVIDUAL WHO IS SUBJECT TO GUARDIANSHIP OR
24 CONSERVATORSHIP, OR PERSON INTERESTED IN THE WELFARE OF AN
25 INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, WHO
26 REASONABLY BELIEVES THE GUARDIAN OR CONSERVATOR IS BREACHING
27 THE GUARDIAN'S OR CONSERVATOR'S FIDUCIARY DUTY OR OTHERWISE

1 ACTING IN A MANNER INCONSISTENT WITH THIS ARTICLE 14.7 MAY FILE A
2 GRIEVANCE IN A RECORD WITH THE COURT.

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

6 (a) SHALL REVIEW THE GRIEVANCE AND, IF NECESSARY TO
7 DETERMINE THE APPROPRIATE RESPONSE, COURT RECORDS RELATED TO
8 THE GUARDIANSHIP OR CONSERVATORSHIP;

9 (b) SHALL SCHEDULE A HEARING IF THE INDIVIDUAL SUBJECT TO
10 GUARDIANSHIP OR CONSERVATORSHIP IS AN ADULT AND THE GRIEVANCE
11 SUPPORTS A REASONABLE BELIEF THAT:

12 (I) REMOVAL OF THE GUARDIAN AND APPOINTMENT OF A
13 SUCCESSOR MAY BE APPROPRIATE PURSUANT TO SECTION 15-14.7-318;

14 (II) TERMINATION OR MODIFICATION OF THE GUARDIANSHIP MAY
15 BE APPROPRIATE PURSUANT TO SECTION 15-14.7-319;

16 (III) REMOVAL OF THE CONSERVATOR AND APPOINTMENT OF A
17 SUCCESSOR MAY BE APPROPRIATE PURSUANT TO SECTION 15-14.7-430; OR

18 (IV) TERMINATION OR MODIFICATION OF THE CONSERVATORSHIP
19 MAY BE APPROPRIATE PURSUANT TO SECTION 15-14.7-431; AND

20 (c) MAY TAKE ANY ACTION SUPPORTED BY THE EVIDENCE,
21 INCLUDING:

22 (I) ORDERING THE GUARDIAN OR CONSERVATOR TO PROVIDE THE
23 COURT A REPORT, ACCOUNTING, INVENTORY, UPDATED PLAN, OR OTHER
24 INFORMATION;

25 (II) APPOINTING A GUARDIAN AD LITEM;

26 (III) APPOINTING AN ATTORNEY FOR THE INDIVIDUAL SUBJECT TO
27 GUARDIANSHIP OR CONSERVATORSHIP; OR

1 (IV) HOLDING A HEARING.

2 (3) THE COURT MAY DECLINE TO ACT PURSUANT TO SUBSECTION
3 (2) OF THIS SECTION IF A SIMILAR GRIEVANCE WAS FILED WITHIN THE SIX
4 MONTHS PRECEDING THE FILING OF THE CURRENT GRIEVANCE AND THE
5 COURT FOLLOWED THE PROCEDURES OF SUBSECTION (2) OF THIS SECTION
6 IN CONSIDERING THE EARLIER GRIEVANCE.

7 **15-14.7-128. Delegation by parent.** A PARENT OF A MINOR, BY A
8 POWER OF ATTORNEY, MAY DELEGATE TO ANOTHER PERSON FOR A PERIOD
9 NOT EXCEEDING TWELVE MONTHS ANY OF THE PARENT'S POWERS
10 REGARDING CARE, CUSTODY, OR PROPERTY OF THE MINOR, OTHER THAN
11 POWER TO CONSENT TO MARRIAGE OR ADOPTION.

12 PART 2

13 GUARDIANSHIP OF A MINOR

14 **15-14.7-201. Basis for appointment of guardian for a minor.**

15 (1) A PERSON BECOMES A GUARDIAN FOR A MINOR ONLY UPON
16 APPOINTMENT BY THE COURT.

17 (2) THE COURT MAY APPOINT A GUARDIAN FOR A MINOR WHO DOES
18 NOT HAVE A GUARDIAN IF THE COURT FINDS THE APPOINTMENT IS IN THE
19 MINOR'S BEST INTEREST AND:

20 (a) EACH PARENT OF THE MINOR, AFTER BEING FULLY INFORMED
21 OF THE NATURE AND CONSEQUENCES OF GUARDIANSHIP, CONSENTS;

22 (b) ALL PARENTAL RIGHTS HAVE BEEN TERMINATED; OR

23 (c) THERE IS CLEAR AND CONVINCING EVIDENCE THAT NO PARENT
24 OF THE MINOR IS WILLING OR ABLE TO EXERCISE THE POWERS THE COURT
25 IS GRANTING THE GUARDIAN.

26 **15-14.7-202. Petition for appointment of guardian for a minor.**

27 (1) A PERSON INTERESTED IN THE WELFARE OF A MINOR, INCLUDING THE

1 MINOR, MAY PETITION FOR APPOINTMENT OF A GUARDIAN FOR THE MINOR.

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

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

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

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

19 (d) THE NAME AND ADDRESS OF ANY ATTORNEY FOR THE MINOR
20 AND ANY ATTORNEY FOR EACH PARENT OF THE MINOR;

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

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

25 (g) IF THE MINOR HAS PROPERTY OTHER THAN PERSONAL EFFECTS,
26 A GENERAL STATEMENT OF THE MINOR'S PROPERTY WITH AN ESTIMATE OF
27 ITS VALUE;

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

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

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

11 **15-14.7-203. Notice of hearing for appointment of guardian**
12 **for minor.** (1) IF A PETITION IS FILED PURSUANT TO SECTION 15-14.7-202,
13 THE COURT SHALL SCHEDULE A HEARING AND THE PETITIONER SHALL:

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

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

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

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

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

27 (V) ANY OTHER PERSON THE COURT DETERMINES SHOULD RECEIVE

1 PERSONAL SERVICE OF NOTICE; AND

2 (b) GIVE NOTICE PURSUANT TO SECTION 15-14.7-113 OF THE DATE,
3 TIME, AND PLACE OF THE HEARING, TOGETHER WITH A COPY OF THE
4 PETITION, TO:

5 (I) ANY PERSON NOMINATED FOR GUARDIANSHIP BY THE MINOR,
6 IF THE MINOR IS TWELVE YEARS OF AGE OR OLDER;

7 (II) ANY NOMINEE OF A PARENT;

8 (III) EACH GRANDPARENT AND ADULT SIBLING OF THE MINOR;

9 (IV) ANY GUARDIAN OR CONSERVATOR ACTING FOR THE MINOR IN
10 ANY JURISDICTION; AND

11 (V) ANY OTHER PERSON THE COURT DETERMINES.

12 (2) NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION MUST
13 INCLUDE A STATEMENT OF THE RIGHT TO REQUEST APPOINTMENT OF AN
14 ATTORNEY FOR THE MINOR OR OBJECT TO APPOINTMENT OF A GUARDIAN
15 AND A DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF
16 APPOINTMENT OF A GUARDIAN.

17 (3) THE COURT SHALL NOT GRANT A PETITION FOR GUARDIANSHIP
18 OF A MINOR IF NOTICE SUBSTANTIALLY COMPLYING WITH SUBSECTION
19 (1)(a) OF THIS SECTION IS NOT SERVED ON:

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

22 (b) EACH PARENT OF THE MINOR, UNLESS THE COURT FINDS BY
23 CLEAR AND CONVINCING EVIDENCE THAT THE PARENT CANNOT WITH DUE
24 DILIGENCE BE LOCATED AND SERVED OR THE PARENT WAIVED, IN A
25 RECORD, THE RIGHT TO NOTICE.

26 (4) IF A PETITIONER IS UNABLE TO SERVE NOTICE PURSUANT TO
27 SUBSECTION (1)(a) OF THIS SECTION ON A PARENT OF A MINOR OR ALLEGES

1 THAT THE PARENT WAIVED, IN A RECORD, THE RIGHT TO NOTICE PURSUANT
2 TO THIS SECTION, THE COURT SHALL APPOINT A VISITOR WHO SHALL:

- 3 (a) INTERVIEW THE PETITIONER AND THE MINOR;
- 4 (b) IF THE PETITIONER ALLEGES THE PARENT CANNOT BE LOCATED,
5 ASCERTAIN WHETHER THE PARENT CANNOT BE LOCATED WITH DUE
6 DILIGENCE; AND
- 7 (c) INVESTIGATE ANY OTHER MATTER RELATING TO THE PETITION
8 THE COURT DIRECTS.

9 **15-14.7-204. Attorney for minor or parent.** (1) THE COURT
10 SHALL APPOINT AN ATTORNEY TO REPRESENT A MINOR WHO IS THE
11 SUBJECT OF A PROCEEDING PURSUANT TO SECTION 15-14.7-202 IF:

- 12 (a) REQUESTED BY THE MINOR AND THE MINOR IS TWELVE YEARS
13 OF AGE OR OLDER;
- 14 (b) RECOMMENDED BY A GUARDIAN AD LITEM; OR
- 15 (c) THE COURT DETERMINES THE MINOR NEEDS REPRESENTATION.

16 (2) AN ATTORNEY APPOINTED PURSUANT TO SUBSECTION (1) OF
17 THIS SECTION SHALL:

- 18 (a) MAKE A REASONABLE EFFORT TO ASCERTAIN THE MINOR'S
19 WISHES;
- 20 (b) ADVOCATE FOR THE MINOR'S WISHES TO THE EXTENT
21 REASONABLY ASCERTAINABLE; AND
- 22 (c) IF THE MINOR'S WISHES ARE NOT REASONABLY ASCERTAINABLE,
23 ADVOCATE FOR THE MINOR'S BEST INTEREST.

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

27 (4) A PARENT OF A MINOR WHO IS THE SUBJECT OF A PROCEEDING

1 PURSUANT TO SECTION 15-14.7-202 MAY RETAIN AN ATTORNEY TO
2 REPRESENT THE PARENT IN THE PROCEEDING.

3 **15-14.7-205. Attendance and participation at hearing for**
4 **appointment of guardian for minor.** (1) THE COURT SHALL REQUIRE A
5 MINOR WHO IS THE SUBJECT OF A HEARING PURSUANT TO SECTION
6 15-14.7-203 TO ATTEND THE HEARING AND ALLOW THE MINOR TO
7 PARTICIPATE IN THE HEARING UNLESS THE COURT DETERMINES, BY CLEAR
8 AND CONVINCING EVIDENCE PRESENTED AT THE HEARING OR A SEPARATE
9 HEARING, THAT:

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

14 (b) THERE IS NO PRACTICABLE WAY FOR THE MINOR TO ATTEND
15 THE HEARING;

16 (c) THE MINOR LACKS THE ABILITY OR MATURITY TO PARTICIPATE
17 MEANINGFULLY IN THE HEARING; OR

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

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

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

25 (4) A PERSON MAY REQUEST PERMISSION TO PARTICIPATE IN A
26 HEARING PURSUANT TO SECTION 15-14.7-203. THE COURT MAY GRANT THE
27 REQUEST, WITH OR WITHOUT HEARING, ON DETERMINING THAT IT IS IN THE

1 BEST INTEREST OF THE MINOR WHO IS THE SUBJECT OF THE HEARING. THE
2 COURT MAY IMPOSE APPROPRIATE CONDITIONS ON THE PERSON'S
3 PARTICIPATION.

4 **15-14.7-206. Order of appointment; priority of nominee;**
5 **limited guardianship for minor.** (1) AFTER A HEARING PURSUANT TO
6 SECTION 15-14.7-203, THE COURT MAY APPOINT A GUARDIAN FOR A
7 MINOR, IF APPOINTMENT IS PROPER PURSUANT TO SECTION 15-14.7-201,
8 DISMISS THE PROCEEDING, OR TAKE OTHER APPROPRIATE ACTION
9 CONSISTENT WITH THIS ARTICLE 14.7 OR LAW OF THIS STATE OTHER THAN
10 THIS ARTICLE 14.7.

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

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

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

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

1 THE MINOR.

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

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

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

18 (a) THE GUARDIAN HAS DELEGATED CUSTODY OF THE MINOR
19 SUBJECT TO GUARDIANSHIP;

20 (b) THE COURT HAS MODIFIED OR LIMITED THE POWERS OF THE
21 GUARDIAN; OR

22 (c) THE COURT HAS REMOVED THE GUARDIAN.

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

27 **15-14.7-207. Standby guardian for minor.** (1) A STANDBY

1 GUARDIAN APPOINTED PURSUANT TO THIS SECTION MAY ACT AS
2 GUARDIAN, WITH ALL DUTIES AND POWERS OF A GUARDIAN PURSUANT TO
3 SECTIONS 15-14.7-209 AND 15-14.7-210, WHEN NO PARENT OF THE MINOR
4 IS WILLING OR ABLE TO EXERCISE THE DUTIES AND POWERS GRANTED TO
5 THE GUARDIAN.

6 (2) A PARENT OF A MINOR, IN A SIGNED RECORD, MAY NOMINATE
7 A PERSON TO BE APPOINTED BY THE COURT AS STANDBY GUARDIAN FOR
8 THE MINOR. THE PARENT, IN THE SIGNED RECORD, MAY STATE DESIRED
9 LIMITATIONS ON THE POWERS TO BE GRANTED TO THE STANDBY
10 GUARDIAN. THE PARENT, IN A SIGNED RECORD, MAY REVOKE OR AMEND
11 THE NOMINATION AT ANY TIME BEFORE THE COURT APPOINTS A STANDBY
12 GUARDIAN.

13 (3) THE COURT MAY APPOINT A STANDBY GUARDIAN FOR A MINOR
14 ON:

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

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

20 (4) A PETITION PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION
21 MUST INCLUDE THE SAME INFORMATION REQUIRED PURSUANT TO SECTION
22 15-14.7-202 FOR THE APPOINTMENT OF A GUARDIAN FOR A MINOR.

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

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

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

- 1 (II) EACH PARENT OF THE MINOR;
- 2 (III) THE PERSON NOMINATED AS STANDBY GUARDIAN; AND
- 3 (IV) ANY OTHER PERSON THE COURT DETERMINES; AND

4 (b) INCLUDE WITH THE COPY OF THE PETITION SERVED PURSUANT
5 TO SUBSECTION (5)(a) OF THIS SECTION A STATEMENT OF THE RIGHT TO
6 REQUEST APPOINTMENT OF AN ATTORNEY FOR THE MINOR OR TO OBJECT
7 TO APPOINTMENT OF THE STANDBY GUARDIAN AND A DESCRIPTION OF THE
8 NATURE, PURPOSE, AND CONSEQUENCES OF APPOINTMENT OF A STANDBY
9 GUARDIAN.

10 (6) A PERSON ENTITLED TO NOTICE PURSUANT TO SUBSECTION (5)
11 OF THIS SECTION, NOT LATER THAN SIXTY DAYS AFTER SERVICE OF THE
12 PETITION AND STATEMENT, MAY OBJECT TO APPOINTMENT OF THE
13 STANDBY GUARDIAN BY FILING AN OBJECTION WITH THE COURT AND
14 GIVING NOTICE OF THE OBJECTION TO EACH OTHER PERSON ENTITLED TO
15 NOTICE PURSUANT TO SUBSECTION (5) OF THIS SECTION.

16 (7) IF AN OBJECTION IS FILED PURSUANT TO SUBSECTION (6) OF
17 THIS SECTION, THE COURT SHALL HOLD A HEARING TO DETERMINE
18 WHETHER A STANDBY GUARDIAN SHOULD BE APPOINTED AND, IF SO, THE
19 PERSON WHO SHOULD BE APPOINTED. IF NO OBJECTION IS FILED, THE
20 COURT MAY MAKE THE APPOINTMENT.

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

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

26 (b) EACH PARENT OF THE MINOR, UNLESS THE COURT FINDS BY
27 CLEAR-AND-CONVINCING EVIDENCE THAT THE PARENT, IN A RECORD,

1 WAIVED THE RIGHT TO NOTICE OR CANNOT BE LOCATED AND SERVED WITH
2 DUE DILIGENCE.

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

7 (a) INTERVIEW THE PETITIONER AND THE MINOR;

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

11 (c) INVESTIGATE ANY OTHER MATTER RELATING TO THE PETITION
12 THE COURT DIRECTS.

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

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

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

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

27 (a) THE STANDBY GUARDIAN ASSUMES THE DUTIES AND POWERS

1 OF THE GUARDIAN;

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

3 (c) THE COURT MODIFIES OR LIMITS THE POWERS OF THE
4 GUARDIAN; OR

5 (d) THE COURT REMOVES THE GUARDIAN.

6 (12) BEFORE ASSUMING THE DUTIES AND POWERS OF A GUARDIAN,
7 A STANDBY GUARDIAN SHALL FILE WITH THE COURT AN ACCEPTANCE OF
8 APPOINTMENT AS GUARDIAN AND GIVE NOTICE OF THE ACCEPTANCE TO:

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

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

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

16 (13) A PERSON THAT RECEIVES NOTICE PURSUANT TO SUBSECTION
17 (12) OF THIS SECTION OR ANY OTHER PERSON INTERESTED IN THE WELFARE
18 OF THE MINOR MAY FILE WITH THE COURT AN OBJECTION TO THE STANDBY
19 GUARDIAN'S ASSUMPTION OF DUTIES AND POWERS OF A GUARDIAN. THE
20 COURT SHALL HOLD A HEARING IF THE OBJECTION SUPPORTS A
21 REASONABLE BELIEF THAT THE CONDITIONS FOR ASSUMPTION OF DUTIES
22 AND POWERS HAVE NOT BEEN SATISFIED.

23 **15-14.7-208. Emergency guardian for minor.** (1) ON ITS OWN,
24 OR ON PETITION BY A PERSON INTERESTED IN A MINOR'S WELFARE, THE
25 COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR THE MINOR IF THE
26 COURT FINDS:

27 (a) APPOINTMENT OF AN EMERGENCY GUARDIAN IS LIKELY TO

1 PREVENT SUBSTANTIAL HARM TO THE MINOR'S HEALTH, SAFETY, OR
2 WELFARE; AND

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

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

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

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

17 (b) ANY ATTORNEY APPOINTED PURSUANT TO SECTION
18 15-14.7-204;

19 (c) EACH PARENT OF THE MINOR;

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

22 (e) ANY OTHER PERSON THE COURT DETERMINES.

23 (4) THE COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR A
24 MINOR WITHOUT NOTICE PURSUANT TO SUBSECTION (3) OF THIS SECTION
25 AND WITHOUT A HEARING ONLY IF THE COURT FINDS FROM AN AFFIDAVIT
26 OR TESTIMONY THAT THE MINOR'S HEALTH, SAFETY, OR WELFARE WILL 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 NOTICE TO AN UNREPRESENTED MINOR OR THE
3 ATTORNEY FOR A REPRESENTED MINOR, NOTICE OF THE APPOINTMENT
4 MUST BE GIVEN NOT LATER THAN FORTY-EIGHT HOURS AFTER THE
5 APPOINTMENT TO THE INDIVIDUALS LISTED IN SUBSECTION (3) OF THIS
6 SECTION. NOT LATER THAN FIVE DAYS AFTER THE APPOINTMENT, THE
7 COURT SHALL HOLD A HEARING ON THE APPROPRIATENESS OF THE
8 APPOINTMENT.

9 (5) APPOINTMENT OF AN EMERGENCY GUARDIAN PURSUANT TO
10 THIS SECTION, WITH OR WITHOUT NOTICE, IS NOT A DETERMINATION THAT
11 A BASIS EXISTS FOR APPOINTMENT OF A GUARDIAN PURSUANT TO SECTION
12 15-14.7-201.

13 (6) THE COURT MAY REMOVE AN EMERGENCY GUARDIAN
14 APPOINTED PURSUANT TO THIS SECTION AT ANY TIME. THE EMERGENCY
15 GUARDIAN SHALL MAKE ANY REPORT THE COURT REQUIRES.

16 **15-14.7-209. Duties of guardian for minor.** (1) A GUARDIAN
17 FOR A MINOR IS A FIDUCIARY. EXCEPT AS OTHERWISE LIMITED BY THE
18 COURT, A GUARDIAN FOR A MINOR HAS THE DUTIES AND RESPONSIBILITIES
19 OF A PARENT REGARDING THE MINOR'S SUPPORT, CARE, EDUCATION,
20 HEALTH, SAFETY, AND WELFARE. A GUARDIAN SHALL ACT IN THE MINOR'S
21 BEST INTEREST AND EXERCISE REASONABLE CARE, DILIGENCE, AND
22 PRUDENCE.

23 (2) A GUARDIAN FOR A MINOR SHALL:

24 (a) BE PERSONALLY ACQUAINTED WITH THE MINOR AND MAINTAIN
25 SUFFICIENT CONTACT WITH THE MINOR TO KNOW THE MINOR'S ABILITIES,
26 LIMITATIONS, NEEDS, OPPORTUNITIES, AND PHYSICAL AND MENTAL
27 HEALTH;

1 (b) TAKE REASONABLE CARE OF THE MINOR'S PERSONAL EFFECTS
2 AND BRING A PROCEEDING FOR A CONSERVATORSHIP OR PROTECTIVE
3 ARRANGEMENT INSTEAD OF CONSERVATORSHIP IF NECESSARY TO PROTECT
4 OTHER PROPERTY OF THE MINOR;

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

8 (d) CONSERVE ANY FUNDS OF THE MINOR NOT EXPENDED
9 PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION FOR THE MINOR'S
10 FUTURE NEEDS, BUT IF A CONSERVATOR IS APPOINTED FOR THE MINOR, PAY
11 THE FUNDS AT LEAST QUARTERLY TO THE CONSERVATOR TO BE
12 CONSERVED FOR THE MINOR'S FUTURE NEEDS;

13 (e) REPORT THE CONDITION OF THE MINOR AND ACCOUNT FOR
14 FUNDS AND OTHER PROPERTY OF THE MINOR IN THE GUARDIAN'S
15 POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL, AS REQUIRED BY
16 COURT RULE OR ORDERED BY THE COURT ON APPLICATION OF A PERSON
17 INTERESTED IN THE MINOR'S WELFARE;

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

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

23 **15-14.7-210. Powers of guardian for minor.** (1) EXCEPT AS
24 OTHERWISE LIMITED BY COURT ORDER, A GUARDIAN OF A MINOR HAS THE
25 POWERS A PARENT OTHERWISE WOULD HAVE REGARDING THE MINOR'S
26 SUPPORT, CARE, EDUCATION, HEALTH, SAFETY, AND WELFARE.

27 (2) EXCEPT AS OTHERWISE LIMITED BY COURT ORDER, A GUARDIAN

1 FOR A MINOR MAY:

2 (a) APPLY FOR AND RECEIVE FUNDS AND BENEFITS OTHERWISE
3 PAYABLE FOR THE SUPPORT OF THE MINOR TO THE MINOR'S PARENT,
4 GUARDIAN, OR CUSTODIAN PURSUANT TO A STATUTORY SYSTEM OF
5 BENEFITS OR INSURANCE OR ANY PRIVATE CONTRACT, DEVISE, TRUST,
6 CONSERVATORSHIP, OR CUSTODIANSHIP;

7 (b) UNLESS INCONSISTENT WITH A COURT ORDER ENTITLED TO
8 RECOGNITION IN THIS STATE, TAKE CUSTODY OF THE MINOR AND
9 ESTABLISH THE MINOR'S PLACE OF DWELLING AND, ON AUTHORIZATION OF
10 THE COURT, ESTABLISH OR MOVE THE MINOR'S DWELLING OUTSIDE THIS
11 STATE;

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

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

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

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

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

25 **15-14.7-211. Removal of guardian for minor; termination of**
26 **guardianship - appointment of successor.** (1) GUARDIANSHIP
27 PURSUANT TO THIS ARTICLE 14.7 FOR A MINOR TERMINATES:

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

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

6 (I) TERMINATION OF THE GUARDIANSHIP WOULD BE HARMFUL TO
7 THE MINOR; AND

8 (II) THE MINOR'S INTEREST IN THE CONTINUATION OF THE
9 GUARDIANSHIP OUTWEIGHS THE INTEREST OF ANY PARENT OF THE MINOR
10 IN RESTORATION OF THE PARENT'S RIGHT TO MAKE DECISIONS FOR THE
11 MINOR.

12 (2) A MINOR SUBJECT TO GUARDIANSHIP OR A PERSON INTERESTED
13 IN THE WELFARE OF THE MINOR MAY PETITION THE COURT TO TERMINATE
14 THE GUARDIANSHIP, MODIFY THE GUARDIANSHIP, REMOVE THE GUARDIAN
15 AND APPOINT A SUCCESSOR GUARDIAN, OR REMOVE A STANDBY GUARDIAN
16 AND APPOINT A DIFFERENT STANDBY GUARDIAN.

17 (3) A PETITIONER PURSUANT TO SUBSECTION (2) OF THIS SECTION
18 SHALL GIVE NOTICE OF THE HEARING ON THE PETITION TO THE MINOR, IF
19 THE MINOR IS TWELVE YEARS OF AGE OR OLDER AND IS NOT THE
20 PETITIONER; THE GUARDIAN; EACH PARENT OF THE MINOR; AND ANY
21 OTHER PERSON THE COURT DETERMINES.

22 (4) THE COURT SHALL FOLLOW THE PRIORITIES IN SECTION
23 15-14.7-206 WHEN SELECTING A SUCCESSOR GUARDIAN FOR A MINOR.

24 (5) NO LATER THAN THIRTY DAYS AFTER APPOINTMENT OF A
25 SUCCESSOR GUARDIAN FOR A MINOR, THE COURT SHALL GIVE NOTICE OF
26 THE APPOINTMENT TO THE MINOR SUBJECT TO GUARDIANSHIP, IF THE
27 MINOR IS TWELVE YEARS OF AGE OR OLDER; EACH PARENT OF THE MINOR;

1 AND ANY OTHER PERSON THE COURT DETERMINES.

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

6 (7) A GUARDIAN FOR A MINOR WHO IS REMOVED SHALL
7 COOPERATE WITH A SUCCESSOR GUARDIAN TO FACILITATE TRANSITION OF
8 THE GUARDIAN'S RESPONSIBILITIES AND PROTECT THE BEST INTEREST OF
9 THE MINOR.

10 PART 3

11 GUARDIANSHIP OF ADULT

12 **15-14.7-301. Basis for appointment of guardian for adult.**

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

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

16 (I) THE RESPONDENT LACKS THE ABILITY TO MEET ESSENTIAL
17 REQUIREMENTS FOR PHYSICAL HEALTH, SAFETY, OR SELF-CARE BECAUSE
18 THE RESPONDENT IS UNABLE TO RECEIVE AND EVALUATE INFORMATION OR
19 MAKE OR COMMUNICATE DECISIONS, EVEN WITH APPROPRIATE SUPPORTIVE
20 SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
21 DECISION-MAKING; AND

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

25 (b) WITH APPROPRIATE FINDINGS, TREAT THE PETITION AS ONE FOR
26 A CONSERVATORSHIP PURSUANT TO PART 4 OF THIS ARTICLE 14.7 OR
27 PROTECTIVE ARRANGEMENT PURSUANT TO PART 5 OF THIS ARTICLE 14.7,

1 ISSUE ANY APPROPRIATE ORDER, OR DISMISS THE PROCEEDING.

2 (2) THE COURT SHALL GRANT A GUARDIAN APPOINTED PURSUANT
3 TO SUBSECTION (1) OF THIS SECTION ONLY THOSE POWERS NECESSITATED
4 BY THE DEMONSTRATED NEEDS AND LIMITATIONS OF THE RESPONDENT
5 AND ISSUE ORDERS THAT WILL ENCOURAGE DEVELOPMENT OF THE
6 RESPONDENT'S MAXIMUM SELF-DETERMINATION AND INDEPENDENCE. THE
7 COURT MAY NOT ESTABLISH A FULL GUARDIANSHIP IF A LIMITED
8 GUARDIANSHIP, PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP,
9 OR OTHER LESS RESTRICTIVE ALTERNATIVES WOULD MEET THE NEEDS OF
10 THE RESPONDENT.

11 **15-14.7-302. Petition for appointment of guardian for adult.**

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

15 (2) A PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION
16 MUST STATE THE PETITIONER'S NAME; PRINCIPAL RESIDENCE; CURRENT
17 STREET ADDRESS, IF DIFFERENT; RELATIONSHIP TO THE RESPONDENT;
18 INTEREST IN THE APPOINTMENT; THE NAME AND ADDRESS OF ANY
19 ATTORNEY REPRESENTING THE PETITIONER; AND, TO THE EXTENT KNOWN,
20 THE FOLLOWING:

21 (a) THE RESPONDENT'S NAME; AGE; PRINCIPAL RESIDENCE;
22 CURRENT STREET ADDRESS, IF DIFFERENT; AND, IF DIFFERENT, ADDRESS OF
23 THE DWELLING IN WHICH IT IS PROPOSED THE RESPONDENT WILL RESIDE IF
24 THE PETITION IS GRANTED;

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

26 (I) SPOUSE OR DOMESTIC PARTNER OR, IF THE RESPONDENT HAS
27 NONE, AN ADULT WITH WHOM THE RESPONDENT HAS SHARED HOUSEHOLD

1 RESPONSIBILITIES FOR MORE THAN SIX MONTHS IN THE TWELVE-MONTH
2 PERIOD IMMEDIATELY BEFORE THE FILING OF THE PETITION;

3 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
4 SIBLING OF THE RESPONDENT, OR, IF NONE, AT LEAST ONE ADULT NEAREST
5 IN KINSHIP TO THE RESPONDENT WHO CAN BE FOUND WITH REASONABLE
6 DILIGENCE; AND

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

11 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
12 FOLLOWING, IF APPLICABLE:

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

14 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;

15 (III) ANY REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
16 SECURITY ADMINISTRATION FOR THE RESPONDENT;

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

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

21 (VI) ANY FIDUCIARY FOR THE RESPONDENT APPOINTED BY THE
22 DEPARTMENT OF VETERANS AFFAIRS;

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

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

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

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

4 (XI) A PROPOSED GUARDIAN AND THE REASON THE PROPOSED
5 GUARDIAN SHOULD BE SELECTED; AND

6 (XII) A PERSON KNOWN TO HAVE ROUTINELY ASSISTED THE
7 RESPONDENT WITH DECISION-MAKING DURING THE SIX MONTHS
8 IMMEDIATELY BEFORE THE FILING OF THE PETITION;

9 (d) THE REASON A GUARDIANSHIP IS NECESSARY, INCLUDING A
10 BRIEF DESCRIPTION OF:

11 (I) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
12 NEED;

13 (II) ANY PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP
14 OR OTHER LESS RESTRICTIVE ALTERNATIVES FOR MEETING THE
15 RESPONDENT'S ALLEGED NEED WHICH HAVE BEEN CONSIDERED OR
16 IMPLEMENTED;

17 (III) IF NO PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP
18 OR OTHER LESS RESTRICTIVE ALTERNATIVES HAVE BEEN CONSIDERED OR
19 IMPLEMENTED, THE REASON THEY HAVE NOT BEEN CONSIDERED OR
20 IMPLEMENTED; AND

21 (IV) THE REASON A PROTECTIVE ARRANGEMENT INSTEAD OF
22 GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE IS INSUFFICIENT
23 TO MEET THE RESPONDENT'S ALLEGED NEED;

24 (e) WHETHER THE PETITIONER SEEKS A LIMITED GUARDIANSHIP OR
25 FULL GUARDIANSHIP;

26 (f) IF THE PETITIONER SEEKS A FULL GUARDIANSHIP, THE REASON
27 A LIMITED GUARDIANSHIP OR PROTECTIVE ARRANGEMENT INSTEAD OF

1 GUARDIANSHIP IS NOT APPROPRIATE;

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

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

7 (i) IF THE RESPONDENT HAS PROPERTY OTHER THAN PERSONAL
8 EFFECTS, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY, WITH
9 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
10 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS;
11 AND

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

15 **15-14.7-303. Notice of hearing for appointment of guardian**
16 **for adult.** (1) ON FILING OF A PETITION PURSUANT TO SECTION
17 15-14.7-302 FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT, THE
18 COURT SHALL SET A DATE, TIME, AND PLACE FOR HEARING THE PETITION.

19 (2) A COPY OF A PETITION DESCRIBED IN SECTION 15-14.7-302 AND
20 NOTICE OF A HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON
21 THE RESPONDENT. THE NOTICE MUST INFORM THE RESPONDENT OF THE
22 RESPONDENT'S RIGHTS AT THE HEARING, INCLUDING THE RIGHT TO AN
23 ATTORNEY AND TO ATTEND THE HEARING. THE NOTICE MUST INCLUDE A
24 DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF
25 GRANTING THE PETITION. THE COURT MAY NOT GRANT THE PETITION IF
26 NOTICE SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (2) IS NOT
27 SERVED ON THE RESPONDENT.

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

8 (4) AFTER THE APPOINTMENT OF A GUARDIAN, NOTICE OF A
9 HEARING ON A PETITION FOR AN ORDER PURSUANT TO THIS PART 3,
10 TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO:

- 11 (a) THE ADULT SUBJECT TO GUARDIANSHIP;
- 12 (b) THE GUARDIAN; AND
- 13 (c) ANY OTHER PERSON THE COURT DETERMINES.

14 **15-14.7-304. Appointment and role of visitor.** (1) ON RECEIPT
15 OF A PETITION DESCRIBED IN SECTION 15-14.7-302 FOR APPOINTMENT OF
16 A GUARDIAN FOR AN ADULT, THE COURT SHALL APPOINT A VISITOR. THE
17 VISITOR MUST BE AN INDIVIDUAL WITH TRAINING OR EXPERIENCE IN THE
18 TYPE OF ABILITIES, LIMITATIONS, AND NEEDS ALLEGED IN THE PETITION.

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

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

- 26 (b) DETERMINE THE RESPONDENT'S VIEWS ABOUT THE
27 APPOINTMENT SOUGHT BY THE PETITIONER, INCLUDING VIEWS ABOUT A

1 PROPOSED GUARDIAN, THE GUARDIAN'S PROPOSED POWERS AND DUTIES,
2 AND THE SCOPE AND DURATION OF THE PROPOSED GUARDIANSHIP;

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

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

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

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

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

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

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

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

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

27 (b) A SUMMARY OF SELF-CARE AND INDEPENDENT-LIVING TASKS

1 THE RESPONDENT CAN MANAGE WITHOUT ASSISTANCE OR WITH EXISTING
2 SUPPORTS; COULD MANAGE WITH THE ASSISTANCE OF APPROPRIATE
3 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
4 DECISION-MAKING; AND CANNOT MANAGE;

5 (c) A RECOMMENDATION REGARDING THE APPROPRIATENESS OF
6 GUARDIANSHIP, INCLUDING WHETHER A PROTECTIVE ARRANGEMENT
7 INSTEAD OF GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE
8 FOR MEETING THE RESPONDENT'S NEEDS IS AVAILABLE, AND:

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

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

13 (d) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED
14 GUARDIAN AND WHETHER THE RESPONDENT APPROVES OR DISAPPROVES
15 OF THE PROPOSED GUARDIAN;

16 (e) A STATEMENT WHETHER THE PROPOSED DWELLING MEETS THE
17 RESPONDENT'S NEEDS AND WHETHER THE RESPONDENT HAS EXPRESSED A
18 PREFERENCE AS TO RESIDENCE;

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

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

23 (h) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
24 PARTICIPATE IN A HEARING AND WHICH IDENTIFIES ANY TECHNOLOGY OR
25 OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE RESPONDENT'S
26 ABILITY TO PARTICIPATE; AND

27 (i) ANY OTHER MATTER THE COURT DIRECTS.

1 **15-14.7-305. Appointment and role of attorney for adult.**

2 (1) THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT THE
3 RESPONDENT IN A PROCEEDING FOR APPOINTMENT OF A GUARDIAN FOR AN
4 ADULT IF:

- 5 (a) THE RESPONDENT REQUESTS AN APPOINTMENT;
- 6 (b) THE VISITOR RECOMMENDS AN APPOINTMENT; OR
- 7 (c) THE COURT DETERMINES THE RESPONDENT NEEDS
8 REPRESENTATION.

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

- 11 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
12 WISHES;
- 13 (b) ADVOCATE FOR THE RESPONDENT'S WISHES TO THE EXTENT
14 REASONABLY ASCERTAINABLE; AND
- 15 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
16 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
17 RESTRICTIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT WITH THE
18 RESPONDENT'S INTERESTS.

19 **15-14.7-306. Professional evaluation.** (1) AT OR BEFORE A
20 HEARING ON A PETITION FOR A GUARDIANSHIP FOR AN ADULT, THE COURT
21 SHALL ORDER A PROFESSIONAL EVALUATION OF THE RESPONDENT:

- 22 (a) IF THE RESPONDENT REQUESTS THE EVALUATION; OR
- 23 (b) IN OTHER CASES, UNLESS THE COURT FINDS THAT IT HAS
24 SUFFICIENT INFORMATION TO DETERMINE THE RESPONDENT'S NEEDS AND
25 ABILITIES WITHOUT THE EVALUATION.

26 (2) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
27 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED

1 BY A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
2 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE
3 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND
4 LIMITATIONS AND WILL NOT BE ADVANTAGED OR DISADVANTAGED BY A
5 DECISION TO GRANT THE PETITION OR OTHERWISE HAVE A CONFLICT OF
6 INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION PROMPTLY
7 SHALL FILE REPORT IN A RECORD WITH THE COURT. UNLESS OTHERWISE
8 DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

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

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

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

16 (d) THE DATE OF THE EXAMINATION ON WHICH THE REPORT IS
17 BASED.

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

20 **15-14.7-307. Attendance and rights at hearing.** (1) EXCEPT AS
21 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A HEARING
22 PURSUANT TO SECTION 15-14.7-303 MAY NOT PROCEED UNLESS THE
23 RESPONDENT ATTENDS THE HEARING. IF IT IS NOT REASONABLY FEASIBLE
24 FOR THE RESPONDENT TO ATTEND A HEARING AT THE LOCATION COURT
25 PROCEEDINGS TYPICALLY ARE HELD, THE COURT SHALL MAKE
26 REASONABLE EFFORTS TO HOLD THE HEARING AT AN ALTERNATIVE
27 LOCATION CONVENIENT TO THE RESPONDENT OR ALLOW THE RESPONDENT

1 TO ATTEND THE HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY.

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

5 (a) THE RESPONDENT CONSISTENTLY AND REPEATEDLY HAS
6 REFUSED TO ATTEND THE HEARING AFTER HAVING BEEN FULLY INFORMED
7 OF THE RIGHT TO ATTEND AND THE POTENTIAL CONSEQUENCES OF FAILING
8 TO DO SO; OR

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

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

19 (4) THE RESPONDENT HAS A RIGHT TO CHOOSE AN ATTORNEY TO
20 REPRESENT THE RESPONDENT AT A HEARING PURSUANT TO SECTION
21 15-14.7-303.

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

24 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
25 DOCUMENTS;

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

1 (c) OTHERWISE PARTICIPATE IN THE HEARING.

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

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

8 (8) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING
9 HELD PURSUANT TO SECTION 15-14.7-303. THE COURT MAY GRANT THE
10 REQUEST, WITH OR WITHOUT A HEARING, ON DETERMINING THAT THE BEST
11 INTEREST OF THE RESPONDENT WILL BE SERVED. THE COURT MAY IMPOSE
12 APPROPRIATE CONDITIONS ON THE PERSON'S PARTICIPATION.

13 **15-14.7-308. Confidentiality of records.** (1) THE EXISTENCE OF
14 A PROCEEDING FOR OR THE EXISTENCE OF A GUARDIANSHIP FOR AN ADULT
15 IS A MATTER OF PUBLIC RECORD UNLESS THE COURT SEALS THE RECORD
16 AFTER:

17 (a) THE RESPONDENT OR INDIVIDUAL SUBJECT TO GUARDIANSHIP
18 REQUESTS THE RECORD BE SEALED; AND

19 (b) EITHER:

20 (I) THE PETITION FOR GUARDIANSHIP IS DISMISSED; OR

21 (II) THE GUARDIANSHIP IS TERMINATED.

22 (2) AFTER THE APPOINTMENT OF A GUARDIAN FOR AN ADULT, THE
23 COURT MAY RESTRICT ACCESS TO, OR REDACT INFORMATION FROM, ANY
24 DOCUMENT IN THE PUBLIC RECORD OF THE GUARDIANSHIP PROCEEDING
25 BUT SHALL NOT CONCEAL THE EXISTENCE OF THE GUARDIANSHIP.

26 (3) AN ADULT SUBJECT TO A PROCEEDING FOR A GUARDIANSHIP,
27 WHETHER OR NOT A GUARDIAN IS APPOINTED; AN ATTORNEY DESIGNATED

1 BY THE ADULT; AND A PERSON ENTITLED TO NOTICE PURSUANT TO SECTION
2 15-14.7-310 (5) OR A SUBSEQUENT ORDER ARE ENTITLED TO ACCESS
3 COURT RECORDS OF THE PROCEEDING AND RESULTING GUARDIANSHIP,
4 INCLUDING THE GUARDIAN'S PLAN DESCRIBED IN SECTION 15-14.7-316
5 AND REPORT DESCRIBED IN SECTION 15-14.7-317. A PERSON NOT
6 OTHERWISE ENTITLED TO ACCESS COURT RECORDS PURSUANT TO THIS
7 SUBSECTION (3) FOR GOOD CAUSE MAY PETITION THE COURT FOR ACCESS
8 TO COURT RECORDS OF THE GUARDIANSHIP, INCLUDING THE GUARDIAN'S
9 REPORT AND PLAN. THE COURT SHALL GRANT ACCESS IF ACCESS IS IN THE
10 BEST INTEREST OF THE RESPONDENT OR ADULT SUBJECT TO GUARDIANSHIP
11 OR FURTHERS THE PUBLIC INTEREST AND DOES NOT ENDANGER THE
12 WELFARE OR FINANCIAL INTERESTS OF THE ADULT.

13 (4) A REPORT PURSUANT TO SECTION 15-14.7-304 OF A VISITOR OR
14 A PROFESSIONAL EVALUATION PURSUANT TO SECTION 15-14.7-306 IS
15 CONFIDENTIAL AND MUST BE SEALED ON FILING, BUT IS AVAILABLE TO:

16 (a) THE COURT;

17 (b) THE INDIVIDUAL WHO IS THE SUBJECT OF THE REPORT OR
18 EVALUATION, WITHOUT LIMITATION AS TO USE;

19 (c) THE PETITIONER, VISITOR, AND PETITIONER'S AND
20 RESPONDENT'S ATTORNEYS, FOR PURPOSES OF THE PROCEEDING;

21 (d) UNLESS THE COURT ORDERS OTHERWISE, AN AGENT APPOINTED
22 UNDER A POWER OF ATTORNEY FOR HEALTH CARE OR POWER OF ATTORNEY
23 FOR FINANCES IN WHICH THE RESPONDENT IS THE PRINCIPAL; AND

24 (e) ANY OTHER PERSON IF IT IS IN THE PUBLIC INTEREST OR FOR A
25 PURPOSE THE COURT ORDERS FOR GOOD CAUSE.

26 **15-14.7-309. Who may be guardian for adult - order of**
27 **priority.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS

1 SECTION, THE COURT, IN APPOINTING A GUARDIAN FOR AN ADULT, SHALL
2 CONSIDER PERSONS QUALIFIED TO BE GUARDIAN IN THE FOLLOWING ORDER
3 OF PRIORITY:

4 (a) A GUARDIAN, OTHER THAN A TEMPORARY OR EMERGENCY
5 GUARDIAN, CURRENTLY ACTING FOR THE RESPONDENT IN ANOTHER
6 JURISDICTION;

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

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

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

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

15 (2) IF TWO OR MORE PERSONS HAVE EQUAL PRIORITY PURSUANT TO
16 SUBSECTION (1) OF THIS SECTION, THE COURT SHALL SELECT AS GUARDIAN
17 THE PERSON THE COURT CONSIDERS BEST QUALIFIED. IN DETERMINING THE
18 BEST QUALIFIED PERSON, THE COURT SHALL CONSIDER THE PERSON'S
19 RELATIONSHIP WITH THE RESPONDENT, THE PERSON'S SKILLS, THE
20 EXPRESSED WISHES OF THE RESPONDENT, THE EXTENT TO WHICH THE
21 PERSON AND THE RESPONDENT HAVE SIMILAR VALUES AND PREFERENCES,
22 AND THE LIKELIHOOD THE PERSON WILL BE ABLE TO PERFORM THE DUTIES
23 OF A GUARDIAN SUCCESSFULLY.

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

1 (4) A PERSON WHO PROVIDES PAID SERVICES TO THE RESPONDENT,
2 OR AN INDIVIDUAL WHO IS EMPLOYED BY A PERSON WHO PROVIDES PAID
3 SERVICES TO THE RESPONDENT OR IS THE SPOUSE, DOMESTIC PARTNER,
4 PARENT, OR CHILD OF AN INDIVIDUAL WHO PROVIDES OR IS EMPLOYED TO
5 PROVIDE PAID SERVICES TO THE RESPONDENT, MAY NOT BE APPOINTED AS
6 GUARDIAN UNLESS:

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

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

12 (5) AN OWNER, OPERATOR, OR EMPLOYEE OF A LONG-TERM CARE
13 FACILITY AT WHICH THE RESPONDENT IS RECEIVING CARE MAY NOT BE
14 APPOINTED AS GUARDIAN UNLESS THE OWNER, OPERATOR, OR EMPLOYEE
15 IS RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR ADOPTION.

16 **15-14.7-310. Order of appointment for guardian.** (1) A COURT
17 ORDER APPOINTING A GUARDIAN FOR AN ADULT MUST:

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

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

27 (c) STATE WHETHER THE ADULT SUBJECT TO GUARDIANSHIP

1 RETAINS THE RIGHT TO VOTE AND, IF THE ADULT DOES NOT RETAIN THE
2 RIGHT TO VOTE, INCLUDE FINDINGS THAT SUPPORT REMOVING THAT RIGHT,
3 WHICH MUST INCLUDE A FINDING THAT THE ADULT CANNOT
4 COMMUNICATE, WITH OR WITHOUT SUPPORT, A SPECIFIC DESIRE TO
5 PARTICIPATE IN THE VOTING PROCESS; AND

6 (d) STATE WHETHER THE ADULT SUBJECT TO GUARDIANSHIP
7 RETAINS THE RIGHT TO MARRY AND, IF THE ADULT DOES NOT RETAIN THE
8 RIGHT TO MARRY, INCLUDE FINDINGS THAT SUPPORT REMOVING THAT
9 RIGHT.

10 (2) AN ADULT SUBJECT TO GUARDIANSHIP RETAINS THE RIGHT TO
11 VOTE UNLESS THE ORDER DESCRIBED IN SUBSECTION (1) OF THIS SECTION
12 INCLUDES THE STATEMENT REQUIRED BY SUBSECTION (1)(c) OF THIS
13 SECTION. AN ADULT SUBJECT TO GUARDIANSHIP RETAINS THE RIGHT TO
14 MARRY UNLESS THE ORDER DESCRIBED IN SUBSECTION (1) OF THIS SECTION
15 INCLUDES THE FINDINGS REQUIRED BY SUBSECTION (1)(d) OF THIS
16 SECTION.

17 (3) A COURT ORDER ESTABLISHING A FULL GUARDIANSHIP FOR AN
18 ADULT MUST STATE THE BASIS FOR GRANTING A FULL GUARDIANSHIP AND
19 INCLUDE SPECIFIC FINDINGS THAT SUPPORT THE CONCLUSION THAT A
20 LIMITED GUARDIANSHIP WOULD NOT MEET THE FUNCTIONAL NEEDS OF THE
21 ADULT SUBJECT TO GUARDIANSHIP.

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

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

27 (a) NOTICE OF THE RIGHTS OF THE ADULT PURSUANT TO SECTION

1 15-14.7-311 (2);
2 (b) NOTICE OF A CHANGE IN THE PRIMARY DWELLING OF THE
3 ADULT;
4 (c) NOTICE THAT THE GUARDIAN HAS DELEGATED:
5 (I) THE POWER TO MANAGE THE CARE OF THE ADULT;
6 (II) THE POWER TO MAKE DECISIONS ABOUT WHERE THE ADULT
7 LIVES;
8 (III) THE POWER TO MAKE MAJOR MEDICAL DECISIONS ON BEHALF
9 OF THE ADULT;
10 (IV) THE POWER THAT REQUIRES COURT APPROVAL PURSUANT TO
11 SECTION 15-14.7-315; OR
12 (V) SUBSTANTIALLY ALL POWERS OF THE GUARDIAN;
13 (d) NOTICE THAT THE GUARDIAN WILL BE UNAVAILABLE TO VISIT
14 THE ADULT FOR MORE THAN TWO MONTHS OR UNAVAILABLE TO PERFORM
15 THE GUARDIAN'S DUTIES FOR MORE THAN ONE MONTH;
16 (e) A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN SECTION
17 15-14.7-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
18 15-14.7-317;
19 (f) ACCESS TO COURT RECORDS RELATING TO THE GUARDIANSHIP;
20 (g) NOTICE OF THE DEATH OR SIGNIFICANT CHANGE IN THE
21 CONDITION OF THE ADULT;
22 (h) NOTICE THAT THE COURT HAS LIMITED OR MODIFIED THE
23 POWERS OF THE GUARDIAN; AND
24 (i) NOTICE OF THE REMOVAL OF THE GUARDIAN.
25 (6) A SPOUSE, DOMESTIC PARTNER, AND ADULT CHILDREN OF AN
26 ADULT SUBJECT TO GUARDIANSHIP ARE ENTITLED TO NOTICE PURSUANT TO
27 SUBSECTION (5) OF THIS SECTION UNLESS THE COURT DETERMINES NOTICE

1 WOULD BE CONTRARY TO THE PREFERENCES OR PRIOR DIRECTIONS OF THE
2 ADULT SUBJECT TO GUARDIANSHIP OR NOT IN THE BEST INTEREST OF THE
3 ADULT.

4 **15-14.7-311. Notice of order of appointment - rights.** (1) A
5 GUARDIAN APPOINTED PURSUANT TO SECTION 15-14.7-309 SHALL GIVE
6 THE ADULT SUBJECT TO GUARDIANSHIP AND ALL OTHER PERSONS GIVEN
7 NOTICE PURSUANT TO SECTION 15-14.7-303 A COPY OF THE ORDER OF
8 APPOINTMENT, TOGETHER WITH NOTICE OF THE RIGHT TO REQUEST
9 TERMINATION OR MODIFICATION. THE ORDER AND NOTICE MUST BE GIVEN
10 NOT LATER THAN FOURTEEN DAYS AFTER THE APPOINTMENT.

11 (2) NOT LATER THAN THIRTY DAYS AFTER APPOINTMENT OF A
12 GUARDIAN PURSUANT TO SECTION 15-14.7-309, THE COURT SHALL GIVE TO
13 THE ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN, AND ANY OTHER
14 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-310 (5) OR
15 A SUBSEQUENT ORDER A STATEMENT OF THE RIGHTS OF THE ADULT
16 SUBJECT TO GUARDIANSHIP AND PROCEDURES TO SEEK RELIEF IF THE
17 ADULT IS DENIED THOSE RIGHTS. THE STATEMENT MUST BE IN AT LEAST
18 SIXTEEN-POINT FONT, IN PLAIN LANGUAGE, AND, TO THE EXTENT FEASIBLE,
19 IN A LANGUAGE IN WHICH THE ADULT SUBJECT TO GUARDIANSHIP IS
20 PROFICIENT. THE STATEMENT MUST NOTIFY THE ADULT SUBJECT TO
21 GUARDIANSHIP OF THE RIGHT TO:

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

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

1 (c) BE INVOLVED IN HEALTH-CARE DECISION-MAKING TO THE
2 EXTENT REASONABLY FEASIBLE AND SUPPORTED IN UNDERSTANDING THE
3 RISKS AND BENEFITS OF HEALTH-CARE OPTIONS TO THE EXTENT
4 REASONABLY FEASIBLE;

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

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

14 (f) COMMUNICATE, VISIT, OR INTERACT WITH OTHERS, INCLUDING
15 RECEIVING VISITORS AND MAKING OR RECEIVING TELEPHONE CALLS,
16 PERSONAL MAIL, OR ELECTRONIC COMMUNICATIONS, INCLUDING THROUGH
17 SOCIAL MEDIA, UNLESS:

18 (I) THE GUARDIAN HAS BEEN AUTHORIZED BY THE COURT BY
19 SPECIFIC ORDER TO RESTRICT COMMUNICATIONS, VISITS, OR
20 INTERACTIONS;

21 (II) PROTECTIVE ORDER OR PROTECTIVE ARRANGEMENT INSTEAD
22 OF GUARDIANSHIP IS IN EFFECT THAT LIMITS CONTACT BETWEEN THE
23 ADULT AND A PERSON; OR

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

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

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

7 (g) RECEIVE A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN
8 SECTION 15-14.7-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
9 15-14.7-317; AND

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

11 **15-14.7-312. Emergency guardian for adult.** (1) ON ITS OWN
12 AFTER A PETITION HAS BEEN FILED PURSUANT TO SECTION 15-14.7-302, OR
13 ON PETITION BY A PERSON INTERESTED IN AN ADULT'S WELFARE, THE
14 COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR THE ADULT IF THE
15 COURT FINDS:

16 (a) APPOINTMENT OF AN EMERGENCY GUARDIAN IS LIKELY TO
17 PREVENT SUBSTANTIAL HARM TO THE ADULT'S PHYSICAL HEALTH, SAFETY,
18 OR WELFARE;

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

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

23 (2) THE DURATION OF AUTHORITY OF AN EMERGENCY GUARDIAN
24 FOR AN ADULT MAY NOT EXCEED SIXTY DAYS, AND THE EMERGENCY
25 GUARDIAN MAY EXERCISE ONLY THE POWERS SPECIFIED IN THE ORDER OF
26 APPOINTMENT. THE EMERGENCY GUARDIAN'S AUTHORITY MAY BE
27 EXTENDED ONCE FOR NOT MORE THAN SIXTY DAYS IF THE COURT FINDS

1 THAT THE CONDITIONS FOR APPOINTMENT OF AN EMERGENCY GUARDIAN
2 DESCRIBED IN SUBSECTION (1) OF THIS SECTION CONTINUE.

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

10 (4) THE COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR AN
11 ADULT WITHOUT NOTICE TO THE ADULT AND ANY ATTORNEY FOR THE
12 ADULT ONLY IF THE COURT FINDS FROM AN AFFIDAVIT OR TESTIMONY
13 THAT THE RESPONDENT'S PHYSICAL HEALTH, SAFETY, OR WELFARE WILL
14 BE SUBSTANTIALLY HARMED BEFORE A HEARING WITH NOTICE ON THE
15 APPOINTMENT CAN BE HELD. IF THE COURT APPOINTS AN EMERGENCY
16 GUARDIAN WITHOUT GIVING NOTICE PURSUANT TO SUBSECTION (3) OF THIS
17 SECTION, THE COURT MUST:

18 (a) GIVE NOTICE OF THE APPOINTMENT NOT LATER THAN
19 FORTY-EIGHT HOURS AFTER THE APPOINTMENT TO:

20 (I) THE RESPONDENT;

21 (II) THE RESPONDENT'S ATTORNEY; AND

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

23 (b) HOLD A HEARING ON THE APPROPRIATENESS OF THE
24 APPOINTMENT NOT LATER THAN FIVE DAYS AFTER THE APPOINTMENT.

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

1 (6) THE COURT MAY REMOVE AN EMERGENCY GUARDIAN
2 APPOINTED PURSUANT TO THIS SECTION AT ANY TIME. THE EMERGENCY
3 GUARDIAN SHALL MAKE ANY REPORT THE COURT REQUIRES.

4 **15-14.7-313. Duties of guardian for adult.** (1) A GUARDIAN FOR
5 AN ADULT IS A FIDUCIARY. EXCEPT AS OTHERWISE LIMITED BY THE COURT,
6 A GUARDIAN FOR AN ADULT SHALL MAKE DECISIONS REGARDING THE
7 SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF THE ADULT
8 SUBJECT TO GUARDIANSHIP TO THE EXTENT NECESSITATED BY THE
9 ADULT'S LIMITATIONS.

10 (2) A GUARDIAN FOR AN ADULT SHALL PROMOTE THE
11 SELF-DETERMINATION OF THE ADULT AND, TO THE EXTENT REASONABLY
12 FEASIBLE, ENCOURAGE THE ADULT TO PARTICIPATE IN DECISIONS, ACT ON
13 THE ADULT'S OWN BEHALF, AND DEVELOP OR REGAIN THE CAPACITY TO
14 MANAGE THE ADULT'S PERSONAL AFFAIRS. IN FURTHERANCE OF THIS DUTY,
15 THE GUARDIAN SHALL:

16 (a) BECOME OR REMAIN PERSONALLY ACQUAINTED WITH THE
17 ADULT AND MAINTAIN SUFFICIENT CONTACT WITH THE ADULT, INCLUDING
18 THROUGH REGULAR VISITATION, TO KNOW THE ADULT'S ABILITIES,
19 LIMITATIONS, NEEDS, OPPORTUNITIES, AND PHYSICAL AND MENTAL
20 HEALTH;

21 (b) TO THE EXTENT REASONABLY FEASIBLE, IDENTIFY THE VALUES
22 AND PREFERENCES OF THE ADULT AND INVOLVE THE ADULT IN DECISIONS
23 AFFECTING THE ADULT, INCLUDING DECISIONS ABOUT THE ADULT'S CARE,
24 DWELLING, ACTIVITIES, OR SOCIAL INTERACTIONS; AND

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

27 (3) A GUARDIAN FOR AN ADULT AT ALL TIMES SHALL EXERCISE

1 REASONABLE CARE, DILIGENCE, AND PRUDENCE WHEN ACTING ON BEHALF
2 OF OR MAKING DECISIONS FOR THE ADULT. IN FURTHERANCE OF THIS DUTY,
3 THE GUARDIAN SHALL:

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

8 (b) EXPEND FUNDS AND OTHER PROPERTY OF THE ADULT RECEIVED
9 BY THE GUARDIAN FOR THE ADULT'S CURRENT NEEDS FOR SUPPORT, CARE,
10 EDUCATION, HEALTH, AND WELFARE;

11 (c) CONSERVE ANY FUNDS AND OTHER PROPERTY OF THE ADULT
12 NOT EXPENDED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION FOR THE
13 ADULT'S FUTURE NEEDS, BUT IF A CONSERVATOR HAS BEEN APPOINTED FOR
14 THE ADULT, PAY THE FUNDS AND OTHER PROPERTY AT LEAST QUARTERLY
15 TO THE CONSERVATOR TO BE CONSERVED FOR THE ADULT'S FUTURE
16 NEEDS; AND

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

19 (4) IN MAKING A DECISION FOR AN ADULT SUBJECT TO
20 GUARDIANSHIP, THE GUARDIAN SHALL MAKE THE DECISION THE GUARDIAN
21 REASONABLY BELIEVES THE ADULT WOULD MAKE IF THE ADULT WERE
22 ABLE, UNLESS DOING SO WOULD UNREASONABLY HARM OR ENDANGER THE
23 WELFARE OR PERSONAL OR FINANCIAL INTERESTS OF THE ADULT. TO
24 DETERMINE THE DECISION THE ADULT SUBJECT TO GUARDIANSHIP WOULD
25 MAKE IF ABLE, THE GUARDIAN SHALL CONSIDER THE ADULT'S PREVIOUS OR
26 CURRENT DIRECTIONS, PREFERENCES, OPINIONS, VALUES, AND ACTIONS, TO
27 THE EXTENT ACTUALLY KNOWN OR REASONABLY ASCERTAINABLE BY THE

1 GUARDIAN.

2 (5) IF A GUARDIAN FOR AN ADULT CANNOT MAKE A DECISION
3 PURSUANT TO SUBSECTION (4) OF THIS SECTION BECAUSE THE GUARDIAN
4 DOES NOT KNOW AND CANNOT REASONABLY DETERMINE THE DECISION
5 THE ADULT PROBABLY WOULD MAKE IF ABLE, OR THE GUARDIAN
6 REASONABLY BELIEVES THE DECISION THE ADULT WOULD MAKE WOULD
7 UNREASONABLY HARM OR ENDANGER THE WELFARE OR PERSONAL OR
8 FINANCIAL INTERESTS OF THE ADULT, THE GUARDIAN SHALL ACT IN
9 ACCORDANCE WITH THE BEST INTEREST OF THE ADULT. IN DETERMINING
10 THE BEST INTEREST OF THE ADULT, THE GUARDIAN SHALL CONSIDER:

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

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

15 (c) OTHER FACTORS A REASONABLE PERSON IN THE
16 CIRCUMSTANCES OF THE ADULT WOULD CONSIDER, INCLUDING
17 CONSEQUENCES FOR OTHERS.

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

21 **15-14.7-314. Powers of guardian for adult.** (1) EXCEPT AS
22 LIMITED BY COURT ORDER, A GUARDIAN FOR AN ADULT MAY:

23 (a) APPLY FOR AND RECEIVE FUNDS AND BENEFITS FOR THE
24 SUPPORT OF THE ADULT, UNLESS A CONSERVATOR IS APPOINTED FOR THE
25 ADULT AND THE APPLICATION OR RECEIPT IS WITHIN THE POWERS OF THE
26 CONSERVATOR;

27 (b) UNLESS INCONSISTENT WITH A COURT ORDER, ESTABLISH THE

1 ADULT'S PLACE OF DWELLING;

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

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

8 (e) TO THE EXTENT REASONABLE, DELEGATE TO THE ADULT
9 RESPONSIBILITY FOR A DECISION AFFECTING THE ADULT'S WELL-BEING;

10 AND

11 (f) RECEIVE PERSONALLY IDENTIFIABLE HEALTH-CARE
12 INFORMATION REGARDING THE ADULT.

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

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

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

20 (b) PETITION FOR DIVORCE, DISSOLUTION, OR ANNULMENT OF
21 MARRIAGE OF THE ADULT OR A DECLARATION OF INVALIDITY OF THE
22 ADULT'S MARRIAGE; OR

23 (c) SUPPORT OR OPPOSE A PETITION FOR DIVORCE, DISSOLUTION,
24 OR ANNULMENT OF MARRIAGE OF THE ADULT OR A DECLARATION OF
25 INVALIDITY OF THE ADULT'S MARRIAGE.

26 (4) IN DETERMINING WHETHER TO AUTHORIZE A POWER PURSUANT
27 TO SUBSECTION (2) OR (3) OF THIS SECTION, THE COURT SHALL CONSIDER

1 WHETHER THE UNDERLYING ACT WOULD BE IN ACCORDANCE WITH THE
2 ADULT'S PREFERENCES, VALUES, AND PRIOR DIRECTIONS AND WHETHER
3 THE UNDERLYING ACT WOULD BE IN THE ADULT'S BEST INTEREST.

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

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

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

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

24 (I) GIVE NOTICE OF THE CHANGE TO THE COURT, THE ADULT, AND
25 ANY PERSON IDENTIFIED AS ENTITLED TO THE NOTICE IN THE COURT ORDER
26 APPOINTING THE GUARDIAN OR A SUBSEQUENT ORDER; AND

27 (II) INCLUDE IN THE NOTICE THE ADDRESS AND NATURE OF THE

1 NEW DWELLING AND STATE WHETHER THE ADULT RECEIVED ADVANCE
2 NOTICE OF THE CHANGE AND WHETHER THE ADULT OBJECTED TO THE
3 CHANGE;

4 (d) ESTABLISH OR MOVE THE PERMANENT PLACE OF DWELLING OF
5 THE ADULT TO A NURSING HOME, MENTAL HEALTH INSTITUTION, OR OTHER
6 FACILITY THAT PLACES RESTRICTIONS ON THE ADULT'S ABILITY TO LEAVE
7 OR HAVE VISITORS ONLY IF:

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

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

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

16 (e) ESTABLISH OR MOVE THE PLACE OF DWELLING OF THE ADULT
17 OUTSIDE THIS STATE ONLY IF CONSISTENT WITH THE GUARDIAN'S PLAN AND
18 AUTHORIZED BY THE COURT BY SPECIFIC ORDER; AND

19 (f) TAKE ACTION THAT WOULD RESULT IN THE SALE OF OR
20 SURRENDER OF THE LEASE TO THE PRIMARY DWELLING OF THE ADULT ONLY
21 IF:

22 (I) THE ACTION IS SPECIFICALLY INCLUDED IN THE GUARDIAN'S
23 PLAN DESCRIBED IN SECTION 15-14.7-316;

24 (II) THE COURT AUTHORIZES THE ACTION BY SPECIFIC ORDER; OR

25 (III) NOTICE OF THE ACTION WAS GIVEN AT LEAST FOURTEEN DAYS
26 BEFORE THE ACTION TO THE ADULT AND ALL PERSONS ENTITLED TO THE
27 NOTICE PURSUANT TO SECTION 15-14.7-310 (5)(b) OR A SUBSEQUENT

1 ORDER AND NO OBJECTION HAS BEEN FILED.

2 (6) INEXERCISING A GUARDIAN'S POWER PURSUANT TO SUBSECTION
3 (1)(c) OF THIS SECTION TO MAKE HEALTH-CARE DECISIONS, THE GUARDIAN
4 SHALL:

5 (a) INVOLVE THE ADULT IN DECISION-MAKING TO THE EXTENT
6 REASONABLY FEASIBLE, INCLUDING, WHEN PRACTICABLE, BY
7 ENCOURAGING AND SUPPORTING THE ADULT IN UNDERSTANDING THE RISKS
8 AND BENEFITS OF HEALTH-CARE OPTIONS;

9 (b) DEFER TO A DECISION BY AN AGENT UNDER A POWER OF
10 ATTORNEY FOR HEALTH CARE EXECUTED BY THE ADULT AND COOPERATE
11 TO THE EXTENT FEASIBLE WITH THE AGENT MAKING THE DECISION; AND

12 (c) TAKE INTO ACCOUNT:

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

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

16 **15-14.7-315. Special limitations on guardian's power.**

17 (1) UNLESS AUTHORIZED BY THE COURT BY SPECIFIC ORDER, A GUARDIAN
18 FOR AN ADULT DOES NOT HAVE THE POWER TO REVOKE OR AMEND A
19 POWER OF ATTORNEY FOR HEALTH CARE OR POWER OF ATTORNEY FOR
20 FINANCES EXECUTED BY THE ADULT. IF A POWER OF ATTORNEY FOR
21 HEALTH CARE IS IN EFFECT, UNLESS THERE IS A COURT ORDER TO THE
22 CONTRARY, A HEALTH-CARE DECISION OF AN AGENT TAKES PRECEDENCE
23 OVER THAT OF THE GUARDIAN AND THE GUARDIAN SHALL COOPERATE WITH
24 THE AGENT TO THE EXTENT FEASIBLE. IF A POWER OF ATTORNEY FOR
25 FINANCES IS IN EFFECT, UNLESS THERE IS A COURT ORDER TO THE
26 CONTRARY, A DECISION BY THE AGENT WHICH THE AGENT IS AUTHORIZED
27 TO MAKE UNDER THE POWER OF ATTORNEY FOR FINANCES TAKES

1 PRECEDENCE OVER THAT OF THE GUARDIAN AND THE GUARDIAN SHALL
2 COOPERATE WITH THE AGENT TO THE EXTENT FEASIBLE.

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

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

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

13 (b) A PROTECTIVE ORDER OR A PROTECTIVE ARRANGEMENT
14 INSTEAD OF GUARDIANSHIP IS IN EFFECT THAT LIMITS CONTACT BETWEEN
15 THE ADULT AND A PERSON; OR

16 (c) THE GUARDIAN HAS GOOD CAUSE TO BELIEVE RESTRICTION IS
17 NECESSARY BECAUSE INTERACTION WITH A SPECIFIED PERSON POSES A RISK
18 OF SIGNIFICANT PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM TO THE
19 ADULT AND THE RESTRICTION IS:

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

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

26 **15-14.7-316. Guardian's plan.** (1) A GUARDIAN FOR AN ADULT,
27 NOT LATER THAN SIXTY DAYS AFTER APPOINTMENT AND WHEN THERE IS A

1 SIGNIFICANT CHANGE IN CIRCUMSTANCES, OR THE GUARDIAN SEEKS TO
2 DEVIATE SIGNIFICANTLY FROM THE GUARDIAN'S PLAN, SHALL FILE WITH
3 THE COURT A PLAN FOR THE CARE OF THE ADULT. THE PLAN MUST BE
4 BASED ON THE NEEDS OF THE ADULT AND TAKE INTO ACCOUNT THE BEST
5 INTEREST OF THE ADULT AS WELL AS THE ADULT'S PREFERENCES, VALUES,
6 AND PRIOR DIRECTIONS, TO THE EXTENT KNOWN TO OR REASONABLY
7 ASCERTAINABLE BY THE GUARDIAN. THE GUARDIAN SHALL INCLUDE IN THE
8 PLAN:

9 (a) THE LIVING ARRANGEMENT, SERVICES, AND SUPPORTS THE
10 GUARDIAN EXPECTS TO ARRANGE, FACILITATE, OR CONTINUE FOR THE
11 ADULT;

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

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

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

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

22 (f) WHETHER THE ADULT HAS AN EXISTING PLAN AND, IF SO,
23 WHETHER THE GUARDIAN'S PLAN IS CONSISTENT WITH THE ADULT'S PLAN;
24 AND

25 (g) A STATEMENT OR LIST OF THE AMOUNT THE GUARDIAN
26 PROPOSES TO CHARGE FOR EACH SERVICE THE GUARDIAN ANTICIPATES
27 PROVIDING TO THE ADULT.

1 (2) A GUARDIAN SHALL GIVE NOTICE OF THE FILING OF THE
2 GUARDIAN'S PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION,
3 TOGETHER WITH A COPY OF THE PLAN, TO THE ADULT SUBJECT TO
4 GUARDIANSHIP, A PERSON ENTITLED TO NOTICE PURSUANT TO SECTION
5 15-14.7-310 OR A SUBSEQUENT ORDER, AND ANY OTHER PERSON THE
6 COURT DETERMINES. THE NOTICE MUST INCLUDE A STATEMENT OF THE
7 RIGHT TO OBJECT TO THE PLAN AND BE GIVEN NOT LATER THAN FOURTEEN
8 DAYS AFTER THE FILING.

9 (3) AN ADULT SUBJECT TO GUARDIANSHIP AND ANY PERSON
10 ENTITLED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO RECEIVE
11 NOTICE AND A COPY OF THE GUARDIAN'S PLAN MAY OBJECT TO THE PLAN.

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

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

25 **15-14.7-317. Guardian's report - monitoring of guardianship.**

26 (1) A GUARDIAN FOR AN ADULT, NOT LATER THAN SIXTY DAYS AFTER
27 APPOINTMENT AND AT LEAST ANNUALLY THEREAFTER, SHALL FILE WITH

1 THE COURT A REPORT IN A RECORD REGARDING THE CONDITION OF THE
2 ADULT AND ACCOUNTING FOR FUNDS AND OTHER PROPERTY IN THE
3 GUARDIAN'S POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL.

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

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

7 (b) THE LIVING ARRANGEMENTS OF THE ADULT DURING THE
8 REPORTING PERIOD;

9 (c) A SUMMARY OF THE SUPPORTED DECISION-MAKING,
10 TECHNOLOGICAL ASSISTANCE, MEDICAL SERVICES, EDUCATIONAL AND
11 VOCATIONAL SERVICES, AND OTHER SUPPORTS AND SERVICES PROVIDED TO
12 THE ADULT AND THE GUARDIAN'S OPINION AS TO THE ADEQUACY OF THE
13 ADULT'S CARE;

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

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

17 (f) THE EXTENT TO WHICH THE ADULT HAS PARTICIPATED IN
18 DECISION-MAKING;

19 (g) IF THE ADULT IS LIVING IN A MENTAL HEALTH INSTITUTION OR
20 LIVING IN A FACILITY THAT PROVIDES THE ADULT WITH HEALTH-CARE OR
21 OTHER PERSONAL SERVICES, WHETHER THE GUARDIAN CONSIDERS THE
22 FACILITY'S CURRENT PLAN FOR SUPPORT, CARE, TREATMENT, OR
23 HABILITATION CONSISTENT WITH THE ADULT'S PREFERENCES, VALUES,
24 PRIOR DIRECTIONS, AND BEST INTEREST;

25 (h) ANYTHING OF MORE THAN DE MINIMIS VALUE WHICH THE
26 GUARDIAN, ANY INDIVIDUAL WHO RESIDES WITH THE GUARDIAN, OR THE
27 SPOUSE, DOMESTIC PARTNER, PARENT, CHILD, OR SIBLING OF THE

1 GUARDIAN HAS RECEIVED FROM AN INDIVIDUAL PROVIDING GOODS OR
2 SERVICES TO THE ADULT;

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

5 (j) ANY BUSINESS RELATION THE GUARDIAN HAS WITH A PERSON
6 THE GUARDIAN HAS PAID OR WHO HAS BENEFITTED FROM THE PROPERTY OF
7 THE ADULT;

8 (k) A COPY OF THE GUARDIAN'S MOST RECENTLY APPROVED PLAN
9 DESCRIBED IN SECTION 15-14.7-316 AND A STATEMENT WHETHER THE
10 GUARDIAN HAS DEVIATED FROM THE PLAN AND, IF SO, HOW THE GUARDIAN
11 HAS DEVIATED AND WHY;

12 (l) PLANS FOR FUTURE CARE AND SUPPORT OF THE ADULT;

13 (m) A RECOMMENDATION AS TO THE NEED FOR CONTINUED
14 GUARDIANSHIP AND ANY RECOMMENDED CHANGE IN THE SCOPE OF THE
15 GUARDIANSHIP; AND

16 (n) WHETHER ANY CO-GUARDIAN OR SUCCESSOR GUARDIAN
17 APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS IS ALIVE AND
18 ABLE TO SERVE.

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

24 (4) NOTICE OF THE FILING PURSUANT TO THIS SECTION OF A
25 GUARDIAN'S REPORT, TOGETHER WITH A COPY OF THE REPORT, MUST BE
26 GIVEN TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON ENTITLED TO
27 NOTICE PURSUANT TO SECTION 15-14.7-310 OR A SUBSEQUENT ORDER, AND

1 ANY OTHER PERSON THE COURT DETERMINES. THE NOTICE AND REPORT
2 MUST BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE FILING.

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

6 (a) THE REPORT PROVIDES SUFFICIENT INFORMATION TO ESTABLISH
7 THE GUARDIAN HAS COMPLIED WITH THE GUARDIAN'S DUTIES;

8 (b) THE GUARDIANSHIP SHOULD CONTINUE; AND

9 (c) THE GUARDIAN'S REQUESTED FEES, IF ANY, SHOULD BE
10 APPROVED.

11 (6) IF THE COURT DETERMINES THERE IS REASON TO BELIEVE A
12 GUARDIAN FOR AN ADULT HAS NOT COMPLIED WITH THE GUARDIAN'S
13 DUTIES OR THE GUARDIANSHIP SHOULD BE MODIFIED OR TERMINATED, THE
14 COURT:

15 (a) SHALL NOTIFY THE ADULT, THE GUARDIAN, AND ANY OTHER
16 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-310 OR A
17 SUBSEQUENT ORDER;

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

19 (c) MAY APPOINT A VISITOR TO INTERVIEW THE ADULT OR
20 GUARDIAN OR INVESTIGATE ANY MATTER INVOLVING THE GUARDIANSHIP;
21 AND

22 (d) CONSISTENT WITH SECTIONS 15-14.7-318 AND 15-14.7-319,
23 MAY HOLD A HEARING TO CONSIDER REMOVAL OF THE GUARDIAN,
24 TERMINATION OF THE GUARDIANSHIP, OR A CHANGE IN THE POWERS
25 GRANTED TO THE GUARDIAN OR TERMS OF THE GUARDIANSHIP.

26 (7) IF THE COURT HAS REASON TO BELIEVE FEES REQUESTED BY A
27 GUARDIAN FOR AN ADULT ARE NOT REASONABLE, THE COURT SHALL HOLD

1 A HEARING TO DETERMINE WHETHER TO ADJUST THE REQUESTED FEES.

2 (8) A GUARDIAN FOR AN ADULT MAY PETITION THE COURT FOR
3 APPROVAL OF A REPORT FILED PURSUANT TO THIS SECTION. THE COURT,
4 AFTER REVIEW, MAY APPROVE THE REPORT. IF THE COURT APPROVES THE
5 REPORT, THERE IS A REBUTTABLE PRESUMPTION THE REPORT IS ACCURATE
6 AS TO A MATTER ADEQUATELY DISCLOSED IN THE REPORT.

7 **15-14.7-318. Removal of guardian for adult - appointment of**
8 **successor.** (1) THE COURT MAY REMOVE A GUARDIAN FOR AN ADULT FOR
9 FAILURE TO PERFORM THE GUARDIAN'S DUTIES OR FOR OTHER GOOD CAUSE
10 AND APPOINT A SUCCESSOR GUARDIAN TO ASSUME THE DUTIES OF
11 GUARDIAN.

12 (2) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
13 TO REMOVE A GUARDIAN FOR AN ADULT AND APPOINT A SUCCESSOR
14 GUARDIAN ON:

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

22 (b) COMMUNICATION FROM THE ADULT, GUARDIAN, OR PERSON
23 INTERESTED IN THE WELFARE OF THE ADULT WHICH SUPPORTS A
24 REASONABLE BELIEF THAT REMOVAL OF THE GUARDIAN AND APPOINTMENT
25 OF A SUCCESSOR GUARDIAN MAY BE APPROPRIATE; OR

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

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

5 (4) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO REMOVE
6 THE GUARDIAN AND HAVE A SUCCESSOR GUARDIAN APPOINTED HAS THE
7 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THIS
8 MATTER. IF THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT
9 SHALL APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS AS IN
10 SECTION 15-14.7-305. THE COURT SHALL AWARD REASONABLE ATTORNEY
11 FEES TO THE ATTORNEY FOR THE ADULT AS PROVIDED IN SECTION
12 15-14.7-119.

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

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

20 **15-14.7-319. Termination or modification of guardianship for**
21 **adult.** (1) AN ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN FOR THE
22 ADULT, OR A PERSON INTERESTED IN THE WELFARE OF THE ADULT MAY
23 PETITION FOR:

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

1 (b) MODIFICATION OF THE GUARDIANSHIP ON THE GROUNDS THAT
2 THE EXTENT OF PROTECTION OR ASSISTANCE GRANTED IS NOT APPROPRIATE
3 OR FOR OTHER GOOD CAUSE.

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

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

13 (b) COMMUNICATION FROM THE ADULT, GUARDIAN, OR PERSON
14 INTERESTED IN THE WELFARE OF THE ADULT WHICH SUPPORTS A
15 REASONABLE BELIEF THAT TERMINATION OR MODIFICATION OF THE
16 GUARDIANSHIP MAY BE APPROPRIATE, INCLUDING BECAUSE THE
17 FUNCTIONAL NEEDS OF THE ADULT OR SUPPORTS OR SERVICES AVAILABLE
18 TO THE ADULT HAVE CHANGED;

19 (c) A REPORT FROM A GUARDIAN OR CONSERVATOR WHICH
20 INDICATES THAT TERMINATION OR MODIFICATION MAY BE APPROPRIATE
21 BECAUSE THE FUNCTIONAL NEEDS OF THE ADULT OR SUPPORTS OR
22 SERVICES AVAILABLE TO THE ADULT HAVE CHANGED OR A PROTECTIVE
23 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR OTHER LESS RESTRICTIVE
24 ALTERNATIVE FOR MEETING THE ADULT'S NEEDS IS AVAILABLE; OR

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

27 (3) NOTICE OF A PETITION PURSUANT TO SUBSECTION (2)(a) OF THIS

1 SECTION MUST BE GIVEN TO THE ADULT SUBJECT TO GUARDIANSHIP, THE
2 GUARDIAN, AND ANY OTHER PERSON THE COURT DETERMINES.

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

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

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

15 (7) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO
16 TERMINATE OR MODIFY THE TERMS OF THE GUARDIANSHIP HAS THE RIGHT
17 TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THE MATTER. IF
18 THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT SHALL
19 APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS AS SET FORTH
20 IN SECTION 15-14.7-305. THE COURT SHALL AWARD REASONABLE
21 ATTORNEY FEES TO THE ATTORNEY FOR THE ADULT AS PROVIDED IN
22 SECTION 15-14.7-119.

23 PART 4

24 CONSERVATORSHIP

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

1 THE COURT FINDS BY A PREPONDERANCE OF EVIDENCE THAT APPOINTMENT
2 OF A CONSERVATOR IS IN THE MINOR'S BEST INTEREST, AND:

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

6 (b) EITHER:

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

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

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

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

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

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

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

27 (b) APPOINTMENT IS NECESSARY TO:

1 (I) AVOID HARM TO THE ADULT OR SIGNIFICANT DISSIPATION OF
2 THE PROPERTY OF THE ADULT; OR

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

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

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

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

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

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

24 (c) THE GUARDIAN FOR THE INDIVIDUAL.

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

1 INTEREST IN THE APPOINTMENT; THE NAME AND ADDRESS OF ANY
2 ATTORNEY REPRESENTING THE PETITIONER; AND, TO THE EXTENT KNOWN,
3 THE FOLLOWING:

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

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

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

13 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
14 SIBLING OF THE RESPONDENT, OR, IF NONE, AT LEAST ONE ADULT NEAREST
15 IN KINSHIP TO THE RESPONDENT WHO CAN BE FOUND WITH REASONABLE
16 DILIGENCE; AND

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

21 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
22 FOLLOWING, IF APPLICABLE:

23 (I) A PERSON RESPONSIBLE FOR THE CARE OR CUSTODY OF THE
24 RESPONDENT;

25 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;

26 (III) THE REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
27 SECURITY ADMINISTRATION FOR THE RESPONDENT;

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

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

5 (VI) THE FIDUCIARY APPOINTED FOR THE RESPONDENT BY THE
6 DEPARTMENT OF VETERANS AFFAIRS;

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

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

11 (IX) A PERSON KNOWN TO HAVE ROUTINELY ASSISTED THE
12 RESPONDENT WITH DECISION MAKING IN THE SIX-MONTH PERIOD
13 IMMEDIATELY BEFORE THE FILING OF THE PETITION;

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

17 (XI) IF THE INDIVIDUAL FOR WHOM A CONSERVATOR IS SOUGHT IS
18 A MINOR:

19 (A) AN ADULT NOT OTHERWISE LISTED WITH WHOM THE MINOR
20 RESIDES; AND

21 (B) EACH PERSON NOT OTHERWISE LISTED THAT HAD PRIMARY
22 CARE OR CUSTODY OF THE MINOR FOR AT LEAST SIXTY DAYS DURING THE
23 TWO YEARS IMMEDIATELY BEFORE THE FILING OF THE PETITION OR FOR AT
24 LEAST SEVEN HUNDRED AND THIRTY DAYS DURING THE FIVE YEARS
25 IMMEDIATELY BEFORE THE FILING OF THE PETITION;

26 (d) A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH
27 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND

1 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS;

2 (e) THE REASON CONSERVATORSHIP IS NECESSARY, INCLUDING A
3 BRIEF DESCRIPTION OF:

4 (I) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
5 NEED;

6 (II) IF THE PETITION ALLEGES THE RESPONDENT IS MISSING,
7 DETAINED, OR UNABLE TO RETURN TO THE UNITED STATES, THE RELEVANT
8 CIRCUMSTANCES, INCLUDING THE TIME AND NATURE OF THE
9 DISAPPEARANCE OR DETENTION AND ANY SEARCH OR INQUIRY
10 CONCERNING THE RESPONDENT'S WHEREABOUTS;

11 (III) ANY PROTECTIVE ARRANGEMENT INSTEAD OF
12 CONSERVATORSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE FOR
13 MEETING THE RESPONDENT'S ALLEGED NEED WHICH HAS BEEN CONSIDERED
14 OR IMPLEMENTED;

15 (IV) IF NO PROTECTIVE ARRANGEMENT OR OTHER LESS
16 RESTRICTIVE ALTERNATIVES HAVE BEEN CONSIDERED OR IMPLEMENTED,
17 THE REASON IT HAS NOT BEEN CONSIDERED OR IMPLEMENTED;

18 (V) THE REASON A PROTECTIVE ARRANGEMENT OR OTHER LESS
19 RESTRICTIVE ALTERNATIVE IS INSUFFICIENT TO MEET THE RESPONDENT'S
20 NEED;

21 (VI) WHETHER THE PETITIONER SEEKS A LIMITED
22 CONSERVATORSHIP OR A FULL CONSERVATORSHIP;

23 (VII) IF THE PETITIONER SEEKS A FULL CONSERVATORSHIP, THE
24 REASON A LIMITED CONSERVATORSHIP OR PROTECTIVE ARRANGEMENT
25 INSTEAD OF CONSERVATORSHIP IS NOT APPROPRIATE;

26 (VIII) IF THE PETITION INCLUDES THE NAME OF A PROPOSED
27 CONSERVATOR, THE REASON THE PROPOSED CONSERVATOR SHOULD BE

1 APPOINTED;

2 (IX) IF THE PETITION IS FOR A LIMITED CONSERVATORSHIP, A
3 DESCRIPTION OF THE PROPERTY TO BE PLACED UNDER THE CONSERVATOR'S
4 CONTROL AND ANY REQUESTED LIMITATION ON THE AUTHORITY OF THE
5 CONSERVATOR;

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

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

11 **15-14.7-403. Notice and hearing for appointment of**

12 **conservator.** (1) ON FILING OF A PETITION PURSUANT TO SECTION
13 15-14.7-402 FOR APPOINTMENT OF A CONSERVATOR, THE COURT SHALL SET
14 A DATE, TIME, AND PLACE FOR A HEARING ON THE PETITION.

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

27 (3) IN A PROCEEDING ON A PETITION PURSUANT TO SECTION

1 15-14.7-402, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
2 SECTION MUST BE GIVEN TO THE PERSONS REQUIRED TO BE LISTED IN THE
3 PETITION PURSUANT TO SECTION 15-14.7-402 (2)(a) TO 15-14.7-402 (2)(c)
4 AND ANY OTHER PERSON INTERESTED IN THE RESPONDENT'S WELFARE THE
5 COURT DETERMINES. FAILURE TO GIVE NOTICE PURSUANT TO THIS
6 SUBSECTION (3) DOES NOT PRECLUDE THE COURT FROM APPOINTING A
7 CONSERVATOR.

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

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

14 (b) THE CONSERVATOR; AND

15 (c) ANY OTHER PERSON THE COURT DETERMINES.

16 **15-14.7-404. Order to preserve or apply property while**
17 **proceeding pending.** WHILE A PETITION PURSUANT TO SECTION
18 15-14.7-402 IS PENDING, AFTER PRELIMINARY HEARING AND WITHOUT
19 NOTICE TO OTHERS, THE COURT MAY ISSUE AN ORDER TO PRESERVE AND
20 APPLY PROPERTY OF THE RESPONDENT AS REQUIRED FOR THE SUPPORT OF
21 THE RESPONDENT OR AN INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE
22 RESPONDENT. THE COURT MAY APPOINT A SPECIAL CONSERVATOR TO
23 ASSIST IN IMPLEMENTING THE ORDER.

24 **15-14.7-405. Appointment and role of visitor.** (1) IF THE
25 RESPONDENT IN A PROCEEDING TO APPOINT A CONSERVATOR IS A MINOR,
26 THE COURT MAY APPOINT A VISITOR TO INVESTIGATE A MATTER RELATED
27 TO THE PETITION OR INFORM THE MINOR OR A PARENT OF THE MINOR ABOUT

1 THE PETITION OR A RELATED MATTER.

2 (2) IF THE RESPONDENT IN A PROCEEDING TO APPOINT A
3 CONSERVATOR IS AN ADULT, THE COURT SHALL APPOINT A VISITOR UNLESS
4 THE ADULT IS REPRESENTED BY AN ATTORNEY APPOINTED BY THE COURT.
5 THE DUTIES AND REPORTING REQUIREMENTS OF THE VISITOR ARE LIMITED
6 TO THE RELIEF REQUESTED IN THE PETITION. THE VISITOR MUST BE AN
7 INDIVIDUAL WITH TRAINING OR EXPERIENCE IN THE TYPE OF ABILITIES,
8 LIMITATIONS, AND NEEDS ALLEGED IN THE PETITION.

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

12 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE
13 PETITION; THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING; THE
14 RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION; AND THE
15 GENERAL POWERS AND DUTIES OF A CONSERVATOR;

16 (b) DETERMINE THE RESPONDENT'S VIEWS ABOUT THE
17 APPOINTMENT SOUGHT BY THE PETITIONER, INCLUDING VIEWS ABOUT A
18 PROPOSED CONSERVATOR, THE CONSERVATOR'S PROPOSED POWERS AND
19 DUTIES, AND THE SCOPE AND DURATION OF THE PROPOSED
20 CONSERVATORSHIP;

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

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

27 (4) A VISITOR APPOINTED PURSUANT TO SUBSECTION (2) OF THIS

1 SECTION FOR AN ADULT SHALL:

2 (a) INTERVIEW THE PETITIONER AND PROPOSED CONSERVATOR, IF
3 ANY;

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

7 (c) INVESTIGATE WHETHER THE RESPONDENT'S NEEDS COULD BE
8 MET BY A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP OR
9 OTHER LESS RESTRICTIVE ALTERNATIVE AND, IF SO, IDENTIFY THE
10 ARRANGEMENT OR OTHER LESS RESTRICTIVE ALTERNATIVE; AND

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

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

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

18 (b) A RECOMMENDATION:

19 (I) REGARDING THE APPROPRIATENESS OF CONSERVATORSHIP, OR
20 WHETHER A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP
21 OR OTHER LESS RESTRICTIVE ALTERNATIVE FOR MEETING THE
22 RESPONDENT'S NEEDS IS AVAILABLE;

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

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

1 (c) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED
2 CONSERVATOR AND WHETHER THE RESPONDENT APPROVES OR
3 DISAPPROVES OF THE PROPOSED CONSERVATOR;

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

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

8 (f) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
9 PARTICIPATE IN A HEARING AND WHICH IDENTIFIES ANY TECHNOLOGY OR
10 OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE RESPONDENT'S
11 ABILITY TO PARTICIPATE; AND

12 (g) ANY OTHER MATTER THE COURT DIRECTS.

13 **15-14.7-406. Appointment and role of attorney.** (1) THE COURT
14 SHALL APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT IN A
15 PROCEEDING TO APPOINT A CONSERVATOR IF:

16 (a) THE RESPONDENT REQUESTS AN APPOINTMENT;

17 (b) THE VISITOR RECOMMENDS AN APPOINTMENT; OR

18 (c) THE COURT DETERMINES THE RESPONDENT NEEDS
19 REPRESENTATION.

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

22 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
23 WISHES;

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

26 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
27 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST

1 RESTRICTIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT WITH THE
2 RESPONDENT'S INTERESTS.

3 (3) THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT A
4 PARENT OF A MINOR WHO IS THE SUBJECT OF A PROCEEDING PURSUANT TO
5 SECTION 15-14.7-402 IF:

6 (a) THE PARENT OBJECTS TO APPOINTMENT OF A CONSERVATOR;

7 (b) THE COURT DETERMINES THAT COUNSEL IS NEEDED TO ENSURE
8 THAT CONSENT TO APPOINTMENT OF A CONSERVATOR IS INFORMED; OR

9 (c) THE COURT DETERMINES THE RESPONDENT NEEDS
10 REPRESENTATION.

11 **15-14.7-407. Professional evaluation.** (1) AT OR BEFORE A
12 HEARING ON A PETITION FOR CONSERVATORSHIP FOR AN ADULT, THE COURT
13 SHALL ORDER A PROFESSIONAL EVALUATION OF THE RESPONDENT:

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

15 (b) IN OTHER CASES, UNLESS THE COURT FINDS IT HAS SUFFICIENT
16 INFORMATION TO DETERMINE THE RESPONDENT'S NEEDS AND ABILITIES
17 WITHOUT THE EVALUATION.

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

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

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

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

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

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

14 **15-14.7-408. Attendance and rights at hearing.** (1) EXCEPT AS
15 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A HEARING
16 PURSUANT TO SECTION 15-14.7-403 MAY NOT PROCEED UNLESS THE
17 RESPONDENT ATTENDS THE HEARING. IF IT IS NOT REASONABLY FEASIBLE
18 FOR THE RESPONDENT TO ATTEND A HEARING AT THE LOCATION COURT
19 PROCEEDINGS TYPICALLY ARE HELD, THE COURT SHALL MAKE REASONABLE
20 EFFORTS TO HOLD THE HEARING AT AN ALTERNATIVE LOCATION
21 CONVENIENT TO THE RESPONDENT OR ALLOW THE RESPONDENT TO ATTEND
22 THE HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY.

23 (2) A HEARING PURSUANT TO SECTION 15-14.7-403 MAY PROCEED
24 WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS BY CLEAR
25 AND CONVINCING EVIDENCE THAT:

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

1 OF THE RIGHT TO ATTEND AND THE POTENTIAL CONSEQUENCES OF FAILING
2 TO DO SO;

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

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

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

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

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

20 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
21 DOCUMENTS;

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

24 (c) OTHERWISE PARTICIPATE IN THE HEARING.

25 (6) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, A PROPOSED
26 CONSERVATOR SHALL ATTEND A HEARING PURSUANT TO SECTION
27 15-14.7-403.

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

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

9 **15-14.7-409. Confidentiality of records.** (1) THE EXISTENCE OF
10 A PROCEEDING FOR OR THE EXISTENCE OF CONSERVATORSHIP IS A MATTER
11 OF PUBLIC RECORD UNLESS THE COURT SEALS THE RECORD AFTER:

12 (a) THE RESPONDENT, THE INDIVIDUAL SUBJECT TO
13 CONSERVATORSHIP, OR THE PARENT OF A MINOR SUBJECT TO
14 CONSERVATORSHIP REQUESTS THE RECORD BE SEALED; AND

15 (b) EITHER:

16 (I) THE PETITION FOR CONSERVATORSHIP IS DISMISSED; OR

17 (II) THE CONSERVATORSHIP IS TERMINATED.

18 (2) AFTER THE APPOINTMENT OF A CONSERVATOR FOR AN ADULT,
19 THE COURT MAY RESTRICT ACCESS TO, OR REDACT INFORMATION FROM,
20 ANY DOCUMENT IN THE PUBLIC RECORD OF THE CONSERVATORSHIP
21 PROCEEDING BUT SHALL NOT CONCEAL THE EXISTENCE OF THE
22 CONSERVATORSHIP.

23 (3) AN INDIVIDUAL SUBJECT TO A PROCEEDING FOR A
24 CONSERVATORSHIP, WHETHER OR NOT A CONSERVATOR IS APPOINTED, AN
25 ATTORNEY DESIGNATED BY THE INDIVIDUAL, AND A PERSON ENTITLED TO
26 NOTICE PURSUANT TO SECTION 15-14.7-411 OR A SUBSEQUENT ORDER MAY
27 ACCESS COURT RECORDS OF THE PROCEEDING AND RESULTING

1 CONSERVATORSHIP, INCLUDING THE CONSERVATOR'S PLAN PURSUANT TO
2 SECTION 15-14.7-419 AND THE CONSERVATOR'S REPORT PURSUANT TO
3 SECTION 15-14.7-423. A PERSON NOT OTHERWISE ENTITLED TO ACCESS TO
4 COURT RECORDS PURSUANT TO THIS SECTION FOR GOOD CAUSE MAY
5 PETITION THE COURT FOR ACCESS TO COURT RECORDS OF THE
6 CONSERVATORSHIP, INCLUDING THE CONSERVATOR'S PLAN AND REPORT.
7 THE COURT SHALL GRANT ACCESS IF ACCESS IS IN THE BEST INTEREST OF
8 THE RESPONDENT OR INDIVIDUAL SUBJECT TO CONSERVATORSHIP OR
9 FURTHERS THE PUBLIC INTEREST AND DOES NOT ENDANGER THE WELFARE
10 OR FINANCIAL INTERESTS OF THE RESPONDENT OR INDIVIDUAL.

11 (4) A REPORT PURSUANT TO SECTION 15-14.7-405 OF A VISITOR OR
12 PROFESSIONAL EVALUATION PURSUANT TO SECTION 15-14.7-407 IS
13 CONFIDENTIAL AND MUST BE SEALED ON FILING, BUT IS AVAILABLE TO:

14 (a) THE COURT;

15 (b) THE INDIVIDUAL WHO IS THE SUBJECT OF THE REPORT OR
16 EVALUATION, WITHOUT LIMITATION AS TO USE;

17 (c) THE PETITIONER, VISITOR, AND PETITIONER'S AND
18 RESPONDENT'S ATTORNEYS, FOR PURPOSES OF THE PROCEEDING;

19 (d) UNLESS THE COURT DIRECTS OTHERWISE, AN AGENT APPOINTED
20 UNDER A POWER OF ATTORNEY FOR FINANCES IN WHICH THE RESPONDENT
21 IS IDENTIFIED AS THE PRINCIPAL; AND

22 (e) ANY OTHER PERSON IF IT IS IN THE PUBLIC INTEREST OR FOR A
23 PURPOSE THE COURT ORDERS FOR GOOD CAUSE.

24 **15-14.7-410. Who may be conservator - order of priority.**

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

1 (a) A CONSERVATOR, OTHER THAN A TEMPORARY OR EMERGENCY
2 CONSERVATOR, CURRENTLY ACTING FOR THE RESPONDENT IN ANOTHER
3 JURISDICTION;

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

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

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

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

12 (2) IF TWO OR MORE PERSONS HAVE EQUAL PRIORITY PURSUANT TO
13 SUBSECTION (1) OF THIS SECTION, THE COURT SHALL SELECT AS
14 CONSERVATOR THE PERSON THE COURT CONSIDERS BEST QUALIFIED. IN
15 DETERMINING THE BEST QUALIFIED PERSON, THE COURT SHALL CONSIDER
16 THE PERSON'S RELATIONSHIP WITH THE RESPONDENT, THE PERSON'S SKILLS,
17 THE EXPRESSED WISHES OF THE RESPONDENT, THE EXTENT TO WHICH THE
18 PERSON AND THE RESPONDENT HAVE SIMILAR VALUES AND PREFERENCES,
19 AND THE LIKELIHOOD THE PERSON WILL BE ABLE TO PERFORM THE DUTIES
20 OF A CONSERVATOR SUCCESSFULLY.

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

25 (4) A PERSON THAT PROVIDES PAID SERVICES TO THE RESPONDENT,
26 OR AN INDIVIDUAL WHO IS EMPLOYED BY A PERSON THAT PROVIDES PAID
27 SERVICES TO THE RESPONDENT OR IS THE SPOUSE, DOMESTIC PARTNER,

1 PARENT, OR CHILD OF AN INDIVIDUAL WHO PROVIDES OR IS EMPLOYED TO
2 PROVIDE PAID SERVICES TO THE RESPONDENT, MAY NOT BE APPOINTED AS
3 CONSERVATOR UNLESS:

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

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

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

14 **15-14.7-411. Order of appointment of conservator.** (1) A
15 COURT ORDER APPOINTING A CONSERVATOR FOR A MINOR MUST INCLUDE
16 FINDINGS TO SUPPORT APPOINTMENT OF A CONSERVATOR AND, IF A FULL
17 CONSERVATORSHIP IS GRANTED, THE REASON A LIMITED
18 CONSERVATORSHIP WOULD NOT MEET THE IDENTIFIED NEEDS OF THE
19 MINOR.

20 (2) A COURT ORDER APPOINTING A CONSERVATOR FOR AN ADULT
21 MUST:

22 (a) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
23 EVIDENCE HAS ESTABLISHED THAT THE IDENTIFIED NEEDS OF THE
24 RESPONDENT CANNOT BE MET BY A PROTECTIVE ARRANGEMENT INSTEAD
25 OF CONSERVATORSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE,
26 INCLUDING USE OF APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL
27 ASSISTANCE, OR SUPPORTED DECISION MAKING; AND

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

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

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

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

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

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

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

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

24 (e) A COPY OF THE CONSERVATOR'S PLAN PURSUANT TO SECTION
25 15-14.7-419 AND THE CONSERVATOR'S REPORT PURSUANT TO SECTION
26 15-14.7-423;

27 (f) ACCESS TO COURT RECORDS RELATING TO THE

1 CONSERVATORSHIP;

2 (g) NOTICE OF A TRANSACTION INVOLVING A SUBSTANTIAL
3 CONFLICT BETWEEN THE CONSERVATOR'S FIDUCIARY DUTIES AND
4 PERSONAL INTERESTS;

5 (h) NOTICE OF THE DEATH OR SIGNIFICANT CHANGE IN THE
6 CONDITION OF THE INDIVIDUAL;

7 (i) NOTICE THAT THE COURT HAS LIMITED OR MODIFIED THE
8 POWERS OF THE CONSERVATOR; AND

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

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

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

21 **15-14.7-412. Notice of order of appointment - rights.** (1) A
22 CONSERVATOR APPOINTED PURSUANT TO SECTION 15-14.7-411 SHALL GIVE
23 TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND TO ALL OTHER
24 PERSONS GIVEN NOTICE PURSUANT TO SECTION 15-14.7-403 A COPY OF THE
25 ORDER OF APPOINTMENT, TOGETHER WITH NOTICE OF THE RIGHT TO
26 REQUEST TERMINATION OR MODIFICATION. THE ORDER AND NOTICE MUST
27 BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE APPOINTMENT.

1 (2) NOT LATER THAN THIRTY DAYS AFTER APPOINTMENT OF A
2 CONSERVATOR PURSUANT TO SECTION 15-14.7-411, THE COURT SHALL
3 GIVE TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, THE
4 CONSERVATOR, AND ANY OTHER PERSON ENTITLED TO NOTICE PURSUANT
5 TO SECTION 15-14.7-411 A STATEMENT OF THE RIGHTS OF THE INDIVIDUAL
6 SUBJECT TO CONSERVATORSHIP AND PROCEDURES TO SEEK RELIEF IF THE
7 INDIVIDUAL IS DENIED THOSE RIGHTS. THE STATEMENT MUST BE IN PLAIN
8 LANGUAGE, IN AT LEAST SIXTEEN-POINT FONT, AND TO THE EXTENT
9 FEASIBLE, IN A LANGUAGE IN WHICH THE INDIVIDUAL SUBJECT TO
10 CONSERVATORSHIP IS PROFICIENT. THE STATEMENT MUST NOTIFY THE
11 INDIVIDUAL SUBJECT TO CONSERVATORSHIP OF THE RIGHT TO:

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

15 (b) PARTICIPATE IN DECISION MAKING TO THE EXTENT REASONABLY
16 FEASIBLE;

17 (c) RECEIVE A COPY OF THE CONSERVATOR'S PLAN PURSUANT TO
18 SECTION 15-14.7-419, THE CONSERVATOR'S INVENTORY PURSUANT TO
19 SECTION 15-14.7-420, AND THE CONSERVATOR'S REPORT PURSUANT TO
20 SECTION 15-14.7-423; AND

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

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

26 **15-14.7-413. Emergency conservator.** (1) ON ITS OWN OR ON
27 PETITION BY A PERSON INTERESTED IN AN INDIVIDUAL'S WELFARE AFTER A

1 PETITION HAS BEEN FILED PURSUANT TO SECTION 15-14.7-402, THE COURT
2 MAY APPOINT AN EMERGENCY CONSERVATOR FOR THE INDIVIDUAL IF THE
3 COURT FINDS:

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

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

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

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

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

25 (4) THE COURT MAY APPOINT AN EMERGENCY CONSERVATOR
26 WITHOUT NOTICE TO THE RESPONDENT AND ANY ATTORNEY FOR THE
27 RESPONDENT ONLY IF THE COURT FINDS FROM AN AFFIDAVIT OR TESTIMONY

1 THAT THE RESPONDENT'S PROPERTY OR FINANCIAL INTERESTS WILL BE
2 SUBSTANTIALLY AND IRREPARABLY HARMED BEFORE A HEARING WITH
3 NOTICE ON THE APPOINTMENT CAN BE HELD. IF THE COURT APPOINTS AN
4 EMERGENCY CONSERVATOR WITHOUT GIVING NOTICE PURSUANT TO
5 SUBSECTION (3) OF THIS SECTION, THE COURT MUST GIVE NOTICE OF THE
6 APPOINTMENT NOT LATER THAN FORTY-EIGHT HOURS AFTER THE
7 APPOINTMENT TO:

- 8 (a) THE RESPONDENT;
- 9 (b) THE RESPONDENT'S ATTORNEY; AND
- 10 (c) ANY OTHER PERSON THE COURT DETERMINES.

11 (5) NOT LATER THAN FIVE DAYS AFTER THE APPOINTMENT, THE
12 COURT SHALL HOLD A HEARING ON THE APPROPRIATENESS OF THE
13 APPOINTMENT.

14 (6) APPOINTMENT OF AN EMERGENCY CONSERVATOR PURSUANT TO
15 THIS SECTION IS NOT A DETERMINATION THAT A BASIS EXISTS FOR
16 APPOINTMENT OF A CONSERVATOR PURSUANT TO SECTION 15-14.7-401.

17 (7) THE COURT MAY REMOVE AN EMERGENCY CONSERVATOR
18 APPOINTED PURSUANT TO THIS SECTION AT ANY TIME. THE EMERGENCY
19 CONSERVATOR SHALL MAKE ANY REPORT THE COURT REQUIRES.

20 **15-14.7-414. Powers of conservator requiring court approval.**

21 (1) EXCEPT AS OTHERWISE ORDERED BY THE COURT, A CONSERVATOR
22 MUST GIVE NOTICE TO PERSONS ENTITLED TO NOTICE PURSUANT TO
23 SECTION 15-14.7-403 AND RECEIVE SPECIFIC AUTHORIZATION BY THE
24 COURT BEFORE THE CONSERVATOR MAY EXERCISE WITH RESPECT TO THE
25 CONSERVATORSHIP THE POWER TO:

- 26 (a) MAKE A GIFT, EXCEPT A GIFT OF DE MINIMIS VALUE;
- 27 (b) SELL, ENCUMBER AN INTEREST IN, OR SURRENDER A LEASE TO

1 THE PRIMARY DWELLING OF THE INDIVIDUAL SUBJECT TO
2 CONSERVATORSHIP;

3 (c) CONVEY, RELEASE, OR DISCLAIM A CONTINGENT OR EXPECTANT
4 INTEREST IN PROPERTY, INCLUDING MARITAL PROPERTY AND ANY RIGHT OF
5 SURVIVORSHIP INCIDENT TO JOINT TENANCY OR TENANCY BY THE
6 ENTIRETIES;

7 (d) EXERCISE OR RELEASE A POWER OF APPOINTMENT;

8 (e) CREATE A REVOCABLE OR IRREVOCABLE TRUST OF PROPERTY
9 OF THE CONSERVATORSHIP ESTATE, WHETHER OR NOT THE TRUST EXTENDS
10 BEYOND THE DURATION OF THE CONSERVATORSHIP, OR REVOKE OR AMEND
11 A TRUST REVOCABLE BY THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

12 (f) EXERCISE A RIGHT TO ELECT AN OPTION OR CHANGE A
13 BENEFICIARY UNDER AN INSURANCE POLICY OR ANNUITY OR SURRENDER
14 THE POLICY OR ANNUITY FOR ITS CASH VALUE;

15 (g) EXERCISE A RIGHT TO AN ELECTIVE SHARE IN THE ESTATE OF A
16 DECEASED SPOUSE OR DOMESTIC PARTNER OF THE INDIVIDUAL SUBJECT TO
17 CONSERVATORSHIP OR RENOUNCE OR DISCLAIM A PROPERTY INTEREST;

18 (h) GRANT A CREDITOR PRIORITY FOR PAYMENT OVER CREDITORS
19 OF THE SAME OR HIGHER CLASS IF THE CREDITOR IS PROVIDING PROPERTY
20 OR SERVICES USED TO MEET THE BASIC LIVING AND CARE NEEDS OF THE
21 INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND PREFERENTIAL
22 TREATMENT OTHERWISE WOULD BE IMPERMISSIBLE PURSUANT TO SECTION
23 15-14.7-428 (5); AND

24 (i) MAKE, MODIFY, AMEND, OR REVOKE THE WILL OF THE
25 INDIVIDUAL SUBJECT TO CONSERVATORSHIP IN COMPLIANCE WITH PART 5
26 OF ARTICLE 11 OF TITLE 15.

27 (2) IN APPROVING A CONSERVATOR'S EXERCISE OF A POWER LISTED

1 IN SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONSIDER
2 PRIMARILY THE DECISION THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP
3 WOULD MAKE IF ABLE, TO THE EXTENT THE DECISION CAN BE
4 ASCERTAINED.

5 (3) TO DETERMINE PURSUANT TO SUBSECTION (2) OF THIS SECTION
6 THE DECISION THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP WOULD
7 MAKE IF ABLE, THE COURT SHALL CONSIDER THE INDIVIDUAL'S PRIOR OR
8 CURRENT DIRECTIONS, PREFERENCES, OPINIONS, VALUES, AND ACTIONS, TO
9 THE EXTENT ACTUALLY KNOWN OR REASONABLY ASCERTAINABLE BY THE
10 CONSERVATOR. THE COURT ALSO SHALL CONSIDER:

11 (a) THE FINANCIAL NEEDS OF THE INDIVIDUAL SUBJECT TO
12 CONSERVATORSHIP AND INDIVIDUALS WHO ARE IN FACT DEPENDENT ON
13 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP FOR SUPPORT, AND THE
14 INTERESTS OF CREDITORS OF THE INDIVIDUAL;

15 (b) POSSIBLE REDUCTION OF INCOME, ESTATE, INHERITANCE, OR
16 OTHER TAX LIABILITIES;

17 (c) ELIGIBILITY FOR GOVERNMENTAL ASSISTANCE;

18 (d) THE PREVIOUS PATTERN OF GIVING OR LEVEL OF SUPPORT
19 PROVIDED BY THE INDIVIDUAL;

20 (e) ANY EXISTING ESTATE PLAN OR LACK OF ESTATE PLAN OF THE
21 INDIVIDUAL;

22 (f) THE LIFE EXPECTANCY OF THE INDIVIDUAL AND THE
23 PROBABILITY THE CONSERVATORSHIP WILL TERMINATE BEFORE THE
24 INDIVIDUAL'S DEATH; AND

25 (g) ANY OTHER RELEVANT FACTOR.

26 (4) A CONSERVATOR MAY NOT REVOKE OR AMEND A POWER OF
27 ATTORNEY FOR FINANCES EXECUTED BY THE INDIVIDUAL SUBJECT TO

1 CONSERVATORSHIP. IF A POWER OF ATTORNEY FOR FINANCES IS IN EFFECT,
2 A DECISION OF THE AGENT TAKES PRECEDENCE OVER THAT OF THE
3 CONSERVATOR, UNLESS THE COURT ORDERS OTHERWISE.

4 **15-14.7-415. Petition for order after appointment.** (1) AN
5 INDIVIDUAL SUBJECT TO CONSERVATORSHIP OR A PERSON INTERESTED IN
6 THE WELFARE OF THE INDIVIDUAL MAY PETITION FOR AN ORDER:

7 (a) REQUIRING THE CONSERVATOR TO FURNISH A BOND OR
8 COLLATERAL OR ADDITIONAL BOND OR COLLATERAL OR ALLOWING A
9 REDUCTION IN A BOND OR COLLATERAL PREVIOUSLY FURNISHED;

10 (b) REQUIRING AN ACCOUNTING FOR THE ADMINISTRATION OF THE
11 CONSERVATORSHIP ESTATE;

12 (c) DIRECTING DISTRIBUTION;

13 (d) REMOVING THE CONSERVATOR AND APPOINTING A TEMPORARY
14 OR SUCCESSOR CONSERVATOR;

15 (e) MODIFYING THE TYPE OF APPOINTMENT OR POWERS GRANTED
16 TO THE CONSERVATOR, IF THE EXTENT OF PROTECTION OR MANAGEMENT
17 PREVIOUSLY GRANTED IS EXCESSIVE OR INSUFFICIENT TO MEET THE
18 INDIVIDUAL'S NEEDS, INCLUDING BECAUSE THE INDIVIDUAL'S ABILITIES OR
19 SUPPORTS HAVE CHANGED;

20 (f) REJECTING OR MODIFYING THE CONSERVATOR'S PLAN PURSUANT
21 TO SECTION 15-14.7-419, THE CONSERVATOR'S INVENTORY PURSUANT TO
22 SECTION 15-14.7-420, OR THE CONSERVATOR'S REPORT PURSUANT TO
23 SECTION 15-14.7-423; OR

24 (g) GRANTING OTHER APPROPRIATE RELIEF.

25 **15-14.7-416. Bond - alternative asset protection arrangement.**

26 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION,
27 THE COURT SHALL REQUIRE A CONSERVATOR TO FURNISH A BOND WITH A

1 SURETY THE COURT SPECIFIES, OR REQUIRE AN ALTERNATIVE
2 ASSET-PROTECTION ARRANGEMENT, CONDITIONED ON FAITHFUL
3 DISCHARGE OF ALL DUTIES OF THE CONSERVATOR. THE COURT MAY WAIVE
4 THE REQUIREMENT ONLY IF THE COURT FINDS THAT A BOND OR OTHER
5 ASSET-PROTECTION ARRANGEMENT IS NOT NECESSARY TO PROTECT THE
6 INTERESTS OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP. EXCEPT AS
7 OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, THE COURT
8 MAY NOT WAIVE THE REQUIREMENT IF THE CONSERVATOR IS IN THE
9 BUSINESS OF SERVING AS A CONSERVATOR AND IS BEING PAID FOR THE
10 CONSERVATOR'S SERVICE.

11 (2) UNLESS THE COURT DIRECTS OTHERWISE, THE BOND REQUIRED
12 PURSUANT TO THIS SECTION MUST BE IN THE AMOUNT OF THE AGGREGATE
13 CAPITAL VALUE OF THE CONSERVATORSHIP ESTATE, PLUS ONE YEAR'S
14 ESTIMATED INCOME, LESS THE VALUE OF PROPERTY DEPOSITED UNDER AN
15 ARRANGEMENT REQUIRING A COURT ORDER FOR ITS REMOVAL AND REAL
16 PROPERTY THE CONSERVATOR LACKS POWER TO SELL OR CONVEY WITHOUT
17 SPECIFIC COURT AUTHORIZATION. THE COURT, IN PLACE OF SURETY ON A
18 BOND, MAY ACCEPT COLLATERAL FOR THE PERFORMANCE OF THE BOND,
19 INCLUDING A PLEDGE OF SECURITIES OR A MORTGAGE OF REAL PROPERTY.

20 (3) A REGULATED FINANCIAL-SERVICE INSTITUTION QUALIFIED TO
21 DO TRUST BUSINESS IN THIS STATE IS NOT REQUIRED TO GIVE A BOND
22 PURSUANT TO THIS SECTION.

23 **15-14.7-417. Terms and requirements of bond.** (1) THE
24 FOLLOWING RULES APPLY TO THE BOND REQUIRED PURSUANT TO SECTION
25 15-14.7-416:

26 (a) EXCEPT AS OTHERWISE PROVIDED BY THE BOND, THE SURETY
27 AND THE CONSERVATOR ARE JOINTLY AND SEVERALLY LIABLE.

1 (b) BY EXECUTING A BOND PROVIDED BY A CONSERVATOR, THE
2 SURETY SUBMITS TO THE PERSONAL JURISDICTION OF THE COURT THAT
3 ISSUED LETTERS OF OFFICE TO THE CONSERVATOR IN A PROCEEDING
4 RELATING TO THE DUTIES OF THE CONSERVATOR IN WHICH THE SURETY IS
5 NAMED AS A PARTY. NOTICE OF THE PROCEEDING MUST BE GIVEN TO THE
6 SURETY AT THE ADDRESS SHOWN IN THE RECORDS OF THE COURT IN WHICH
7 THE BOND IS FILED AND ANY OTHER ADDRESS OF THE SURETY THEN KNOWN
8 TO THE PERSON REQUIRED TO PROVIDE THE NOTICE.

9 (c) ON PETITION OF A SUCCESSOR CONSERVATOR OR PERSON
10 AFFECTED BY A BREACH OF THE OBLIGATION OF THE BOND, A PROCEEDING
11 MAY BE BROUGHT AGAINST THE SURETY FOR BREACH OF THE OBLIGATION
12 OF THE BOND.

13 (d) A PROCEEDING AGAINST THE BOND MAY BE BROUGHT UNTIL
14 LIABILITY UNDER THE BOND IS EXHAUSTED.

15 (2) A PROCEEDING MAY NOT BE BROUGHT PURSUANT TO THIS
16 SECTION AGAINST A SURETY OF A BOND ON A MATTER AS TO WHICH A
17 PROCEEDING AGAINST THE CONSERVATOR IS BARRED.

18 (3) IF A BOND PURSUANT TO SECTION 15-14.7-416 IS NOT RENEWED
19 BY THE CONSERVATOR, THE SURETY OR SURETIES IMMEDIATELY SHALL
20 GIVE NOTICE TO THE COURT AND THE INDIVIDUAL SUBJECT TO
21 CONSERVATORSHIP.

22 **15-14.7-418. Duties of conservator.** (1) A CONSERVATOR IS A
23 FIDUCIARY AND HAS DUTIES OF PRUDENCE AND LOYALTY TO THE
24 INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

25 (2) A CONSERVATOR SHALL PROMOTE THE SELF-DETERMINATION
26 OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND, TO THE EXTENT
27 FEASIBLE, ENCOURAGE THE INDIVIDUAL TO PARTICIPATE IN DECISIONS, ACT

1 ON THE INDIVIDUAL'S OWN BEHALF, AND DEVELOP OR REGAIN THE
2 CAPACITY TO MANAGE THE INDIVIDUAL'S PERSONAL AFFAIRS.

3 (3) IN MAKING A DECISION FOR AN INDIVIDUAL SUBJECT TO
4 CONSERVATORSHIP, THE CONSERVATOR SHALL MAKE THE DECISION THE
5 CONSERVATOR REASONABLY BELIEVES THE INDIVIDUAL WOULD MAKE IF
6 ABLE, UNLESS DOING SO WOULD FAIL TO PRESERVE THE RESOURCES
7 NEEDED TO MAINTAIN THE INDIVIDUAL'S WELL-BEING AND LIFESTYLE OR
8 OTHERWISE UNREASONABLY HARM OR ENDANGER THE WELFARE OR
9 PERSONAL OR FINANCIAL INTERESTS OF THE INDIVIDUAL. TO DETERMINE
10 THE DECISION THE INDIVIDUAL WOULD MAKE IF ABLE, THE CONSERVATOR
11 SHALL CONSIDER THE INDIVIDUAL'S PRIOR OR CURRENT DIRECTIONS,
12 PREFERENCES, OPINIONS, VALUES, AND ACTIONS, TO THE EXTENT
13 ACTUALLY KNOWN OR REASONABLY ASCERTAINABLE BY THE
14 CONSERVATOR.

15 (4) IF A CONSERVATOR CANNOT MAKE A DECISION PURSUANT TO
16 SUBSECTION (3) OF THIS SECTION BECAUSE THE CONSERVATOR DOES NOT
17 KNOW AND CANNOT REASONABLY DETERMINE THE DECISION THE
18 INDIVIDUAL SUBJECT TO CONSERVATORSHIP PROBABLY WOULD MAKE IF
19 ABLE, OR THE CONSERVATOR REASONABLY BELIEVES THE DECISION THE
20 INDIVIDUAL WOULD MAKE WOULD FAIL TO PRESERVE RESOURCES NEEDED
21 TO MAINTAIN THE INDIVIDUAL'S WELL-BEING AND LIFESTYLE OR
22 OTHERWISE UNREASONABLY HARM OR ENDANGER THE WELFARE OR
23 PERSONAL OR FINANCIAL INTERESTS OF THE INDIVIDUAL, THE
24 CONSERVATOR SHALL ACT IN ACCORDANCE WITH THE BEST INTEREST OF
25 THE INDIVIDUAL. IN DETERMINING THE BEST INTEREST OF THE INDIVIDUAL,
26 THE CONSERVATOR SHALL CONSIDER:

27 (a) INFORMATION RECEIVED FROM PROFESSIONALS AND PERSONS

1 THAT DEMONSTRATE SUFFICIENT INTEREST IN THE WELFARE OF THE
2 INDIVIDUAL;

3 (b) OTHER INFORMATION THE CONSERVATOR BELIEVES THE
4 INDIVIDUAL WOULD HAVE CONSIDERED IF THE INDIVIDUAL WERE ABLE TO
5 ACT; AND

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

9 (5) EXCEPT WHEN INCONSISTENT WITH THE CONSERVATOR'S DUTIES
10 PURSUANT TO SUBSECTIONS (1) TO (4) OF THIS SECTION, A CONSERVATOR
11 SHALL INVEST AND MANAGE THE CONSERVATORSHIP ESTATE AS A PRUDENT
12 INVESTOR WOULD, BY CONSIDERING:

13 (a) THE CIRCUMSTANCES OF THE INDIVIDUAL SUBJECT TO
14 CONSERVATORSHIP AND THE CONSERVATORSHIP ESTATE;

15 (b) GENERAL ECONOMIC CONDITIONS;

16 (c) THE POSSIBLE EFFECT OF INFLATION OR DEFLATION;

17 (d) THE EXPECTED TAX CONSEQUENCES OF AN INVESTMENT
18 DECISION OR STRATEGY;

19 (e) THE ROLE OF EACH INVESTMENT OR COURSE OF ACTION IN
20 RELATION TO THE CONSERVATORSHIP ESTATE AS A WHOLE;

21 (f) THE EXPECTED TOTAL RETURN FROM INCOME AND
22 APPRECIATION OF CAPITAL;

23 (g) THE NEED FOR LIQUIDITY, REGULARITY OF INCOME, AND
24 PRESERVATION OR APPRECIATION OF CAPITAL; AND

25 (h) THE SPECIAL RELATIONSHIP OR VALUE, IF ANY, OF SPECIFIC
26 PROPERTY TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

27 (6) THE PROPRIETY OF A CONSERVATOR'S INVESTMENT AND

1 MANAGEMENT OF THE CONSERVATORSHIP ESTATE IS DETERMINED IN LIGHT
2 OF THE FACTS AND CIRCUMSTANCES EXISTING WHEN THE CONSERVATOR
3 DECIDES OR ACTS AND NOT BY HINDSIGHT.

4 (7) A CONSERVATOR SHALL MAKE A REASONABLE EFFORT TO
5 VERIFY FACTS RELEVANT TO THE INVESTMENT AND MANAGEMENT OF THE
6 CONSERVATORSHIP ESTATE.

7 (8) A CONSERVATOR THAT HAS SPECIAL SKILLS OR EXPERTISE, OR
8 IS NAMED CONSERVATOR IN RELIANCE ON THE CONSERVATOR'S
9 REPRESENTATION OF SPECIAL SKILLS OR EXPERTISE, HAS A DUTY TO USE
10 THE SPECIAL SKILLS OR EXPERTISE IN CARRYING OUT THE CONSERVATOR'S
11 DUTIES.

12 (9) IN INVESTING, SELECTING SPECIFIC PROPERTY FOR
13 DISTRIBUTION, AND INVOKING A POWER OF REVOCATION OR WITHDRAWAL
14 FOR THE USE OR BENEFIT OF THE INDIVIDUAL SUBJECT TO
15 CONSERVATORSHIP, A CONSERVATOR SHALL CONSIDER ANY ESTATE PLAN
16 OF THE INDIVIDUAL KNOWN OR REASONABLY ASCERTAINABLE TO THE
17 CONSERVATOR AND MAY EXAMINE THE WILL OR OTHER DONATIVE,
18 NOMINATIVE, OR APPOINTIVE INSTRUMENT OF THE INDIVIDUAL.

19 (10) A CONSERVATOR SHALL MAINTAIN INSURANCE ON THE
20 INSURABLE REAL AND PERSONAL PROPERTY OF THE INDIVIDUAL SUBJECT
21 TO CONSERVATORSHIP, UNLESS THE CONSERVATORSHIP ESTATE LACKS
22 SUFFICIENT FUNDS TO PAY FOR INSURANCE OR THE COURT FINDS:

23 (a) THE PROPERTY LACKS SUFFICIENT EQUITY; OR

24 (b) INSURING THE PROPERTY WOULD UNREASONABLY DISSIPATE
25 THE CONSERVATORSHIP ESTATE OR OTHERWISE NOT BE IN THE BEST
26 INTEREST OF THE INDIVIDUAL.

27 (11) IF A POWER OF ATTORNEY FOR FINANCES IS IN EFFECT, A

1 CONSERVATOR SHALL COOPERATE WITH THE AGENT TO THE EXTENT
2 FEASIBLE.

3 (12) A CONSERVATOR HAS ACCESS TO AND AUTHORITY OVER A
4 DIGITAL ASSET OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP TO THE
5 EXTENT PROVIDED BY THE "REVISED UNIFORM FIDUCIARY ACCESS TO
6 DIGITAL ASSETS ACT" IN PART 15 OF ARTICLE 1 OF THIS TITLE 15 OR COURT
7 ORDER.

8 (13) A CONSERVATOR FOR AN ADULT SHALL NOTIFY THE COURT IF
9 THE CONDITION OF THE ADULT HAS CHANGED SO THAT THE ADULT IS
10 CAPABLE OF EXERCISING RIGHTS PREVIOUSLY REMOVED. THE NOTICE MUST
11 BE GIVEN IMMEDIATELY ON LEARNING OF THE CHANGE.

12 **15-14.7-419. Conservator's plan.** (1) A CONSERVATOR, NOT
13 LATER THAN SIXTY DAYS AFTER APPOINTMENT AND WHEN THERE IS A
14 SIGNIFICANT CHANGE IN CIRCUMSTANCES OR THE CONSERVATOR SEEKS TO
15 DEVIATE SIGNIFICANTLY FROM THE CONSERVATOR'S PLAN, SHALL FILE
16 WITH THE COURT A PLAN FOR PROTECTING, MANAGING, EXPENDING, AND
17 DISTRIBUTING THE ASSETS OF THE CONSERVATORSHIP ESTATE. THE PLAN
18 MUST BE BASED ON THE NEEDS OF THE INDIVIDUAL SUBJECT TO
19 CONSERVATORSHIP AND TAKE INTO ACCOUNT THE BEST INTEREST OF THE
20 INDIVIDUAL AS WELL AS THE INDIVIDUAL'S PREFERENCES, VALUES, AND
21 PRIOR DIRECTIONS, TO THE EXTENT KNOWN TO OR REASONABLY
22 ASCERTAINABLE BY THE CONSERVATOR. THE CONSERVATOR SHALL
23 INCLUDE IN THE PLAN:

24 (a) A BUDGET CONTAINING PROJECTED EXPENSES AND RESOURCES,
25 INCLUDING AN ESTIMATE OF THE TOTAL AMOUNT OF FEES THE
26 CONSERVATOR ANTICIPATES CHARGING PER YEAR AND A STATEMENT OR
27 LIST OF THE AMOUNT THE CONSERVATOR PROPOSES TO CHARGE FOR EACH

1 SERVICE THE CONSERVATOR ANTICIPATES PROVIDING TO THE INDIVIDUAL;

2 (b) HOW THE CONSERVATOR WILL INVOLVE THE INDIVIDUAL IN
3 DECISIONS ABOUT MANAGEMENT OF THE CONSERVATORSHIP ESTATE;

4 (c) ANY STEP THE CONSERVATOR PLANS TO TAKE TO DEVELOP OR
5 RESTORE THE ABILITY OF THE INDIVIDUAL TO MANAGE THE
6 CONSERVATORSHIP ESTATE; AND

7 (d) AN ESTIMATE OF THE DURATION OF THE CONSERVATORSHIP.

8 (2) A CONSERVATOR SHALL GIVE NOTICE OF THE FILING OF THE
9 CONSERVATOR'S PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION,
10 TOGETHER WITH A COPY OF THE PLAN, TO THE INDIVIDUAL SUBJECT TO
11 CONSERVATORSHIP, A PERSON ENTITLED TO NOTICE PURSUANT TO SECTION
12 15-14.7-411 OR A SUBSEQUENT ORDER, AND ANY OTHER PERSON THE
13 COURT DETERMINES. THE NOTICE MUST INCLUDE A STATEMENT OF THE
14 RIGHT TO OBJECT TO THE PLAN AND BE GIVEN NOT LATER THAN FOURTEEN
15 DAYS AFTER THE FILING.

16 (3) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND ANY
17 PERSON ENTITLED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO
18 RECEIVE NOTICE AND A COPY OF THE CONSERVATOR'S PLAN MAY OBJECT
19 TO THE PLAN.

20 (4) THE COURT SHALL REVIEW THE CONSERVATOR'S PLAN FILED
21 PURSUANT TO SUBSECTION (1) OF THIS SECTION AND DETERMINE WHETHER
22 TO APPROVE THE PLAN OR REQUIRE A NEW PLAN. IN DECIDING WHETHER TO
23 APPROVE THE PLAN, THE COURT SHALL CONSIDER AN OBJECTION PURSUANT
24 TO SUBSECTION (3) OF THIS SECTION AND WHETHER THE PLAN IS
25 CONSISTENT WITH THE CONSERVATOR'S DUTIES AND POWERS. THE COURT
26 MAY NOT APPROVE THE PLAN UNTIL THIRTY DAYS AFTER ITS FILING.

27 (5) AFTER A CONSERVATOR'S PLAN PURSUANT TO THIS SECTION IS

1 APPROVED BY THE COURT, THE CONSERVATOR SHALL PROVIDE A COPY OF
2 THE PLAN TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A PERSON
3 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR A
4 SUBSEQUENT ORDER, AND ANY OTHER PERSON THE COURT DETERMINES.

5 **15-14.7-420. Inventory - records.** (1) NOT LATER THAN SIXTY
6 DAYS AFTER APPOINTMENT, A CONSERVATOR SHALL PREPARE AND FILE
7 WITH THE APPOINTING COURT A DETAILED INVENTORY OF THE
8 CONSERVATORSHIP ESTATE, TOGETHER WITH AN OATH OR AFFIRMATION
9 THAT THE INVENTORY IS BELIEVED TO BE COMPLETE AND ACCURATE AS
10 FAR AS INFORMATION PERMITS.

11 (2) A CONSERVATOR SHALL GIVE NOTICE OF THE FILING OF AN
12 INVENTORY TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A PERSON
13 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR A
14 SUBSEQUENT ORDER, AND ANY OTHER PERSON THE COURT DETERMINES.
15 THE NOTICE MUST BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE
16 FILING.

17 (3) A CONSERVATOR SHALL KEEP RECORDS OF THE
18 ADMINISTRATION OF THE CONSERVATORSHIP ESTATE AND MAKE THEM
19 AVAILABLE FOR EXAMINATION ON REASONABLE REQUEST OF THE
20 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A GUARDIAN FOR THE
21 INDIVIDUAL, OR ANY OTHER PERSON THE CONSERVATOR OR THE COURT
22 DETERMINES.

23 **15-14.7-421. Administrative powers of conservator not**
24 **requiring court approval.** (1) EXCEPT AS OTHERWISE PROVIDED IN
25 SECTION 15-14.7-414 OR QUALIFIED OR LIMITED IN THE COURT'S ORDER OF
26 APPOINTMENT AND STATED IN THE LETTERS OF OFFICE, A CONSERVATOR
27 HAS ALL POWERS GRANTED IN THIS SECTION AND ANY ADDITIONAL POWER

1 GRANTED TO A TRUSTEE BY LAW OF THIS STATE OTHER THAN THIS ARTICLE
2 14.7.

3 (2) A CONSERVATOR, ACTING REASONABLY AND CONSISTENT WITH
4 THE FIDUCIARY DUTIES OF THE CONSERVATOR TO ACCOMPLISH THE
5 PURPOSE OF THE CONSERVATORSHIP, WITHOUT SPECIFIC COURT
6 AUTHORIZATION OR CONFIRMATION, MAY WITH RESPECT TO THE
7 CONSERVATORSHIP ESTATE:

8 (a) COLLECT, HOLD, AND RETAIN PROPERTY, INCLUDING PROPERTY
9 IN WHICH THE CONSERVATOR HAS A PERSONAL INTEREST AND REAL
10 PROPERTY IN ANOTHER STATE, UNTIL THE CONSERVATOR DETERMINES
11 DISPOSITION OF THE PROPERTY SHOULD BE MADE;

12 (b) RECEIVE ADDITIONS TO THE CONSERVATORSHIP ESTATE;

13 (c) CONTINUE OR PARTICIPATE IN THE OPERATION OF A BUSINESS
14 OR OTHER ENTERPRISE;

15 (d) ACQUIRE AN UNDIVIDED INTEREST IN PROPERTY IN WHICH THE
16 CONSERVATOR, IN A FIDUCIARY CAPACITY, HOLDS AN UNDIVIDED
17 INTEREST;

18 (e) INVEST ASSETS;

19 (f) DEPOSIT FUNDS OR OTHER PROPERTY IN A FINANCIAL
20 INSTITUTION, INCLUDING ONE OPERATED BY THE CONSERVATOR;

21 (g) ACQUIRE OR DISPOSE OF PROPERTY, INCLUDING REAL PROPERTY
22 IN ANOTHER STATE, FOR CASH OR ON CREDIT, AT PUBLIC OR PRIVATE SALE,
23 AND MANAGE, DEVELOP, IMPROVE, EXCHANGE, PARTITION, CHANGE THE
24 CHARACTER OF, OR ABANDON PROPERTY;

25 (h) MAKE ORDINARY OR EXTRAORDINARY REPAIRS OR
26 ALTERATIONS IN A BUILDING OR OTHER STRUCTURE, DEMOLISH ANY
27 IMPROVEMENT, OR RAZE AN EXISTING OR ERECT A NEW PARTY WALL OR

- 1 BUILDING;
- 2 (i) SUBDIVIDE OR DEVELOP LAND, DEDICATE LAND TO PUBLIC USE,
3 MAKE OR OBTAIN THE VACATION OF A PLAT AND ADJUST A BOUNDARY,
4 ADJUST A DIFFERENCE IN VALUATION OF LAND, EXCHANGE OR PARTITION
5 LAND BY GIVING OR RECEIVING CONSIDERATION, AND DEDICATE AN
6 EASEMENT TO PUBLIC USE WITHOUT CONSIDERATION;
- 7 (j) ENTER FOR ANY PURPOSE INTO A LEASE OF PROPERTY AS LESSOR
8 OR LESSEE, WITH OR WITHOUT AN OPTION TO PURCHASE OR RENEW, FOR A
9 TERM WITHIN OR EXTENDING BEYOND THE TERM OF THE
10 CONSERVATORSHIP;
- 11 (k) ENTER INTO A LEASE OR ARRANGEMENT FOR EXPLORATION AND
12 REMOVAL OF MINERALS OR OTHER NATURAL RESOURCES OR A POOLING OR
13 UNITIZATION AGREEMENT;
- 14 (l) GRANT AN OPTION INVOLVING DISPOSITION OF PROPERTY OR
15 ACCEPT OR EXERCISE AN OPTION FOR THE ACQUISITION OF PROPERTY;
- 16 (m) VOTE A SECURITY, IN PERSON OR BY GENERAL OR LIMITED
17 PROXY;
- 18 (n) PAY A CALL, ASSESSMENT, OR OTHER SUM CHARGEABLE OR
19 ACCRUING AGAINST OR ON ACCOUNT OF A SECURITY;
- 20 (o) SELL OR EXERCISE A STOCK SUBSCRIPTION OR CONVERSION
21 RIGHT;
- 22 (p) CONSENT, DIRECTLY OR THROUGH A COMMITTEE OR AGENT, TO
23 THE REORGANIZATION, CONSOLIDATION, MERGER, DISSOLUTION, OR
24 LIQUIDATION OF A CORPORATION OR OTHER BUSINESS ENTERPRISE;
- 25 (q) HOLD A SECURITY IN THE NAME OF A NOMINEE OR IN OTHER
26 FORM WITHOUT DISCLOSURE OF THE CONSERVATORSHIP SO THAT TITLE TO
27 THE SECURITY MAY PASS BY DELIVERY;

- 1 (r) INSURE:
- 2 (I) THE CONSERVATORSHIP ESTATE, IN WHOLE OR IN PART, AGAINST
- 3 DAMAGE OR LOSS IN ACCORDANCE WITH SECTION 15-14.7-418 (10); AND
- 4 (II) THE CONSERVATOR AGAINST LIABILITY WITH RESPECT TO A
- 5 THIRD PERSON;
- 6 (s) BORROW FUNDS, WITH OR WITHOUT SECURITY, TO BE REPAYED
- 7 FROM THE CONSERVATORSHIP ESTATE OR OTHERWISE;
- 8 (t) ADVANCE FUNDS FOR THE PROTECTION OF THE
- 9 CONSERVATORSHIP ESTATE OR THE INDIVIDUAL SUBJECT TO
- 10 CONSERVATORSHIP AND ALL EXPENSES, LOSSES, AND LIABILITY SUSTAINED
- 11 IN THE ADMINISTRATION OF THE CONSERVATORSHIP ESTATE OR BECAUSE
- 12 OF HOLDING ANY PROPERTY FOR WHICH THE CONSERVATOR HAS A LIEN ON
- 13 THE CONSERVATORSHIP ESTATE;
- 14 (u) PAY OR CONTEST A CLAIM; SETTLE A CLAIM BY OR AGAINST THE
- 15 CONSERVATORSHIP ESTATE OR THE INDIVIDUAL SUBJECT TO
- 16 CONSERVATORSHIP BY COMPROMISE, ARBITRATION, OR OTHERWISE; OR
- 17 RELEASE, IN WHOLE OR IN PART, A CLAIM BELONGING TO THE
- 18 CONSERVATORSHIP ESTATE TO THE EXTENT THE CLAIM IS UNCOLLECTIBLE;
- 19 (v) PAY A TAX, ASSESSMENT, COMPENSATION OF THE
- 20 CONSERVATOR OR ANY GUARDIAN, AND OTHER EXPENSE INCURRED IN THE
- 21 COLLECTION, CARE, ADMINISTRATION, AND PROTECTION OF THE
- 22 CONSERVATORSHIP ESTATE;
- 23 (w) PAY A SUM DISTRIBUTABLE TO THE INDIVIDUAL SUBJECT TO
- 24 CONSERVATORSHIP OR AN INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE
- 25 INDIVIDUAL SUBJECT TO CONSERVATORSHIP BY PAYING THE SUM TO THE
- 26 DISTRIBUTE OR FOR THE USE OF THE DISTRIBUTE:
- 27 (I) TO THE GUARDIAN FOR THE DISTRIBUTE;

1 (II) TO THE CUSTODIAN OF THE DISTRIBUTE PURSUANT TO THE
2 "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE
3 11, OR CUSTODIAL TRUSTEE PURSUANT TO THE "COLORADO UNIFORM
4 CUSTODIAL TRUST ACT", ARTICLE 1.5 OF THIS TITLE 15; OR

5 (III) IF THERE IS NO GUARDIAN, CUSTODIAN, OR CUSTODIAL
6 TRUSTEE, TO A RELATIVE OR OTHER PERSON HAVING PHYSICAL CUSTODY
7 OF THE DISTRIBUTE;

8 (x) BRING OR DEFEND AN ACTION, CLAIM, OR PROCEEDING IN ANY
9 JURISDICTION FOR THE PROTECTION OF THE CONSERVATORSHIP ESTATE OR
10 THE CONSERVATOR IN THE PERFORMANCE OF THE CONSERVATOR'S DUTIES;

11 (y) STRUCTURE THE FINANCES OF THE INDIVIDUAL SUBJECT TO
12 CONSERVATORSHIP TO ESTABLISH ELIGIBILITY FOR A PUBLIC BENEFIT,
13 INCLUDING BY MAKING GIFTS IN ACCORDANCE WITH SECTION 15-14.7-414,
14 CONSISTENT WITH THE INDIVIDUAL'S PREFERENCES, VALUES, AND PRIOR
15 DIRECTIONS, IF THE CONSERVATOR'S ACTION DOES NOT JEOPARDIZE THE
16 INDIVIDUAL'S WELFARE AND OTHERWISE IS CONSISTENT WITH THE
17 CONSERVATOR'S DUTIES; AND

18 (z) EXECUTE AND DELIVER ANY INSTRUMENT THAT WILL
19 ACCOMPLISH OR FACILITATE THE EXERCISE OF A POWER OF THE
20 CONSERVATOR.

21 **15-14.7-422. Distribution from conservatorship estate.**

22 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 15-14.7-414 OR
23 QUALIFIED OR LIMITED IN THE COURT'S ORDER OF APPOINTMENT AND
24 STATED IN THE LETTERS OF OFFICE, AND UNLESS CONTRARY TO A
25 CONSERVATOR'S PLAN PURSUANT TO SECTION 15-14.7-419, THE
26 CONSERVATOR MAY EXPEND OR DISTRIBUTE INCOME OR PRINCIPAL OF THE
27 CONSERVATORSHIP ESTATE WITHOUT SPECIFIC COURT AUTHORIZATION OR

1 CONFIRMATION FOR THE SUPPORT, CARE, EDUCATION, HEALTH, OR
2 WELFARE OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP OR AN
3 INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE INDIVIDUAL SUBJECT TO
4 CONSERVATORSHIP, INCLUDING THE PAYMENT OF CHILD OR SPOUSAL
5 SUPPORT, IN ACCORDANCE WITH THE FOLLOWING RULES:

6 (a) THE CONSERVATOR SHALL CONSIDER A RECOMMENDATION
7 RELATING TO THE APPROPRIATE STANDARD OF SUPPORT, CARE, EDUCATION,
8 HEALTH, OR WELFARE FOR THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP
9 OR INDIVIDUAL WHO IS DEPENDENT ON THE INDIVIDUAL SUBJECT TO
10 CONSERVATORSHIP, MADE BY A GUARDIAN FOR THE INDIVIDUAL SUBJECT
11 TO CONSERVATORSHIP, IF ANY, AND, IF THE INDIVIDUAL SUBJECT TO
12 CONSERVATORSHIP IS A MINOR, A RECOMMENDATION MADE BY A PARENT
13 OF THE MINOR.

14 (b) THE CONSERVATOR ACTING IN COMPLIANCE WITH THE
15 CONSERVATOR'S DUTIES PURSUANT TO SECTION 15-14.7-418 IS NOT LIABLE
16 FOR AN EXPENDITURE OR DISTRIBUTION MADE BASED ON A
17 RECOMMENDATION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION
18 UNLESS THE CONSERVATOR KNOWS THE EXPENDITURE OR DISTRIBUTION IS
19 NOT IN THE BEST INTEREST OF THE INDIVIDUAL SUBJECT TO
20 CONSERVATORSHIP.

21 (c) IN MAKING AN EXPENDITURE OR DISTRIBUTION PURSUANT TO
22 THIS SECTION, THE CONSERVATOR SHALL CONSIDER:

23 (I) THE SIZE OF THE CONSERVATORSHIP ESTATE, THE ESTIMATED
24 DURATION OF THE CONSERVATORSHIP, AND THE LIKELIHOOD THE
25 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, AT SOME FUTURE TIME, MAY
26 BE FULLY SELF-SUFFICIENT AND ABLE TO MANAGE THE INDIVIDUAL'S
27 FINANCIAL AFFAIRS AND THE CONSERVATORSHIP ESTATE;

1 (II) THE ACCUSTOMED STANDARD OF LIVING OF THE INDIVIDUAL
2 SUBJECT TO CONSERVATORSHIP AND INDIVIDUAL WHO IS DEPENDENT ON
3 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

4 (III) OTHER FUNDS OR SOURCE USED FOR THE SUPPORT OF THE
5 INDIVIDUAL SUBJECT TO CONSERVATORSHIP; AND

6 (IV) THE PREFERENCES, VALUES, AND PRIOR DIRECTIONS OF THE
7 INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

8 (d) FUNDS EXPENDED OR DISTRIBUTED PURSUANT TO THIS SECTION
9 MAY BE PAID BY THE CONSERVATOR TO ANY PERSON, INCLUDING THE
10 INDIVIDUAL SUBJECT TO CONSERVATORSHIP, AS REIMBURSEMENT FOR
11 EXPENDITURES THE CONSERVATOR MIGHT HAVE MADE, OR IN ADVANCE
12 FOR SERVICES TO BE PROVIDED TO THE INDIVIDUAL SUBJECT TO
13 CONSERVATORSHIP OR INDIVIDUAL WHO IS DEPENDENT ON THE INDIVIDUAL
14 SUBJECT TO CONSERVATORSHIP IF IT IS REASONABLE TO EXPECT THE
15 SERVICES WILL BE PERFORMED AND ADVANCE PAYMENT IS CUSTOMARY OR
16 REASONABLY NECESSARY UNDER THE CIRCUMSTANCES.

17 **15-14.7-423. Conservator's report and accounting -**
18 **monitoring.** (1) A CONSERVATOR SHALL FILE WITH THE COURT A REPORT
19 IN A RECORD REGARDING THE ADMINISTRATION OF THE CONSERVATORSHIP
20 ESTATE ANNUALLY UNLESS THE COURT OTHERWISE DIRECTS, ON
21 RESIGNATION OR REMOVAL, ON TERMINATION OF THE CONSERVATORSHIP,
22 AND AT ANY OTHER TIME THE COURT DIRECTS.

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

25 (a) AN ACCOUNTING THAT LISTS PROPERTY INCLUDED IN THE
26 CONSERVATORSHIP ESTATE AND THE RECEIPTS, DISBURSEMENTS,
27 LIABILITIES, AND DISTRIBUTIONS DURING THE PERIOD FOR WHICH THE

1 REPORT IS MADE;

2 (b) A LIST OF THE SERVICES PROVIDED TO THE INDIVIDUAL SUBJECT
3 TO CONSERVATORSHIP;

4 (c) A COPY OF THE CONSERVATOR'S MOST RECENTLY APPROVED
5 PLAN AND A STATEMENT WHETHER THE CONSERVATOR HAS DEVIATED
6 FROM THE PLAN AND, IF SO, HOW THE CONSERVATOR HAS DEVIATED AND
7 WHY;

8 (d) A RECOMMENDATION AS TO THE NEED FOR CONTINUED
9 CONSERVATORSHIP AND ANY RECOMMENDED CHANGE IN THE SCOPE OF THE
10 CONSERVATORSHIP;

11 (e) TO THE EXTENT FEASIBLE, A COPY OF THE MOST RECENT
12 REASONABLY AVAILABLE FINANCIAL STATEMENTS EVIDENCING THE
13 STATUS OF BANK ACCOUNTS, INVESTMENT ACCOUNTS, AND MORTGAGES OR
14 OTHER DEBTS OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP WITH ALL
15 BUT THE LAST FOUR DIGITS OF THE ACCOUNT NUMBERS AND SOCIAL
16 SECURITY NUMBER REDACTED;

17 (f) ANYTHING OF MORE THAN DE MINIMIS VALUE WHICH THE
18 CONSERVATOR, ANY INDIVIDUAL WHO RESIDES WITH THE CONSERVATOR,
19 OR THE SPOUSE, DOMESTIC PARTNER, PARENT, CHILD, OR SIBLING OF THE
20 CONSERVATOR HAS RECEIVED FROM A PERSON PROVIDING GOODS OR
21 SERVICES TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

22 (g) ANY BUSINESS RELATION THE CONSERVATOR HAS WITH A
23 PERSON THE CONSERVATOR HAS PAID OR THAT HAS BENEFITTED FROM THE
24 PROPERTY OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP; AND

25 (h) WHETHER ANY CO-CONSERVATOR OR SUCCESSOR
26 CONSERVATOR APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS
27 IS ALIVE AND ABLE TO SERVE.

1 (3) THE COURT MAY APPOINT A VISITOR TO REVIEW A REPORT
2 PURSUANT TO THIS SECTION OR CONSERVATOR'S PLAN PURSUANT TO
3 SECTION 15-14.7-419, INTERVIEW THE INDIVIDUAL SUBJECT TO
4 CONSERVATORSHIP OR CONSERVATOR, OR INVESTIGATE ANY OTHER
5 MATTER INVOLVING THE CONSERVATORSHIP. IN CONNECTION WITH THE
6 REPORT, THE COURT MAY ORDER THE CONSERVATOR TO SUBMIT THE
7 CONSERVATORSHIP ESTATE TO APPROPRIATE EXAMINATION IN A MANNER
8 THE COURT DIRECTS.

9 (4) NOTICE OF THE FILING PURSUANT TO THIS SECTION OF A
10 CONSERVATOR'S REPORT, TOGETHER WITH A COPY OF THE REPORT, MUST
11 BE PROVIDED TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, A
12 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR A
13 SUBSEQUENT ORDER, AND OTHER PERSONS THE COURT DETERMINES. THE
14 NOTICE AND REPORT MUST BE GIVEN NOT LATER THAN FOURTEEN DAYS
15 AFTER FILING.

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

19 (a) THE REPORTS PROVIDE SUFFICIENT INFORMATION TO ESTABLISH
20 THE CONSERVATOR HAS COMPLIED WITH THE CONSERVATOR'S DUTIES;

21 (b) THE CONSERVATORSHIP SHOULD CONTINUE; AND

22 (c) THE CONSERVATOR'S REQUESTED FEES, IF ANY, SHOULD BE
23 APPROVED.

24 (6) IF THE COURT DETERMINES THERE IS REASON TO BELIEVE A
25 CONSERVATOR HAS NOT COMPLIED WITH THE CONSERVATOR'S DUTIES OR
26 THE CONSERVATORSHIP SHOULD NOT CONTINUE, THE COURT:

27 (a) SHALL NOTIFY THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP,

1 THE CONSERVATOR, AND ANY OTHER PERSON ENTITLED TO NOTICE
2 PURSUANT TO SECTION 15-14.7-411 OR A SUBSEQUENT ORDER;

3 (b) MAY REQUIRE ADDITIONAL INFORMATION FROM THE
4 CONSERVATOR;

5 (c) MAY APPOINT A VISITOR TO INTERVIEW THE INDIVIDUAL
6 SUBJECT TO CONSERVATORSHIP OR CONSERVATOR OR INVESTIGATE ANY
7 MATTER INVOLVING THE CONSERVATORSHIP; AND

8 (d) CONSISTENT WITH SECTIONS 15-14.7-430 AND 15-14.7-431,
9 MAY HOLD A HEARING TO CONSIDER REMOVAL OF THE CONSERVATOR,
10 TERMINATION OF THE CONSERVATORSHIP, OR A CHANGE IN THE POWERS
11 GRANTED TO THE CONSERVATOR OR TERMS OF THE CONSERVATORSHIP.

12 (7) IF THE COURT HAS REASON TO BELIEVE FEES REQUESTED BY A
13 CONSERVATOR ARE NOT REASONABLE, THE COURT SHALL HOLD A HEARING
14 TO DETERMINE WHETHER TO ADJUST THE REQUESTED FEES.

15 (8) A CONSERVATOR MAY PETITION THE COURT FOR APPROVAL OF
16 A REPORT FILED PURSUANT TO THIS SECTION. THE COURT AFTER REVIEW
17 MAY APPROVE THE REPORT. IF THE COURT APPROVES THE REPORT, THERE
18 IS A REBUTTABLE PRESUMPTION THE REPORT IS ACCURATE AS TO A MATTER
19 ADEQUATELY DISCLOSED IN THE REPORT.

20 (9) AN ORDER, AFTER NOTICE AND HEARING, APPROVING AN
21 INTERIM REPORT OF A CONSERVATOR FILED PURSUANT TO THIS SECTION
22 ADJUDICATES LIABILITIES CONCERNING A MATTER ADEQUATELY DISCLOSED
23 IN THE REPORT, AS TO A PERSON GIVEN NOTICE OF THE REPORT OR
24 ACCOUNTING.

25 (10) AN ORDER, AFTER NOTICE AND HEARING, APPROVING A FINAL
26 REPORT FILED PURSUANT TO THIS SECTION DISCHARGES THE CONSERVATOR
27 FROM ALL LIABILITIES, CLAIMS, AND CAUSES OF ACTION BY A PERSON

1 GIVEN NOTICE OF THE REPORT AND THE HEARING AS TO A MATTER
2 ADEQUATELY DISCLOSED IN THE REPORT.

3 **15-14.7-424. Attempted transfer of property by individual**
4 **subject to conservatorship.** (1) THE INTEREST OF AN INDIVIDUAL
5 SUBJECT TO CONSERVATORSHIP IN PROPERTY INCLUDED IN THE
6 CONSERVATORSHIP ESTATE IS NOT TRANSFERRABLE OR ASSIGNABLE BY THE
7 INDIVIDUAL AND IS NOT SUBJECT TO LEVY, GARNISHMENT, OR SIMILAR
8 PROCESS FOR CLAIMS AGAINST THE INDIVIDUAL UNLESS ALLOWED
9 PURSUANT TO SECTION 15-14.7-428.

10 (2) IF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP ENTERS INTO
11 A CONTRACT AFTER HAVING THE RIGHT TO ENTER THE CONTRACT REMOVED
12 BY THE COURT, THE CONTRACT IS VOID AGAINST THE INDIVIDUAL AND THE
13 INDIVIDUAL'S PROPERTY BUT IS ENFORCEABLE AGAINST THE PERSON THAT
14 CONTRACTED WITH THE INDIVIDUAL.

15 (3) A PERSON OTHER THAN THE CONSERVATOR THAT DEALS WITH
16 AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP WITH RESPECT TO
17 PROPERTY INCLUDED IN THE CONSERVATORSHIP ESTATE IS ENTITLED TO
18 PROTECTION PROVIDED BY LAW OF THIS STATE OTHER THAN THIS ARTICLE
19 14.7.

20 **15-14.7-425. Transaction involving conflict of interest.** A
21 TRANSACTION INVOLVING A CONSERVATORSHIP ESTATE WHICH IS
22 AFFECTED BY A SUBSTANTIAL CONFLICT BETWEEN THE CONSERVATOR'S
23 FIDUCIARY DUTIES AND PERSONAL INTERESTS IS VOIDABLE UNLESS THE
24 TRANSACTION IS AUTHORIZED BY COURT ORDER AFTER NOTICE TO PERSONS
25 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR A
26 SUBSEQUENT ORDER. A TRANSACTION AFFECTED BY A SUBSTANTIAL
27 CONFLICT INCLUDES A SALE, ENCUMBRANCE, OR OTHER TRANSACTION

1 INVOLVING THE CONSERVATORSHIP ESTATE ENTERED INTO BY THE
2 CONSERVATOR; AN INDIVIDUAL WITH WHOM THE CONSERVATOR RESIDES;
3 THE SPOUSE, DOMESTIC PARTNER, DESCENDANT, SIBLING, AGENT, OR
4 ATTORNEY OF THE CONSERVATOR; OR A CORPORATION OR OTHER
5 ENTERPRISE IN WHICH THE CONSERVATOR HAS A SUBSTANTIAL BENEFICIAL
6 INTEREST.

7 **15-14.7-426. Protection of person dealing with conservator.**

8 (1) A PERSON THAT ASSISTS OR DEALS WITH A CONSERVATOR IN GOOD
9 FAITH AND FOR VALUE IN ANY TRANSACTION, OTHER THAN A TRANSACTION
10 REQUIRING A COURT ORDER PURSUANT TO SECTION 15-14.7-414, IS
11 PROTECTED AS THOUGH THE CONSERVATOR PROPERLY EXERCISED ANY
12 POWER IN QUESTION. KNOWLEDGE BY A PERSON THAT THE PERSON IS
13 DEALING WITH A CONSERVATOR ALONE DOES NOT REQUIRE THE PERSON TO
14 INQUIRE INTO THE EXISTENCE OF AUTHORITY OF THE CONSERVATOR OR THE
15 PROPRIETY OF THE CONSERVATOR'S EXERCISE OF AUTHORITY, BUT
16 RESTRICTIONS ON AUTHORITY STATED IN LETTERS OF OFFICE, OR
17 OTHERWISE PROVIDED BY LAW, ARE EFFECTIVE AS TO THE PERSON. A
18 PERSON THAT PAYS OR DELIVERS PROPERTY TO A CONSERVATOR IS NOT
19 RESPONSIBLE FOR PROPER APPLICATION OF THE PROPERTY.

20 (2) PROTECTION PURSUANT TO SUBSECTION (1) OF THIS SECTION
21 EXTENDS TO A PROCEDURAL IRREGULARITY OR JURISDICTIONAL DEFECT IN
22 THE PROCEEDING LEADING TO THE ISSUANCE OF LETTERS OF OFFICE AND
23 DOES NOT SUBSTITUTE FOR PROTECTION FOR A PERSON THAT ASSISTS OR
24 DEALS WITH A CONSERVATOR PROVIDED BY COMPARABLE PROVISIONS IN
25 LAW OF THIS STATE OTHER THAN THIS ARTICLE 14.7 RELATING TO A
26 COMMERCIAL TRANSACTION OR SIMPLIFYING A TRANSFER OF SECURITIES
27 BY A FIDUCIARY.

1 CONSERVATOR MAY PAY, OR SECURE BY ENCUMBERING PROPERTY
2 INCLUDED IN THE CONSERVATORSHIP ESTATE, A CLAIM AGAINST THE
3 CONSERVATORSHIP ESTATE OR THE INDIVIDUAL SUBJECT TO
4 CONSERVATORSHIP ARISING BEFORE OR DURING THE CONSERVATORSHIP,
5 ON PRESENTATION AND ALLOWANCE IN ACCORDANCE WITH THE PRIORITIES
6 PURSUANT TO SUBSECTION (4) OF THIS SECTION. A CLAIMANT MAY
7 PRESENT A CLAIM BY:

8 (a) SENDING OR DELIVERING TO THE CONSERVATOR A STATEMENT
9 IN A RECORD OF THE CLAIM, INDICATING ITS BASIS, THE NAME AND
10 ADDRESS OF THE CLAIMANT, AND THE AMOUNT CLAIMED; OR

11 (b) FILING THE CLAIM WITH THE COURT, IN A FORM ACCEPTABLE TO
12 THE COURT, AND SENDING OR DELIVERING A COPY OF THE CLAIM TO THE
13 CONSERVATOR.

14 (2) A CLAIM PURSUANT TO SUBSECTION (1) OF THIS SECTION IS
15 PRESENTED ON RECEIPT BY THE CONSERVATOR OF THE STATEMENT OF THE
16 CLAIM OR THE FILING WITH THE COURT OF THE CLAIM, WHICHEVER FIRST
17 OCCURS. A PRESENTED CLAIM IS ALLOWED IF IT IS NOT DISALLOWED IN
18 WHOLE OR IN PART BY THE CONSERVATOR IN A RECORD SENT OR
19 DELIVERED TO THE CLAIMANT NOT LATER THAN SIXTY DAYS AFTER ITS
20 PRESENTATION. BEFORE PAYMENT, THE CONSERVATOR MAY CHANGE AN
21 ALLOWANCE OF THE CLAIM TO A DISALLOWANCE IN WHOLE OR IN PART,
22 BUT NOT AFTER ALLOWANCE UNDER A COURT ORDER OR ORDER DIRECTING
23 PAYMENT OF THE CLAIM. PRESENTATION OF A CLAIM TOLLS UNTIL THIRTY
24 DAYS AFTER DISALLOWANCE OF THE CLAIM OR THE RUNNING OF A STATUTE
25 OF LIMITATIONS THAT HAS NOT EXPIRED RELATING TO THE CLAIM.

26 (3) A CLAIMANT WHOSE CLAIM PURSUANT TO SUBSECTION (1) OF
27 THIS SECTION HAS NOT BEEN PAID MAY PETITION THE COURT TO DETERMINE

1 THE CLAIM AT ANY TIME BEFORE IT IS BARRED BY A STATUTE OF
2 LIMITATIONS, AND THE COURT MAY ORDER ITS ALLOWANCE, PAYMENT, OR
3 SECURITY BY ENCUMBERING PROPERTY INCLUDED IN THE
4 CONSERVATORSHIP ESTATE. IF A PROCEEDING IS PENDING AGAINST THE
5 INDIVIDUAL SUBJECT TO CONSERVATORSHIP AT THE TIME OF APPOINTMENT
6 OF THE CONSERVATOR OR IS INITIATED THEREAFTER, THE MOVING PARTY
7 SHALL GIVE THE CONSERVATOR NOTICE OF THE PROCEEDING IF IT COULD
8 RESULT IN CREATING A CLAIM AGAINST THE CONSERVATORSHIP ESTATE.

9 (4) IF A CONSERVATORSHIP ESTATE IS LIKELY TO BE EXHAUSTED
10 BEFORE ALL EXISTING CLAIMS ARE PAID, THE CONSERVATOR SHALL
11 DISTRIBUTE THE ESTATE IN MONEY OR IN KIND IN PAYMENT OF CLAIMS IN
12 THE FOLLOWING ORDER:

13 (a) COSTS AND EXPENSES OF ADMINISTRATION;

14 (b) A CLAIM OF THE FEDERAL OR STATE GOVERNMENT HAVING
15 PRIORITY UNDER LAW OTHER THAN THIS ARTICLE 14.7;

16 (c) A CLAIM INCURRED BY THE CONSERVATOR FOR SUPPORT, CARE,
17 EDUCATION, HEALTH, OR WELFARE PREVIOUSLY PROVIDED TO THE
18 INDIVIDUAL SUBJECT TO CONSERVATORSHIP OR AN INDIVIDUAL WHO IS IN
19 FACT DEPENDENT ON THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP;

20 (d) A CLAIM ARISING BEFORE THE CONSERVATORSHIP; AND

21 (e) ALL OTHER CLAIMS.

22 (5) PREFERENCE MAY NOT BE GIVEN IN THE PAYMENT OF A CLAIM
23 PURSUANT TO SUBSECTION (4) OF THIS SECTION OVER ANOTHER CLAIM OF
24 THE SAME CLASS. A CLAIM DUE AND PAYABLE MAY NOT BE PREFERRED
25 OVER A CLAIM NOT DUE UNLESS:

26 (a) DOING SO WOULD LEAVE THE CONSERVATORSHIP ESTATE
27 WITHOUT SUFFICIENT FUNDS TO PAY THE BASIC LIVING AND HEALTH-CARE

1 EXPENSES OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP; AND

2 (b) THE COURT AUTHORIZES THE PREFERENCE PURSUANT TO
3 SECTION 15-14.7-414.

4 (6) IF ASSETS OF A CONSERVATORSHIP ESTATE ARE ADEQUATE TO
5 MEET ALL EXISTING CLAIMS, THE COURT, ACTING IN THE BEST INTEREST OF
6 THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, MAY ORDER THE
7 CONSERVATOR TO GRANT A SECURITY INTEREST IN THE CONSERVATORSHIP
8 ESTATE FOR PAYMENT OF A CLAIM AT A FUTURE DATE.

9 **15-14.7-429. Personal liability of conservator.** (1) EXCEPT AS
10 OTHERWISE AGREED BY A CONSERVATOR, THE CONSERVATOR IS NOT
11 PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO IN A
12 FIDUCIARY CAPACITY IN THE COURSE OF ADMINISTRATION OF THE
13 CONSERVATORSHIP ESTATE UNLESS THE CONSERVATOR FAILS TO REVEAL
14 THE CONSERVATOR'S REPRESENTATIVE CAPACITY IN THE CONTRACT OR
15 BEFORE ENTERING INTO THE CONTRACT.

16 (2) A CONSERVATOR IS PERSONALLY LIABLE FOR AN OBLIGATION
17 ARISING FROM CONTROL OF PROPERTY OF THE CONSERVATORSHIP ESTATE
18 OR AN ACT OR OMISSION OCCURRING IN THE COURSE OF ADMINISTRATION
19 OF THE CONSERVATORSHIP ESTATE ONLY IF THE CONSERVATOR IS
20 PERSONALLY AT FAULT.

21 (3) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A
22 CONSERVATOR IN A FIDUCIARY CAPACITY, AN OBLIGATION ARISING FROM
23 CONTROL OF PROPERTY INCLUDED IN THE CONSERVATORSHIP ESTATE, OR
24 A TORT COMMITTED IN THE COURSE OF ADMINISTRATION OF THE
25 CONSERVATORSHIP ESTATE MAY BE ASSERTED AGAINST THE
26 CONSERVATORSHIP ESTATE IN A PROCEEDING AGAINST THE CONSERVATOR
27 IN A FIDUCIARY CAPACITY, WHETHER OR NOT THE CONSERVATOR IS

1 PERSONALLY LIABLE FOR THE CLAIM.

2 (4) A QUESTION OF LIABILITY BETWEEN A CONSERVATORSHIP
3 ESTATE AND THE CONSERVATOR PERSONALLY MAY BE DETERMINED IN A
4 PROCEEDING FOR ACCOUNTING, SURCHARGE, OR INDEMNIFICATION OR
5 ANOTHER APPROPRIATE PROCEEDING OR ACTION.

6 **15-14.7-430. Removal of conservator - appointment of**
7 **successor.** (1) THE COURT MAY REMOVE A CONSERVATOR FOR FAILURE TO
8 PERFORM THE CONSERVATOR'S DUTIES OR OTHER GOOD CAUSE AND
9 APPOINT A SUCCESSOR CONSERVATOR TO ASSUME THE DUTIES OF THE
10 CONSERVATOR.

11 (2) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
12 TO REMOVE A CONSERVATOR AND APPOINT A SUCCESSOR ON:

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

21 (b) COMMUNICATION FROM THE INDIVIDUAL SUBJECT TO
22 CONSERVATORSHIP, CONSERVATOR, OR PERSON INTERESTED IN THE
23 WELFARE OF THE INDIVIDUAL WHICH SUPPORTS A REASONABLE BELIEF
24 THAT REMOVAL OF THE CONSERVATOR AND APPOINTMENT OF A SUCCESSOR
25 MAY BE APPROPRIATE; OR

26 (c) DETERMINATION BY THE COURT THAT A HEARING WOULD BE IN
27 THE BEST INTEREST OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

1 (3) NOTICE OF A PETITION PURSUANT TO SUBSECTION (2)(a) OF THIS
2 SECTION MUST BE GIVEN TO THE INDIVIDUAL SUBJECT TO
3 CONSERVATORSHIP, THE CONSERVATOR, AND ANY OTHER PERSON THE
4 COURT DETERMINES.

5 (4) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP WHO SEEKS TO
6 REMOVE THE CONSERVATOR AND HAVE A SUCCESSOR APPOINTED HAS THE
7 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE INDIVIDUAL IN THIS
8 MATTER. IF THE INDIVIDUAL IS NOT REPRESENTED BY AN ATTORNEY, THE
9 COURT SHALL APPOINT AN ATTORNEY UNDER THE SAME CONDITIONS AS SET
10 FORTH IN SECTION 15-14.7-406. THE COURT SHALL AWARD REASONABLE
11 ATTORNEY FEES TO THE ATTORNEY AS PROVIDED IN SECTION 15-14.7-119.

12 (5) IN SELECTING A SUCCESSOR CONSERVATOR, THE COURT SHALL
13 FOLLOW THE PRIORITIES PURSUANT TO SECTION 15-14.7-410.

14 (6) NOT LATER THAN THIRTY DAYS AFTER APPOINTING A
15 SUCCESSOR CONSERVATOR, THE COURT SHALL GIVE NOTICE OF THE
16 APPOINTMENT TO THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP AND
17 ANY PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14.7-411 OR
18 A SUBSEQUENT ORDER.

19 **15-14.7-431. Termination or modification of conservatorship.**

20 (1) A CONSERVATORSHIP FOR A MINOR TERMINATES ON THE EARLIEST OF:

- 21 (a) A COURT ORDER TERMINATING THE CONSERVATORSHIP;
- 22 (b) THE MINOR BECOMING AN ADULT OR, IF THE MINOR CONSENTS
23 OR THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
24 SUBSTANTIAL HARM TO THE MINOR'S INTERESTS IS OTHERWISE LIKELY,
25 ATTAINING TWENTY-ONE YEARS OF AGE;
- 26 (c) EMANCIPATION OF THE MINOR; OR
- 27 (d) DEATH OF THE MINOR.

1 (2) A CONSERVATORSHIP FOR AN ADULT TERMINATES ON ORDER OF
2 THE COURT OR WHEN THE ADULT DIES.

3 (3) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP, THE
4 CONSERVATOR, OR A PERSON INTERESTED IN THE WELFARE OF THE
5 INDIVIDUAL MAY PETITION FOR:

6 (a) TERMINATION OF THE CONSERVATORSHIP ON THE GROUND THAT
7 A BASIS FOR APPOINTMENT PURSUANT TO SECTION 15-14.7-401 DOES NOT
8 EXIST OR TERMINATION WOULD BE IN THE BEST INTEREST OF THE
9 INDIVIDUAL OR FOR OTHER GOOD CAUSE; OR

10 (b) MODIFICATION OF THE CONSERVATORSHIP ON THE GROUND
11 THAT THE EXTENT OF PROTECTION OR ASSISTANCE GRANTED IS NOT
12 APPROPRIATE OR FOR OTHER GOOD CAUSE.

13 (4) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
14 TERMINATION OR MODIFICATION OF A CONSERVATORSHIP IS APPROPRIATE
15 ON:

16 (a) PETITION PURSUANT TO SUBSECTION (3) OF THIS SECTION WHICH
17 CONTAINS ALLEGATIONS THAT, IF TRUE, WOULD SUPPORT A REASONABLE
18 BELIEF THAT TERMINATION OR MODIFICATION OF THE CONSERVATORSHIP
19 MAY BE APPROPRIATE, BUT THE COURT MAY DECLINE TO HOLD A HEARING
20 IF A PETITION BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS WAS
21 FILED WITHIN THE PRECEDING SIX MONTHS;

22 (b) A COMMUNICATION FROM THE INDIVIDUAL SUBJECT TO
23 CONSERVATORSHIP, THE CONSERVATOR, OR PERSON INTERESTED IN THE
24 WELFARE OF THE INDIVIDUAL WHICH SUPPORTS A REASONABLE BELIEF
25 THAT TERMINATION OR MODIFICATION OF THE CONSERVATORSHIP MAY BE
26 APPROPRIATE, INCLUDING BECAUSE THE FUNCTIONAL NEEDS OF THE
27 INDIVIDUAL OR SUPPORTS OR SERVICES AVAILABLE TO THE INDIVIDUAL

1 HAVE CHANGED;

2 (c) A REPORT FROM A GUARDIAN OR CONSERVATOR WHICH
3 INDICATES THAT TERMINATION OR MODIFICATION MAY BE APPROPRIATE
4 BECAUSE THE FUNCTIONAL NEEDS OR SUPPORTS OR SERVICES AVAILABLE
5 TO THE INDIVIDUAL HAVE CHANGED OR A PROTECTIVE ARRANGEMENT
6 INSTEAD OF CONSERVATORSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE
7 IS AVAILABLE; OR

8 (d) A DETERMINATION BY THE COURT THAT A HEARING WOULD BE
9 IN THE BEST INTEREST OF THE INDIVIDUAL.

10 (5) NOTICE OF A PETITION PURSUANT TO SUBSECTION (3) OF THIS
11 SECTION MUST BE GIVEN TO THE INDIVIDUAL SUBJECT TO
12 CONSERVATORSHIP, THE CONSERVATOR, AND ANY SUCH OTHER PERSON
13 THE COURT DETERMINES.

14 (6) ON PRESENTATION OF PRIMA FACIE EVIDENCE FOR TERMINATION
15 OF A CONSERVATORSHIP, THE COURT SHALL ORDER TERMINATION UNLESS
16 IT IS PROVEN THAT A BASIS FOR APPOINTMENT OF A CONSERVATOR
17 PURSUANT TO SECTION 15-14.7-401 EXISTS.

18 (7) THE COURT SHALL MODIFY THE POWERS GRANTED TO A
19 CONSERVATOR IF THE POWERS ARE EXCESSIVE OR INADEQUATE DUE TO A
20 CHANGE IN THE ABILITIES OR LIMITATIONS OF THE INDIVIDUAL SUBJECT TO
21 CONSERVATORSHIP, THE INDIVIDUAL'S SUPPORTS, OR OTHER
22 CIRCUMSTANCES.

23 (8) UNLESS THE COURT OTHERWISE ORDERS FOR GOOD CAUSE,
24 BEFORE TERMINATING A CONSERVATORSHIP, THE COURT SHALL FOLLOW
25 THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS OF THE INDIVIDUAL
26 SUBJECT TO CONSERVATORSHIP WHICH APPLY TO A PETITION FOR
27 CONSERVATORSHIP.

1 (9) AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP WHO SEEKS TO
2 TERMINATE OR MODIFY THE TERMS OF THE CONSERVATORSHIP HAS THE
3 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE INDIVIDUAL IN THIS
4 MATTER. IF THE INDIVIDUAL IS NOT REPRESENTED BY AN ATTORNEY, THE
5 COURT SHALL APPOINT AN ATTORNEY UNDER THE SAME CONDITIONS AS SET
6 FORTH IN SECTION 15-14.7-406. THE COURT SHALL AWARD REASONABLE
7 ATTORNEY FEES TO THE ATTORNEY AS PROVIDED IN SECTION 15-14.7-119.

8 (10) ON TERMINATION OF A CONSERVATORSHIP OTHER THAN BY
9 REASON OF THE DEATH OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP,
10 PROPERTY OF THE CONSERVATORSHIP ESTATE PASSES TO THE INDIVIDUAL.
11 THE ORDER OF TERMINATION MUST DIRECT THE CONSERVATOR TO FILE A
12 FINAL REPORT AND PETITION FOR DISCHARGE ON APPROVAL BY THE COURT
13 OF THE FINAL REPORT.

14 (11) ON TERMINATION OF A CONSERVATORSHIP BY REASON OF THE
15 DEATH OF THE INDIVIDUAL SUBJECT TO CONSERVATORSHIP, THE
16 CONSERVATOR PROMPTLY SHALL FILE A FINAL REPORT AND PETITION FOR
17 DISCHARGE ON APPROVAL BY THE COURT OF THE FINAL REPORT. ON
18 APPROVAL OF THE FINAL REPORT, THE CONSERVATOR SHALL PROCEED
19 EXPEDITIOUSLY TO DISTRIBUTE THE CONSERVATORSHIP ESTATE TO THE
20 INDIVIDUAL'S ESTATE OR AS OTHERWISE ORDERED BY THE COURT. THE
21 CONSERVATOR MAY TAKE REASONABLE MEASURES NECESSARY TO
22 PRESERVE THE CONSERVATORSHIP ESTATE UNTIL DISTRIBUTION CAN BE
23 MADE.

24 (12) THE COURT SHALL ISSUE A FINAL ORDER OF DISCHARGE ON THE
25 APPROVAL BY THE COURT OF THE FINAL REPORT AND SATISFACTION BY THE
26 CONSERVATOR OF ANY OTHER CONDITION THE COURT IMPOSED ON THE
27 CONSERVATOR'S DISCHARGE.

1 **15-14.7-432. Transfer for benefit of minor without**
2 **appointment of conservator.** (1) UNLESS A PERSON REQUIRED TO
3 TRANSFER FUNDS OR OTHER PROPERTY TO A MINOR KNOWS THAT A
4 CONSERVATOR FOR THE MINOR HAS BEEN APPOINTED OR A PROCEEDING IS
5 PENDING FOR CONSERVATORSHIP, THE PERSON MAY TRANSFER AN AMOUNT
6 OR VALUE NOT EXCEEDING FIFTEEN THOUSAND DOLLARS IN A
7 TWELVE-MONTH PERIOD TO:

8 (a) A PERSON THAT HAS CARE OR CUSTODY OF THE MINOR AND
9 WITH WHOM THE MINOR RESIDES;

10 (b) A GUARDIAN FOR THE MINOR;

11 (c) A CUSTODIAN PURSUANT TO THE "COLORADO UNIFORM
12 TRANSFERS TO MINORS ACT" OR "UNIFORM GIFTS TO MINORS ACT", PART
13 1 OF ARTICLE 50 OF TITLE 11; OR

14 (d) A FINANCIAL INSTITUTION AS A DEPOSIT IN AN
15 INTEREST-BEARING ACCOUNT OR CERTIFICATE SOLELY IN THE NAME OF THE
16 MINOR AND SHALL GIVE NOTICE TO THE MINOR OF THE DEPOSIT.

17 (2) A PERSON THAT TRANSFERS FUNDS OR OTHER PROPERTY
18 PURSUANT TO THIS SECTION IS NOT RESPONSIBLE FOR ITS PROPER
19 APPLICATION.

20 (3) A PERSON THAT RECEIVES FUNDS OR OTHER PROPERTY FOR A
21 MINOR PURSUANT TO SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION MAY
22 APPLY IT ONLY TO THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE
23 OF THE MINOR, AND MAY NOT DERIVE A PERSONAL FINANCIAL BENEFIT
24 FROM IT, EXCEPT FOR REIMBURSEMENT FOR NECESSARY EXPENSES. FUNDS
25 NOT APPLIED FOR THESE PURPOSES MUST BE PRESERVED FOR THE FUTURE
26 SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF THE MINOR, AND
27 THE BALANCE, IF ANY, TRANSFERRED TO THE MINOR WHEN THE MINOR

1 BECOMES AN ADULT OR OTHERWISE IS EMANCIPATED.

2 PART 5

3 OTHER PROTECTIVE ARRANGEMENTS

4 **15-14.7-501. Authority for protective arrangement.**

5 (1) PURSUANT TO THIS PART 14.7, A COURT:

6 (a) ON RECEIVING A PETITION FOR A GUARDIANSHIP FOR AN ADULT
7 MAY ORDER A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP AS
8 A LESS RESTRICTIVE ALTERNATIVE TO GUARDIANSHIP; AND

9 (b) ON RECEIVING A PETITION FOR A CONSERVATORSHIP FOR AN
10 INDIVIDUAL MAY ORDER A PROTECTIVE ARRANGEMENT INSTEAD OF
11 CONSERVATORSHIP AS A LESS RESTRICTIVE ALTERNATIVE TO
12 CONSERVATORSHIP.

13 (2) A PERSON INTERESTED IN AN ADULT'S WELFARE, INCLUDING THE
14 ADULT OR A CONSERVATOR FOR THE ADULT, MAY PETITION PURSUANT TO
15 THIS PART 14.7 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
16 GUARDIANSHIP.

17 (3) THE FOLLOWING PERSONS MAY PETITION PURSUANT TO THIS
18 PART 14.7 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
19 CONSERVATORSHIP:

20 (a) THE INDIVIDUAL FOR WHOM THE PROTECTIVE ARRANGEMENT
21 IS SOUGHT;

22 (b) A PERSON INTERESTED IN THE PROPERTY, FINANCIAL AFFAIRS,
23 OR WELFARE OF THE INDIVIDUAL, INCLUDING A PERSON WHO WOULD BE
24 AFFECTED ADVERSELY BY LACK OF EFFECTIVE MANAGEMENT OF PROPERTY
25 OR FINANCIAL AFFAIRS OF THE INDIVIDUAL; AND

26 (c) THE GUARDIAN FOR THE INDIVIDUAL.

27 **15-14.7-502. Basis for protective arrangement instead of**

1 **guardianship for adult.** (1) AFTER THE HEARING ON A PETITION HELD
2 PURSUANT TO SECTION 15-14.7-302 FOR A GUARDIANSHIP OR HELD
3 PURSUANT TO SECTION 15-14.7-501(2) FOR A PROTECTIVE ARRANGEMENT
4 INSTEAD OF GUARDIANSHIP, THE COURT MAY ISSUE AN ORDER PURSUANT
5 TO SUBSECTION (2) OF THIS SECTION FOR A PROTECTIVE ARRANGEMENT
6 INSTEAD OF GUARDIANSHIP IF THE COURT FINDS BY CLEAR AND
7 CONVINCING EVIDENCE THAT:

8 (a) THE RESPONDENT LACKS THE ABILITY TO MEET ESSENTIAL
9 REQUIREMENTS FOR PHYSICAL HEALTH, SAFETY, OR SELF-CARE BECAUSE
10 THE RESPONDENT IS UNABLE TO RECEIVE AND EVALUATE INFORMATION OR
11 MAKE OR COMMUNICATE DECISIONS, EVEN WITH APPROPRIATE SUPPORTIVE
12 SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED DECISION MAKING;
13 AND

14 (b) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
15 LESS RESTRICTIVE ALTERNATIVE.

16 (2) IF THE COURT MAKES THE FINDINGS PURSUANT TO SUBSECTION
17 (1) OF THIS SECTION, THE COURT, INSTEAD OF APPOINTING A GUARDIAN,
18 MAY:

19 (a) AUTHORIZE OR DIRECT A TRANSACTION NECESSARY TO MEET
20 THE RESPONDENT'S NEED FOR HEALTH, SAFETY, OR CARE, INCLUDING:

21 (I) A PARTICULAR MEDICAL TREATMENT OR REFUSAL OF A
22 PARTICULAR MEDICAL TREATMENT;

23 (II) A MOVE TO A SPECIFIED PLACE OF DWELLING; OR

24 (III) VISITATION OR SUPERVISED VISITATION BETWEEN THE
25 RESPONDENT AND ANOTHER PERSON;

26 (b) RESTRICT ACCESS TO THE RESPONDENT BY A SPECIFIED PERSON
27 WHOSE ACCESS PLACES THE RESPONDENT AT SERIOUS RISK OF PHYSICAL,

1 PSYCHOLOGICAL, OR FINANCIAL HARM; AND

2 (c) ORDER OTHER ARRANGEMENTS ON A LIMITED BASIS THAT ARE
3 APPROPRIATE.

4 (3) IN DECIDING WHETHER TO ISSUE AN ORDER PURSUANT TO THIS
5 SECTION, THE COURT SHALL CONSIDER THE FACTORS DESCRIBED IN
6 SECTIONS 15-14.7-313 AND 15-14.7-314 WHICH A GUARDIAN MUST
7 CONSIDER WHEN MAKING A DECISION ON BEHALF OF AN ADULT SUBJECT TO
8 GUARDIANSHIP.

9 **15-14.7-503. Basis for protective arrangement instead of**
10 **conservatorship.** (1) AFTER THE HEARING ON A PETITION HELD PURSUANT
11 TO SECTION 15-14.7-402 FOR CONSERVATORSHIP FOR AN ADULT OR HELD
12 PURSUANT TO SECTION 15-14.7-501(3) FOR A PROTECTIVE ARRANGEMENT
13 INSTEAD OF CONSERVATORSHIP FOR AN ADULT, THE COURT MAY ISSUE AN
14 ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR A PROTECTIVE
15 ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR THE ADULT IF THE
16 COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

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

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

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

25 (b) AN ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION IS
26 NECESSARY TO:

27 (I) AVOID HARM TO THE ADULT OR SIGNIFICANT DISSIPATION OF

1 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 AN INDIVIDUAL ENTITLED TO THE ADULT'S SUPPORT; AND

5 (c) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
6 LESS RESTRICTIVE ALTERNATIVE.

7 (2) AFTER THE HEARING ON A PETITION HELD PURSUANT TO
8 SECTION 15-14.7-402 FOR CONSERVATORSHIP FOR A MINOR OR HELD
9 PURSUANT TO SECTION 15-14.7-501 FOR A PROTECTIVE ARRANGEMENT
10 INSTEAD OF CONSERVATORSHIP FOR A MINOR, THE COURT MAY ISSUE AN
11 ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR A PROTECTIVE
12 ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR THE RESPONDENT IF
13 THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT THE
14 ARRANGEMENT IS IN THE MINOR'S BEST INTEREST, AND:

15 (a) IF THE MINOR HAS A PARENT, THE COURT GIVES WEIGHT TO ANY
16 RECOMMENDATION OF THE PARENT WHETHER AN ARRANGEMENT IS IN THE
17 MINOR'S BEST INTEREST;

18 (b) EITHER:

19 (I) THE MINOR OWNS MONEY OR PROPERTY REQUIRING
20 MANAGEMENT OR PROTECTION THAT OTHERWISE CANNOT BE PROVIDED;

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

24 (III) THE ARRANGEMENT IS NECESSARY OR DESIRABLE TO OBTAIN
25 OR PROVIDE FUNDS OR OTHER PROPERTY NEEDED FOR THE SUPPORT, CARE,
26 EDUCATION, HEALTH, OR WELFARE OF THE MINOR; AND

27 (c) THE ORDER PURSUANT TO SUBSECTION (3) OF THIS SECTION IS

1 NECESSARY OR DESIRABLE TO OBTAIN OR PROVIDE MONEY NEEDED FOR
2 THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF THE MINOR.

3 (3) IF THE COURT MAKES THE FINDINGS PURSUANT TO SUBSECTION
4 (1) OR (2) OF THIS SECTION, THE COURT, INSTEAD OF APPOINTING A
5 CONSERVATOR, MAY:

6 (a) AUTHORIZE OR DIRECT A TRANSACTION NECESSARY TO PROTECT
7 THE FINANCIAL INTEREST OR PROPERTY OF THE RESPONDENT, INCLUDING:

8 (I) AN ACTION TO ESTABLISH ELIGIBILITY FOR BENEFITS;

9 (II) PAYMENT, DELIVERY, DEPOSIT, OR RETENTION OF FUNDS OR
10 PROPERTY;

11 (III) SALE, MORTGAGE, LEASE, OR OTHER TRANSFER OF PROPERTY;

12 (IV) PURCHASE OF AN ANNUITY;

13 (V) ENTRY INTO A CONTRACTUAL RELATIONSHIP, INCLUDING A
14 CONTRACT TO PROVIDE FOR PERSONAL CARE, SUPPORTIVE SERVICES,
15 EDUCATION, TRAINING, OR EMPLOYMENT;

16 (VI) ADDITION TO OR ESTABLISHMENT OF A TRUST;

17 (VII) RATIFICATION OR INVALIDATION OF A CONTRACT, TRUST,
18 WILL, OR OTHER TRANSACTION, INCLUDING A TRANSACTION RELATED TO
19 THE PROPERTY OR BUSINESS AFFAIRS OF THE RESPONDENT; OR

20 (VIII) SETTLEMENT OF A CLAIM; OR

21 (b) RESTRICT ACCESS TO THE RESPONDENT'S PROPERTY BY A
22 SPECIFIED PERSON WHOSE ACCESS TO THE PROPERTY PLACES THE
23 RESPONDENT AT SERIOUS RISK OF FINANCIAL HARM.

24 (4) AFTER THE HEARING ON A PETITION HELD PURSUANT TO
25 SECTION 15-14.7-501(1) OR 15-14.7-501(3), WHETHER OR NOT THE COURT
26 MAKES THE FINDINGS PURSUANT TO SUBSECTION (1) OR (2) OF THIS
27 SECTION, THE COURT MAY ISSUE AN ORDER TO RESTRICT ACCESS TO THE

1 RESPONDENT OR THE RESPONDENT'S PROPERTY BY A SPECIFIED PERSON
2 WHO THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE:

3 (a) THROUGH FRAUD, COERCION, DURESS, OR THE USE OF
4 DECEPTION AND CONTROL CAUSED OR ATTEMPTED TO CAUSE AN ACTION
5 THAT WOULD HAVE RESULTED IN FINANCIAL HARM TO THE RESPONDENT OR
6 THE RESPONDENT'S PROPERTY; AND

7 (b) POSES A SERIOUS RISK OF SUBSTANTIAL FINANCIAL HARM TO
8 THE RESPONDENT OR THE RESPONDENT'S PROPERTY.

9 (5) BEFORE ISSUING AN ORDER PURSUANT TO SUBSECTION (3) OR
10 (4) OF THIS SECTION, THE COURT SHALL CONSIDER THE FACTORS DESCRIBED
11 IN SECTION 15-14.7-418 A CONSERVATOR MUST CONSIDER WHEN MAKING
12 A DECISION ON BEHALF OF AN INDIVIDUAL SUBJECT TO CONSERVATORSHIP.

13 (6) BEFORE ISSUING AN ORDER PURSUANT TO SUBSECTION (3) OR
14 (4) OF THIS SECTION FOR A RESPONDENT WHO IS A MINOR, THE COURT ALSO
15 SHALL CONSIDER THE BEST INTEREST OF THE MINOR, THE PREFERENCE OF
16 THE PARENTS OF THE MINOR, AND THE PREFERENCE OF THE MINOR, IF THE
17 MINOR IS TWELVE YEARS OF AGE OR OLDER.

18 **15-14.7-504. Petition for protective arrangement.** (1) A
19 PETITION FOR A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP OR
20 CONSERVATORSHIP MUST STATE THE PETITIONER'S NAME, PRINCIPAL
21 RESIDENCE, CURRENT STREET ADDRESS, IF DIFFERENT, RELATIONSHIP TO
22 THE RESPONDENT, INTEREST IN THE PROTECTIVE ARRANGEMENT, THE NAME
23 AND ADDRESS OF ANY ATTORNEY REPRESENTING THE PETITIONER, AND, TO
24 THE EXTENT KNOWN, THE FOLLOWING:

25 (a) THE RESPONDENT'S NAME, AGE, PRINCIPAL RESIDENCE,
26 CURRENT STREET ADDRESS, IF DIFFERENT, AND, IF DIFFERENT, ADDRESS OF
27 THE DWELLING IN WHICH IT IS PROPOSED THE RESPONDENT WILL RESIDE IF

1 THE PETITION IS GRANTED;

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

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

7 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
8 SIBLING OF THE RESPONDENT, OR, IF NONE, AT LEAST ONE ADULT NEAREST
9 IN KINSHIP TO THE RESPONDENT WHO CAN BE FOUND WITH REASONABLE
10 DILIGENCE; AND

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

15 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
16 FOLLOWING, IF APPLICABLE:

17 (I) A PERSON RESPONSIBLE FOR THE CARE OR CUSTODY OF THE
18 RESPONDENT;

19 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;

20 (III) THE REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
21 SECURITY ADMINISTRATION FOR THE RESPONDENT;

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

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

26 (VI) THE FIDUCIARY APPOINTED FOR THE RESPONDENT BY THE
27 DEPARTMENT OF VETERANS AFFAIRS;

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

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

5 (IX) A PERSON NOMINATED AS GUARDIAN OR CONSERVATOR BY
6 THE RESPONDENT IF THE RESPONDENT IS TWELVE YEARS OF AGE OR OLDER;

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

10 (XI) A PERSON KNOWN TO HAVE ROUTINELY ASSISTED THE
11 RESPONDENT WITH DECISION MAKING IN THE SIX-MONTH PERIOD
12 IMMEDIATELY BEFORE THE FILING OF THE PETITION; AND

13 (XII) IF THE RESPONDENT IS A MINOR:

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

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

21 (d) THE NATURE OF THE PROTECTIVE ARRANGEMENT SOUGHT;

22 (e) THE REASON THE PROTECTIVE ARRANGEMENT SOUGHT IS
23 NECESSARY, INCLUDING A BRIEF DESCRIPTION OF:

24 (I) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
25 NEED;

26 (II) ANY LESS RESTRICTIVE ALTERNATIVE FOR MEETING THE
27 RESPONDENT'S ALLEGED NEED WHICH HAS BEEN CONSIDERED OR

1 IMPLEMENTED;

2 (III) IF NO LESS RESTRICTIVE ALTERNATIVE HAS BEEN CONSIDERED
3 OR IMPLEMENTED, THE REASON LESS RESTRICTIVE ALTERNATIVES HAVE
4 NOT BEEN CONSIDERED OR IMPLEMENTED; AND

5 (IV) THE REASON OTHER LESS RESTRICTIVE ALTERNATIVES ARE
6 INSUFFICIENT TO MEET THE RESPONDENT'S ALLEGED NEED;

7 (f) THE NAME AND CURRENT ADDRESS, IF KNOWN, OF ANY PERSON
8 WITH WHOM THE PETITIONER SEEKS TO LIMIT THE RESPONDENT'S CONTACT;

9 (g) WHETHER THE RESPONDENT NEEDS AN INTERPRETER,
10 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE EFFECTIVELY
11 WITH THE COURT OR UNDERSTAND COURT PROCEEDINGS;

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

18 (i) IF A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP
19 IS SOUGHT, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH
20 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
21 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS.

22 **15-14.7-505. Notice and hearing.** (1) ON FILING OF A PETITION
23 PURSUANT TO SECTION 15-14.7-501, THE COURT SHALL SET A DATE, TIME,
24 AND PLACE FOR A HEARING ON THE PETITION.

25 (2) A COPY OF A PETITION DESCRIBED IN SECTION 15-14.7-501 AND
26 NOTICE OF A HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON
27 THE RESPONDENT. THE NOTICE MUST INFORM THE RESPONDENT OF THE

1 RESPONDENT'S RIGHTS AT THE HEARING, INCLUDING THE RIGHT TO AN
2 ATTORNEY AND TO ATTEND THE HEARING. THE NOTICE MUST INCLUDE A
3 DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF GRANTING
4 THE PETITION. THE COURT SHALL NOT GRANT THE PETITION IF NOTICE
5 SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (2) IS NOT SERVED ON
6 THE RESPONDENT.

7 (3) IN A PROCEEDING ON A PETITION HELD PURSUANT TO SECTION
8 15-14.7-501, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
9 SECTION MUST BE GIVEN TO THE PERSONS REQUIRED TO BE LISTED IN THE
10 PETITION PURSUANT TO SECTION 15-14.7-504(1) TO 15-14.7-504(3) AND
11 ANY OTHER PERSON INTERESTED IN THE RESPONDENT'S WELFARE THE
12 COURT DETERMINES. FAILURE TO GIVE NOTICE PURSUANT TO THIS
13 SUBSECTION (3) DOES NOT PRECLUDE THE COURT FROM GRANTING THE
14 PETITION.

15 (4) AFTER THE COURT HAS ORDERED A PROTECTIVE ARRANGEMENT
16 PURSUANT TO THIS PART 5, NOTICE OF A HEARING ON A PETITION FILED
17 PURSUANT TO THIS ARTICLE 14.7, TOGETHER WITH A COPY OF THE
18 PETITION, MUST BE GIVEN TO THE RESPONDENT AND ANY OTHER PERSON
19 THE COURT DETERMINES.

20 **15-14.7-506. Appointment and role of visitor.** (1) ON FILING OF
21 A PETITION PURSUANT TO SECTION 15-14.7-501 FOR A PROTECTIVE
22 ARRANGEMENT INSTEAD OF GUARDIANSHIP, THE COURT SHALL APPOINT A
23 VISITOR. THE VISITOR MUST BE AN INDIVIDUAL WITH TRAINING OR
24 EXPERIENCE IN THE TYPE OF ABILITIES, LIMITATIONS, AND NEEDS ALLEGED
25 IN THE PETITION.

26 (2) ON FILING OF A PETITION PURSUANT TO SECTION 15-14.7-501
27 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR A

1 MINOR, THE COURT MAY APPOINT A VISITOR TO INVESTIGATE A MATTER
2 RELATED TO THE PETITION OR INFORM THE MINOR OR A PARENT OF THE
3 MINOR ABOUT THE PETITION OR A RELATED MATTER.

4 (3) ON FILING OF A PETITION PURSUANT TO SECTION 15-14.7-501
5 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR AN
6 ADULT, THE COURT SHALL APPOINT A VISITOR UNLESS THE RESPONDENT IS
7 REPRESENTED BY AN ATTORNEY APPOINTED BY THE COURT. THE VISITOR
8 MUST BE AN INDIVIDUAL WITH TRAINING OR EXPERIENCE IN THE TYPES OF
9 ABILITIES, LIMITATIONS, AND NEEDS ALLEGED IN THE PETITION.

10 (4) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OR (3) OF
11 THIS SECTION SHALL INTERVIEW THE RESPONDENT IN PERSON AND, IN A
12 MANNER THE RESPONDENT IS BEST ABLE TO UNDERSTAND:

13 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE PETITION,
14 THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING, AND THE
15 RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION;

16 (b) DETERMINE THE RESPONDENT'S VIEWS WITH RESPECT TO THE
17 ORDER SOUGHT;

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

21 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF
22 THE PROCEEDING, INCLUDING RESPONDENT'S ATTORNEY'S FEES, MAY BE
23 PAID FROM THE RESPONDENT'S ASSETS;

24 (e) IF THE PETITIONER SEEKS AN ORDER RELATED TO THE DWELLING
25 OF THE RESPONDENT, VISIT THE RESPONDENT'S PRESENT DWELLING AND
26 ANY DWELLING IN WHICH IT IS REASONABLY BELIEVED THE RESPONDENT
27 WILL LIVE IF THE ORDER IS GRANTED;

1 (f) IF A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP IS
2 SOUGHT, OBTAIN INFORMATION FROM ANY PHYSICIAN OR OTHER PERSON
3 KNOWN TO HAVE TREATED, ADVISED, OR ASSESSED THE RESPONDENT'S
4 RELEVANT PHYSICAL OR MENTAL CONDITION;

5 (g) IF A PROTECTIVE ARRANGEMENT INSTEAD OF
6 CONSERVATORSHIP IS SOUGHT, REVIEW FINANCIAL RECORDS OF THE
7 RESPONDENT, IF RELEVANT TO THE VISITOR'S RECOMMENDATION
8 PURSUANT TO SUBSECTION (5)(c) OF THIS SECTION; AND

9 (h) INVESTIGATE THE ALLEGATIONS IN THE PETITION AND ANY
10 OTHER MATTER RELATING TO THE PETITION THE COURT DIRECTS.

11 (5) A VISITOR DESCRIBED IN THIS SECTION PROMPTLY SHALL FILE
12 A REPORT IN A RECORD WITH THE COURT, WHICH MUST INCLUDE:

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

15 (b) TO THE EXTENT RELEVANT TO THE ORDER SOUGHT, A SUMMARY
16 OF SELF-CARE, INDEPENDENT-LIVING TASKS, AND FINANCIAL MANAGEMENT
17 TASKS THE RESPONDENT:

18 (I) CAN MANAGE WITHOUT ASSISTANCE OR WITH EXISTING
19 SUPPORTS;

20 (II) COULD MANAGE WITH THE ASSISTANCE OF APPROPRIATE
21 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
22 DECISION MAKING; AND

23 (III) CANNOT MANAGE;

24 (c) A RECOMMENDATION REGARDING THE APPROPRIATENESS OF
25 THE PROTECTIVE ARRANGEMENT SOUGHT AND WHETHER A LESS
26 RESTRICTIVE ALTERNATIVE FOR MEETING THE RESPONDENT'S NEEDS IS
27 AVAILABLE;

1 (d) IF THE PETITION SEEKS TO CHANGE THE PHYSICAL LOCATION OF
2 THE DWELLING OF THE RESPONDENT, A STATEMENT WHETHER THE
3 PROPOSED DWELLING MEETS THE RESPONDENT'S NEEDS AND WHETHER THE
4 RESPONDENT HAS EXPRESSED A PREFERENCE AS TO THE RESPONDENT'S
5 DWELLING;

6 (e) A RECOMMENDATION WHETHER A PROFESSIONAL EVALUATION
7 PURSUANT TO SECTION 15-14.7-508 IS NECESSARY;

8 (f) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO ATTEND
9 A HEARING AT THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD;

10 (g) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
11 PARTICIPATE IN A HEARING AND WHICH IDENTIFIES ANY TECHNOLOGY OR
12 OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE RESPONDENT'S
13 ABILITY TO PARTICIPATE; AND

14 (h) ANY OTHER MATTER THE COURT DIRECTS.

15 **15-14.7-507. Appointment and role of attorney.** (1) THE COURT
16 SHALL APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT IN A
17 PROCEEDING PURSUANT TO THIS PART 5 IF:

18 (a) THE RESPONDENT REQUESTS THE APPOINTMENT;

19 (b) THE VISITOR RECOMMENDS THE APPOINTMENT; OR

20 (c) THE COURT DETERMINES THE RESPONDENT NEEDS
21 REPRESENTATION.

22 (2) AN ATTORNEY REPRESENTING THE RESPONDENT IN A
23 PROCEEDING PURSUANT TO THIS PART 5 SHALL:

24 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
25 WISHES;

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

1 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
2 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
3 RESTRICTIVE ALTERNATIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT
4 WITH THE RESPONDENT'S INTERESTS.

5 (3) THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT A
6 PARENT OF A MINOR WHO IS THE SUBJECT OF A PROCEEDING PURSUANT TO
7 THIS PART 5 IF:

8 (a) THE PARENT OBJECTS TO THE ENTRY OF AN ORDER FOR A
9 PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP OR
10 CONSERVATORSHIP;

11 (b) THE COURT DETERMINES THAT COUNSEL IS NEEDED TO ENSURE
12 THAT CONSENT TO THE ENTRY OF AN ORDER FOR A PROTECTIVE
13 ARRANGEMENT IS INFORMED; OR

14 (c) THE COURT OTHERWISE DETERMINES THE PARENT NEEDS
15 REPRESENTATION.

16 **15-14.7-508. Professional evaluation.** (1) AT OR BEFORE A
17 HEARING ON A PETITION HELD PURSUANT TO THIS PART 5 FOR A
18 PROTECTIVE ARRANGEMENT, THE COURT SHALL ORDER A PROFESSIONAL
19 EVALUATION OF THE RESPONDENT:

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

21 (b) IN OTHER CASES, UNLESS THE COURT FINDS THAT IT HAS
22 SUFFICIENT INFORMATION TO DETERMINE THE RESPONDENT'S NEEDS AND
23 ABILITIES WITHOUT THE EVALUATION.

24 (2) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
25 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED BY
26 A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
27 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE

1 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND
2 LIMITATIONS AND WILL NOT BE ADVANTAGED OR DISADVANTAGED BY A
3 DECISION TO GRANT THE PETITION OR OTHERWISE HAVE A CONFLICT OF
4 INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION PROMPTLY
5 SHALL FILE A REPORT IN A RECORD WITH THE COURT. UNLESS OTHERWISE
6 DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

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

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

12 (c) A PROGNOSIS FOR IMPROVEMENT, INCLUDING WITH REGARD TO
13 THE ABILITY TO MANAGE THE RESPONDENT'S PROPERTY AND FINANCIAL
14 AFFAIRS IF A LIMITATION IN THAT ABILITY IS ALLEGED, AND
15 RECOMMENDATION FOR THE APPROPRIATE TREATMENT, SUPPORT, OR
16 HABILITATION PLAN; AND

17 (d) THE DATE OF THE EXAMINATION ON WHICH THE REPORT IS
18 BASED.

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

21 **15-14.7-509. Attendance and rights at hearing.** (1) EXCEPT AS
22 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A HEARING
23 HELD PURSUANT TO THIS PART 5 MAY NOT PROCEED UNLESS THE
24 RESPONDENT ATTENDS THE HEARING. IF IT IS NOT REASONABLY FEASIBLE
25 FOR THE RESPONDENT TO ATTEND A HEARING AT THE LOCATION COURT
26 PROCEEDINGS TYPICALLY ARE HELD, THE COURT SHALL MAKE REASONABLE
27 EFFORTS TO HOLD THE HEARING AT AN ALTERNATIVE LOCATION

1 CONVENIENT TO THE RESPONDENT OR ALLOW THE RESPONDENT TO ATTEND
2 THE HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY.

3 (2) A HEARING HELD PURSUANT TO THIS PART 5 MAY PROCEED
4 WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS BY
5 CLEAR-AND-CONVINCING EVIDENCE THAT:

6 (a) THE RESPONDENT CONSISTENTLY AND REPEATEDLY HAS
7 REFUSED TO ATTEND THE HEARING AFTER HAVING BEEN FULLY INFORMED
8 OF THE RIGHT TO ATTEND AND THE POTENTIAL CONSEQUENCES OF FAILING
9 TO DO SO;

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

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

15 (3) THE RESPONDENT MAY BE ASSISTED IN A HEARING HELD
16 PURSUANT TO THIS PART 5 BY A PERSON OR PERSONS OF THE RESPONDENT'S
17 CHOOSING, ASSISTIVE TECHNOLOGY, OR AN INTERPRETER OR TRANSLATOR,
18 OR A COMBINATION OF THESE SUPPORTS. IF ASSISTANCE WOULD FACILITATE
19 THE RESPONDENT'S PARTICIPATION IN THE HEARING, BUT IS NOT OTHERWISE
20 AVAILABLE TO THE RESPONDENT, THE COURT SHALL MAKE REASONABLE
21 EFFORTS TO PROVIDE IT.

22 (4) THE RESPONDENT HAS A RIGHT TO CHOOSE AN ATTORNEY TO
23 REPRESENT THE RESPONDENT AT A HEARING HELD PURSUANT TO THIS PART
24 5.

25 (5) AT A HEARING HELD PURSUANT TO THIS PART 5, THE
26 RESPONDENT MAY:

27 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND

1 DOCUMENTS;

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

4 (c) OTHERWISE PARTICIPATE IN THE HEARING.

5 (6) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE CLOSED
6 ON REQUEST OF THE RESPONDENT AND A SHOWING OF GOOD CAUSE.

7 (7) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING HELD
8 PURSUANT TO THIS PART 5. THE COURT MAY GRANT THE REQUEST, WITH OR
9 WITHOUT A HEARING, ON DETERMINING THAT THE BEST INTEREST OF THE
10 RESPONDENT WILL BE SERVED. THE COURT MAY IMPOSE APPROPRIATE
11 CONDITIONS ON THE PERSON'S PARTICIPATION.

12 **15-14.7-510. Notice of order.** THE COURT SHALL GIVE NOTICE OF
13 AN ORDER PURSUANT TO THIS PART 5 TO THE INDIVIDUAL WHO IS SUBJECT
14 TO THE PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP OR
15 CONSERVATORSHIP, A PERSON WHOSE ACCESS TO THE INDIVIDUAL IS
16 RESTRICTED BY THE ORDER, AND ANY OTHER PERSON THE COURT
17 DETERMINES.

18 **15-14.7-511. Confidentiality of records.** (1) THE EXISTENCE OF
19 A PROCEEDING FOR OR THE EXISTENCE OF A PROTECTIVE ARRANGEMENT
20 INSTEAD OF GUARDIANSHIP OR CONSERVATORSHIP IS A MATTER OF PUBLIC
21 RECORD UNLESS THE COURT SEALS THE RECORD AFTER:

22 (a) THE RESPONDENT, THE INDIVIDUAL SUBJECT TO THE
23 PROTECTIVE ARRANGEMENT, OR THE PARENT OF A MINOR SUBJECT TO THE
24 PROTECTIVE ARRANGEMENT REQUESTS THE RECORD BE SEALED; AND

25 (b) EITHER:

26 (I) THE PROCEEDING IS DISMISSED;

27 (II) THE PROTECTIVE ARRANGEMENT IS NO LONGER IN EFFECT; OR

1 (III) AN ACT AUTHORIZED BY THE ORDER GRANTING THE
2 PROTECTIVE ARRANGEMENT HAS BEEN COMPLETED.

3 (2) A RESPONDENT, AN INDIVIDUAL SUBJECT TO A PROTECTIVE
4 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR CONSERVATORSHIP, AN
5 ATTORNEY DESIGNATED BY THE RESPONDENT OR INDIVIDUAL, A PARENT OF
6 A MINOR SUBJECT TO A PROTECTIVE ARRANGEMENT, AND ANY OTHER
7 PERSON THE COURT DETERMINES ARE ENTITLED TO ACCESS COURT
8 RECORDS OF THE PROCEEDING AND RESULTING PROTECTIVE
9 ARRANGEMENT. A PERSON NOT OTHERWISE ENTITLED TO ACCESS TO COURT
10 RECORDS PURSUANT TO THIS SUBSECTION (2) FOR GOOD CAUSE MAY
11 PETITION THE COURT FOR ACCESS. THE COURT SHALL GRANT ACCESS IF
12 ACCESS IS IN THE BEST INTEREST OF THE RESPONDENT OR INDIVIDUAL
13 SUBJECT TO THE PROTECTIVE ARRANGEMENT OR FURTHERS THE PUBLIC
14 INTEREST AND DOES NOT ENDANGER THE WELFARE OR FINANCIAL
15 INTERESTS OF THE RESPONDENT OR INDIVIDUAL.

16 (3) A REPORT OF A VISITOR OR PROFESSIONAL EVALUATION
17 GENERATED IN THE COURSE OF A PROCEEDING PURSUANT TO THIS PART 5
18 MUST BE SEALED ON FILING BUT IS AVAILABLE TO:

- 19 (a) THE COURT;
- 20 (b) THE INDIVIDUAL WHO IS THE SUBJECT OF THE REPORT OR
21 EVALUATION, WITHOUT LIMITATION AS TO USE;
- 22 (c) THE PETITIONER, VISITOR, AND PETITIONER'S AND
23 RESPONDENT'S ATTORNEYS, FOR PURPOSES OF THE PROCEEDING;
- 24 (d) UNLESS THE COURT ORDERS OTHERWISE, AN AGENT APPOINTED
25 UNDER A POWER OF ATTORNEY FOR FINANCES IN WHICH THE RESPONDENT
26 IS THE PRINCIPAL;
- 27 (e) IF THE ORDER IS FOR A PROTECTIVE ARRANGEMENT INSTEAD OF

1 GUARDIANSHIP AND UNLESS THE COURT ORDERS OTHERWISE, AN AGENT
2 APPOINTED UNDER A POWER OF ATTORNEY FOR HEALTH CARE IN WHICH
3 THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL; AND

4 (f) ANY OTHER PERSON IF IT IS IN THE PUBLIC INTEREST OR FOR A
5 PURPOSE THE COURT ORDERS FOR GOOD CAUSE.

6 **15-14.7-512. Appointment of special conservator.** THE COURT
7 MAY APPOINT A SPECIAL CONSERVATOR TO ASSIST IN IMPLEMENTING A
8 PROTECTIVE ARRANGEMENT PURSUANT TO THIS PART 5. THE SPECIAL
9 CONSERVATOR HAS THE AUTHORITY CONFERRED BY THE ORDER OF
10 APPOINTMENT AND SERVES UNTIL DISCHARGED BY COURT ORDER.

11 PART 6

12 FORMS

13 **15-14.7-601. Use of Forms.** (1) USE OF THE FORMS CONTAINED
14 IN THIS PART 6 IS OPTIONAL. FAILURE TO USE THESE FORMS DOES NOT
15 PREJUDICE ANY PARTY.

16 **15-14.7-602. Petition for guardianship for minor.** THIS FORM
17 MAY BE USED TO PETITION FOR GUARDIANSHIP FOR A MINOR:

18 **PETITION FOR GUARDIANSHIP FOR MINOR**

19 **STATE OF:**

20 **COUNTY OF:**

21 **NAME AND ADDRESS OF ATTORNEY REPRESENTING**

22 **PETITIONER, IF APPLICABLE:**

23 **NOTE TO PETITIONER:** THIS FORM CAN BE USED TO
24 PETITION FOR A GUARDIAN FOR A MINOR. A COURT MAY
25 APPOINT A GUARDIAN FOR A MINOR WHO DOES NOT HAVE A
26 GUARDIAN IF THE COURT FINDS THE APPOINTMENT IS IN THE
27 MINOR'S BEST INTEREST, AND: (1) THE PARENTS, AFTER

1 BEING FULLY INFORMED OF THE NATURE AND
2 CONSEQUENCES OF GUARDIANSHIP, CONSENT; (2) ALL
3 PARENTAL RIGHTS HAVE BEEN TERMINATED; OR (3) THE
4 COURT FINDS BY CLEAR-AND-CONVINCING EVIDENCE THAT
5 THE PARENTS ARE UNWILLING OR UNABLE TO EXERCISE
6 THEIR PARENTAL RIGHTS.

7 **1. INFORMATION ABOUT THE PERSON FILING THIS**
8 **PETITION (THE "PETITIONER").**

- 9 a. NAME:
- 10 b. PRINCIPAL RESIDENCE:
- 11 c. CURRENT STREET ADDRESS (IF DIFFERENT):
- 12 d. RELATIONSHIP TO MINOR:
- 13 e. INTEREST IN THIS PETITION:
- 14 f. TELEPHONE NUMBER (OPTIONAL):
- 15 g. EMAIL ADDRESS (OPTIONAL):

16 **2. INFORMATION ABOUT THE MINOR ALLEGED TO NEED A**
17 **GUARDIAN. PROVIDE THE FOLLOWING INFORMATION TO THE**
18 **EXTENT KNOWN.**

- 19 a. NAME:
- 20 b. AGE:
- 21 c. PRINCIPAL RESIDENCE:
- 22 d. CURRENT STREET ADDRESS (IF DIFFERENT):
- 23 e. IF PETITIONER ANTICIPATES THE MINOR MOVING,
24 OR SEEKS TO MOVE THE MINOR, PROPOSED NEW ADDRESS:
- 25 f. DOES THE MINOR NEED AN INTERPRETER,
26 TRANSLATOR, OR OTHER FORM OF SUPPORT TO
27 COMMUNICATE WITH THE COURT OR UNDERSTAND COURT

1 PROCEEDINGS? IF SO, PLEASE EXPLAIN.

2 g. TELEPHONE NUMBER (OPTIONAL):

3 h. EMAIL ADDRESS (OPTIONAL):

4 **3. INFORMATION ABOUT THE MINOR'S PARENT(S).**

5 a. NAME(S) OF LIVING PARENT(S):

6 b. CURRENT STREET ADDRESS(ES) OF LIVING
7 PARENT(S):

8 c. DOES ANY PARENT NEED AN INTERPRETER,
9 TRANSLATOR, OR OTHER FORM OF SUPPORT TO
10 COMMUNICATE WITH THE COURT OR UNDERSTAND COURT
11 PROCEEDINGS? IF SO, PLEASE EXPLAIN.

12 **4. PEOPLE WHO ARE REQUIRED TO BE NOTIFIED OF THIS**
13 **PETITION. STATE THE NAME AND CURRENT ADDRESS OF THE**
14 **PEOPLE LISTED IN APPENDIX A.**

15 **5. APPOINTMENT REQUESTED. STATE THE NAME AND**
16 **ADDRESS OF ANY PROPOSED GUARDIAN AND THE REASON**
17 **THE PROPOSED GUARDIAN SHOULD BE SELECTED.**

18 **6. STATE WHY PETITIONER SEEKS THE APPOINTMENT.**
19 **INCLUDE A DESCRIPTION OF THE NATURE AND EXTENT OF**
20 **THE MINOR'S ALLEGED NEED.**

21 **7. PROPERTY. IF THE MINOR HAS PROPERTY OTHER THAN**
22 **PERSONAL EFFECTS, STATE THE MINOR'S PROPERTY WITH AN**
23 **ESTIMATE OF ITS VALUE.**

24 **8. OTHER PROCEEDINGS. IF THERE ARE ANY OTHER**
25 **PROCEEDINGS CONCERNING THE CARE OR CUSTODY OF THE**
26 **MINOR CURRENTLY PENDING IN ANY COURT IN THIS STATE OR**
27 **ANOTHER JURISDICTION, PLEASE DESCRIBE THEM.**

1 NOMINATED AS GUARDIAN BY THE MINOR;
2 ANY PERSON NOMINATED AS GUARDIAN BY A PARENT OF THE
3 MINOR;
4 THE GRANDPARENTS OF THE MINOR;
5 ADULT SIBLINGS OF THE MINOR; AND
6 ANY CURRENT GUARDIAN OR CONSERVATOR FOR THE MINOR
7 APPOINTED IN THIS STATE OR ANOTHER JURISDICTION.

8 **15-14.7-603. Petition for guardianship, conservatorship, or**
9 **protective arrangement.** THIS FORM MAY BE USED TO PETITION FOR:

- 10 (1) GUARDIANSHIP FOR AN ADULT;
- 11 (2) CONSERVATORSHIP FOR AN ADULT OR MINOR;
- 12 (3) A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP FOR
13 AN ADULT; OR
- 14 (4) A PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP
15 FOR AN ADULT OR MINOR.

16 **PETITION FOR GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE**
17 **ARRANGEMENT**

18 **STATE OF:**

19 **COUNTY OF:**

20 **NAME AND ADDRESS OF ATTORNEY REPRESENTING**
21 **PETITIONER, IF APPLICABLE:**

22 **NOTE TO PETITIONER:** THIS FORM CAN BE USED TO
23 PETITION FOR A GUARDIAN, CONSERVATOR, OR BOTH, OR FOR
24 A PROTECTIVE ARRANGEMENT INSTEAD OF EITHER A
25 GUARDIANSHIP OR CONSERVATORSHIP. THIS FORM SHOULD
26 NOT BE USED TO PETITION FOR GUARDIANSHIP FOR A MINOR.

1 THE COURT MAY APPOINT A GUARDIAN OR ORDER A
2 PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP FOR
3 AN ADULT IF THE ADULT LACKS THE ABILITY TO MEET
4 ESSENTIAL REQUIREMENTS FOR PHYSICAL HEALTH, SAFETY,
5 OR SELF-CARE BECAUSE (1) THE ADULT IS UNABLE TO
6 RECEIVE AND EVALUATE INFORMATION OR MAKE OR
7 COMMUNICATE DECISIONS EVEN WITH THE USE OF
8 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, AND
9 SUPPORTED DECISION-MAKING, AND (2) THE ADULT'S
10 IDENTIFIED NEEDS CANNOT BE MET BY A LESS RESTRICTIVE
11 ALTERNATIVE.

12 THE COURT MAY APPOINT A CONSERVATOR OR ORDER A
13 PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP
14 FOR AN ADULT IF (1) THE ADULT IS UNABLE TO MANAGE
15 PROPERTY AND FINANCIAL AFFAIRS BECAUSE OF A
16 LIMITATION IN THE ABILITY TO RECEIVE AND EVALUATE
17 INFORMATION OR MAKE OR COMMUNICATE DECISIONS EVEN
18 WITH THE USE OF SUPPORTIVE SERVICES, TECHNOLOGICAL
19 ASSISTANCE, AND SUPPORTED DECISION MAKING OR THE
20 ADULT IS MISSING, DETAINED, OR UNABLE TO RETURN TO
21 THE UNITED STATES, AND (2) APPOINTMENT IS NECESSARY
22 TO AVOID HARM TO THE ADULT OR SIGNIFICANT DISSIPATION
23 OF THE PROPERTY OF THE ADULT, OR TO OBTAIN OR PROVIDE
24 FUNDS OR OTHER PROPERTY NEEDED FOR THE SUPPORT,
25 CARE, EDUCATION, HEALTH, OR WELFARE OF THE ADULT, OR
26 OF AN INDIVIDUAL WHO IS ENTITLED TO THE ADULT'S

1 SUPPORT, AND PROTECTION IS NECESSARY OR DESIRABLE TO
2 PROVIDE FUNDS OR OTHER PROPERTY FOR THAT PURPOSE.

3 THE COURT MAY APPOINT A CONSERVATOR OR ORDER A
4 PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP
5 FOR A MINOR IF (1) THE MINOR OWNS FUNDS OR OTHER
6 PROPERTY REQUIRING MANAGEMENT OR PROTECTION THAT
7 CANNOT OTHERWISE BE PROVIDED; OR (2) IT WOULD BE IN
8 THE MINOR'S BEST INTEREST, AND THE MINOR HAS OR MAY
9 HAVE FINANCIAL AFFAIRS THAT MAY BE PUT AT
10 UNREASONABLE RISK OR HINDERED BECAUSE OF THE
11 MINOR'S AGE, OR APPOINTMENT IS NECESSARY OR DESIRABLE
12 TO PROVIDE FUNDS OR OTHER PROPERTY NEEDED FOR THE
13 SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF THE
14 MINOR.

15 THE COURT MAY ALSO ORDER A PROTECTIVE ARRANGEMENT
16 INSTEAD OF CONSERVATORSHIP THAT RESTRICTS ACCESS TO
17 AN INDIVIDUAL OR AN INDIVIDUAL'S PROPERTY BY A PERSON
18 WHO THE COURT FINDS: (1) THROUGH FRAUD, COERCION,
19 DURESS, OR THE USE OF DECEPTION AND CONTROL, CAUSED,
20 OR ATTEMPTED TO CAUSE, AN ACTION THAT WOULD HAVE
21 RESULTED IN FINANCIAL HARM TO THE INDIVIDUAL OR THE
22 INDIVIDUAL'S PROPERTY; AND (2) POSES A SERIOUS RISK OF
23 SUBSTANTIAL FINANCIAL HARM TO THE INDIVIDUAL OR THE
24 INDIVIDUAL'S PROPERTY.

1 **1. INFORMATION ABOUT THE PERSON FILING THIS**
2 **PETITION (THE "PETITIONER").**

- 3 a. NAME:
- 4 b. PRINCIPAL RESIDENCE:
- 5 c. CURRENT STREET ADDRESS (IF DIFFERENT):
- 6 d. RELATIONSHIP TO RESPONDENT:
- 7 e. INTEREST IN THIS PETITION:
- 8 f. TELEPHONE NUMBER (OPTIONAL):
- 9 g. EMAIL ADDRESS (OPTIONAL):

10 **2. INFORMATION ABOUT THE INDIVIDUAL ALLEGED TO**
11 **NEED PROTECTION (THE "RESPONDENT"). PROVIDE THE**
12 **FOLLOWING INFORMATION TO THE EXTENT KNOWN.**

- 13 a. NAME:
- 14 b. AGE:
- 15 c. PRINCIPAL RESIDENCE:
- 16 d. CURRENT STREET ADDRESS (IF DIFFERENT):
- 17 e. IF PETITIONER ANTICIPATES RESPONDENT
18 MOVING, OR SEEKS TO MOVE RESPONDENT, PROPOSED NEW
19 ADDRESS:
- 20 f. DOES RESPONDENT NEED AN INTERPRETER,
21 TRANSLATOR, OR OTHER FORM OF SUPPORT TO
22 COMMUNICATE WITH THE COURT OR UNDERSTAND COURT
23 PROCEEDINGS? IF SO, PLEASE EXPLAIN.
- 24 g. TELEPHONE NUMBER (OPTIONAL):
- 25 h. EMAIL ADDRESS (OPTIONAL):

26 **3. PEOPLE WHO ARE REQUIRED TO BE NOTIFIED OF THIS**
27 **PETITION. STATE THE NAME AND ADDRESS OF THE PEOPLE**

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LISTED IN APPENDIX A.

4. EXISTING AGENTS. STATE THE NAME AND ADDRESS OF ANY PERSON APPOINTED AS AN AGENT UNDER A POWER OF ATTORNEY FOR FINANCES OR POWER OF ATTORNEY FOR HEALTH CARE, OR WHO HAS BEEN APPOINTED AS THE INDIVIDUAL'S REPRESENTATIVE FOR PAYMENT OF BENEFITS.

5. ACTION REQUESTED. STATE WHETHER PETITIONER IS SEEKING APPOINTMENT OF A GUARDIAN, A CONSERVATOR, OR A PROTECTIVE ARRANGEMENT INSTEAD OF AN APPOINTMENT.

6. ORDER REQUESTED OR APPOINTMENT REQUESTED. IF SEEKING A PROTECTIVE ARRANGEMENT INSTEAD OF A GUARDIANSHIP OR CONSERVATORSHIP, STATE THE TRANSACTION OR OTHER ACTION YOU WANT THE COURT TO ORDER. IF SEEKING APPOINTMENT OF A GUARDIAN OR CONSERVATOR, STATE THE POWERS PETITIONER REQUESTS THE COURT GRANT TO A GUARDIAN OR CONSERVATOR.

7. STATE WHY THE APPOINTMENT OR PROTECTIVE ARRANGEMENT SOUGHT IS NECESSARY. INCLUDE A DESCRIPTION OF THE NATURE AND EXTENT OF RESPONDENT'S ALLEGED NEED.

8. STATE ALL LESS-RESTRICTIVE ALTERNATIVES TO MEETING RESPONDENT'S ALLEGED NEED THAT HAVE BEEN CONSIDERED OR IMPLEMENTED. LESS-RESTRICTIVE ALTERNATIVES COULD INCLUDE SUPPORTED DECISION MAKING, TECHNOLOGICAL ASSISTANCE, OR THE APPOINTMENT OF AN AGENT BY RESPONDENT INCLUDING

1 APPOINTMENT UNDER A POWER OF ATTORNEY FOR FINANCES
2 OR POWER OF ATTORNEY FOR HEALTH CARE. IF NO
3 ALTERNATIVE HAS BEEN CONSIDERED OR IMPLEMENTED,
4 STATE THE REASON WHY NOT.

5 **9. EXPLAIN WHY LESS-RESTRICTIVE ALTERNATIVES WILL**
6 **NOT MEET RESPONDENT'S ALLEGED NEED.**

7 **10. PROVIDE A GENERAL STATEMENT OF RESPONDENT'S**
8 **PROPERTY AND AN ESTIMATE OF ITS VALUE. INCLUDE ANY**
9 REAL PROPERTY SUCH AS A HOUSE OR LAND, INSURANCE OR
10 PENSION, AND THE SOURCE AND AMOUNT OF ANY OTHER
11 ANTICIPATED INCOME OR RECEIPTS. AS PART OF THIS
12 STATEMENT, INDICATE, IF KNOWN, HOW THE PROPERTY IS
13 TITLED (FOR EXAMPLE, IS IT JOINTLY OWNED?).

14 **11. FOR A PETITION SEEKING APPOINTMENT OF A**
15 **CONSERVATOR. (SKIP THIS SECTION IF NOT ASKING FOR**
16 **APPOINTMENT OF A CONSERVATOR)**

17 a. IF SEEKING APPOINTMENT OF A CONSERVATOR WITH ALL
18 POWERS PERMISSIBLE UNDER THIS STATE'S LAW, EXPLAIN
19 WHY APPOINTMENT OF A CONSERVATOR WITH FEWER
20 POWERS (I.E., A "LIMITED CONSERVATORSHIP") OR OTHER
21 PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP
22 WILL NOT MEET THE INDIVIDUAL'S ALLEGED NEEDS.

23 b. IF SEEKING A LIMITED CONSERVATORSHIP, STATE THE
24 PROPERTY PETITIONER REQUESTS BE PLACED UNDER THE
25 CONSERVATOR'S CONTROL AND ANY PROPOSED LIMITATION
26 ON THE CONSERVATOR'S POWERS AND DUTIES.

27 c. STATE THE NAME AND ADDRESS OF ANY PROPOSED

1 CONSERVATOR AND THE REASON THE PROPOSED
2 CONSERVATOR SHOULD BE SELECTED.

3 d. IF RESPONDENT IS 12 YEARS OF AGE OR OLDER, STATE
4 THE NAME AND ADDRESS OF ANY PERSON RESPONDENT
5 NOMINATES AS CONSERVATOR.

6 e. IF ALLEGING A LIMITATION IN RESPONDENT'S ABILITY TO
7 RECEIVE AND EVALUATE INFORMATION, PROVIDE A BRIEF
8 DESCRIPTION OF THE NATURE AND EXTENT OF
9 RESPONDENT'S ALLEGED LIMITATION.

10 f. IF ALLEGING THAT RESPONDENT IS MISSING, DETAINED,
11 OR UNABLE TO RETURN TO THE UNITED STATES, STATE THE
12 RELEVANT CIRCUMSTANCES, INCLUDING THE TIME AND
13 NATURE OF THE DISAPPEARANCE OR DETENTION AND A
14 DESCRIPTION OF ANY SEARCH OR INQUIRY CONCERNING
15 RESPONDENT'S WHEREABOUTS.

16 **12. FOR A PETITION SEEKING APPOINTMENT OF A**
17 **GUARDIAN.** (SKIP THIS SECTION IF NOT ASKING FOR
18 APPOINTMENT OF A GUARDIAN)

19 a. IF SEEKING APPOINTMENT OF A GUARDIAN WITH ALL
20 POWERS PERMISSIBLE UNDER THIS STATE'S LAW, EXPLAIN
21 WHY APPOINTMENT OF A GUARDIAN WITH FEWER POWERS
22 (I.E., A "LIMITED GUARDIANSHIP") OR OTHER PROTECTIVE
23 ARRANGEMENT INSTEAD OF GUARDIANSHIP WILL NOT MEET
24 THE INDIVIDUAL'S ALLEGED NEEDS.

25 b. IF SEEKING A LIMITED GUARDIANSHIP, STATE THE POWERS
26 PETITIONER REQUESTS BE GRANTED TO THE GUARDIAN.

27 c. STATE THE NAME AND ADDRESS OF ANY PROPOSED

1 GUARDIAN AND THE REASON THE PROPOSED GUARDIAN
2 SHOULD BE SELECTED.

3 d. STATE THE NAME AND ADDRESS OF ANY PERSON
4 NOMINATED AS GUARDIAN BY RESPONDENT, OR, IN A WILL
5 OR OTHER SIGNED WRITING OR OTHER RECORD, BY
6 RESPONDENT'S PARENT OR SPOUSE OR DOMESTIC PARTNER.

7 **13. ATTORNEY.** IF PETITIONER, RESPONDENT, OR, IF
8 RESPONDENT IS A MINOR, RESPONDENT'S PARENT IS
9 REPRESENTED BY AN ATTORNEY IN THIS MATTER, STATE THE
10 NAME, TELEPHONE NUMBER, EMAIL ADDRESS, AND ADDRESS
11 OF THE ATTORNEY(S).

12 **SIGNATURE**

13 _____

14 SIGNATURE OF PETITIONER DATE

15 _____

16 SIGNATURE OF PETITIONER'S ATTORNEY IF DATE
17 PETITIONER IS REPRESENTED BY COUNSEL

18 **APPENDIX A:**

19 PEOPLE WHOSE NAME AND ADDRESS MUST BE LISTED IN
20 SECTION 3 OF THIS PETITION, IF THEY ARE NOT THE
21 PETITIONER.

22 RESPONDENT'S SPOUSE OR DOMESTIC PARTNER, OR IF
23 RESPONDENT HAS NONE, ANY ADULT WITH WHOM
24 RESPONDENT HAS SHARED HOUSEHOLD RESPONSIBILITIES IN

1 THE PAST SIX MONTHS;
2 RESPONDENT'S ADULT CHILDREN, OR, IF RESPONDENT HAS
3 NONE, RESPONDENT'S PARENTS AND ADULT SIBLINGS, OR IF
4 RESPONDENT HAS NONE, ONE OR MORE ADULTS NEAREST IN
5 KINSHIP TO RESPONDENT WHO CAN BE FOUND WITH
6 REASONABLE DILIGENCE;
7 RESPONDENT'S ADULT STEPCHILDREN WHOM RESPONDENT
8 ACTIVELY PARENTED DURING THE STEPCHILDREN'S MINOR
9 YEARS AND WITH WHOM RESPONDENT HAD AN ONGOING
10 RELATIONSHIP WITHIN TWO YEARS OF THIS PETITION;
11 ANY PERSON RESPONSIBLE FOR THE CARE OR CUSTODY OF
12 RESPONDENT;
13 ANY ATTORNEY CURRENTLY REPRESENTING RESPONDENT;
14 ANY REPRESENTATIVE PAYEE FOR RESPONDENT APPOINTED
15 BY THE SOCIAL SECURITY ADMINISTRATION;
16 ANY CURRENT GUARDIAN OR CONSERVATOR FOR
17 RESPONDENT APPOINTED IN THIS STATE OR ANOTHER
18 JURISDICTION;
19 ANY TRUSTEE OR CUSTODIAN OF A TRUST OR
20 CUSTODIANSHIP OF WHICH RESPONDENT IS A BENEFICIARY;
21 ANY VETERANS ADMINISTRATION FIDUCIARY FOR
22 RESPONDENT;
23 ANY PERSON RESPONDENT HAS DESIGNATED AS AGENT
24 UNDER A POWER OF ATTORNEY FOR FINANCES;
25 ANY PERSON RESPONDENT HAS DESIGNATED AS AGENT
26 UNDER A POWER OF ATTORNEY FOR HEALTH CARE;
27 ANY PERSON KNOWN TO HAVE ROUTINELY ASSISTED THE

1 INDIVIDUAL WITH DECISION MAKING IN THE PREVIOUS SIX
2 MONTHS;
3 ANY PERSON RESPONDENT NOMINATES AS GUARDIAN OR
4 CONSERVATOR; AND
5 ANY PERSON NOMINATED AS GUARDIAN BY RESPONDENT'S
6 PARENT OR SPOUSE OR DOMESTIC PARTNER IN A WILL OR
7 OTHER SIGNED WRITING OR OTHER RECORD.

8 **15-14.7-604. Notification of hearing on a petition for**
9 **guardianship, conservatorship, or other protective arrangement for**
10 **an adult.** THIS FORM MAY BE USED TO NOTIFY THE ADULT WHO IS THE
11 SUBJECT OF A PETITION FOR GUARDIANSHIP, CONSERVATORSHIP, OR OTHER
12 PROTECTIVE ARRANGEMENTS OF THE ADULT'S RIGHTS.

13 **NOTIFICATION OF RIGHTS**

14 YOU ARE GETTING THIS NOTICE BECAUSE THE [NAME OF
15 COURT] HAS RECEIVED A PETITION TO [APPOINT A
16 GUARDIAN] [APPOINT A CONSERVATOR] [CREATE A
17 PROTECTIVE ARRANGEMENT] FOR YOU. THE COURT WILL
18 HOLD A HEARING ON [DATE] AT [TIME] AT [ADDRESS OF THE
19 COURT WHERE THE HEARING WILL BE HELD].

20 YOU HAVE THE RIGHT TO ATTEND THE HEARING. IF YOU ARE
21 UNABLE TO APPEAR IN COURT FOR THE HEARING, YOU MAY
22 ASK THE COURT TO ALLOW YOU TO APPEAR AT THE HEARING
23 BY VIDEO CONFERENCE.

24 YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER AT
25 THE HEARING.

1 THE PURPOSE OF THIS HEARING IS TO DETERMINE WHETHER
2 PROTECTIVE SERVICES ARE APPROPRIATE FOR YOU.

3 AFTER THE HEARING, THE COURT COULD REMOVE YOUR
4 LEGAL RIGHT TO MAKE CERTAIN DECISIONS FOR YOURSELF
5 AND APPOINT SOMEONE TO MAKE DECISIONS FOR YOU. IF
6 YOU ATTEND THE HEARING, YOU WILL HAVE AN
7 OPPORTUNITY TO STATE YOUR WISHES TO THE COURT.

8 **15-14.7-605. Notification of rights for adult subject to**
9 **guardianship or conservatorship.** THIS FORM MAY BE USED TO NOTIFY
10 AN ADULT SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP OF THE
11 ADULT'S RIGHTS PURSUANT TO SECTIONS 15-14.7-311 AND 15-14.7-412.

12 **NOTIFICATION OF RIGHTS**

13 YOU ARE GETTING THIS NOTICE BECAUSE A GUARDIAN,
14 CONSERVATOR, OR BOTH HAVE BEEN APPOINTED FOR YOU. IT
15 TELLS YOU ABOUT SOME IMPORTANT RIGHTS YOU HAVE. IT
16 DOES NOT TELL YOU ABOUT ALL YOUR RIGHTS. IF YOU HAVE
17 QUESTIONS ABOUT YOUR RIGHTS, YOU CAN ASK AN
18 ATTORNEY OR ANOTHER PERSON, INCLUDING YOUR
19 GUARDIAN OR CONSERVATOR, TO HELP YOU UNDERSTAND
20 YOUR RIGHTS.

21 **GENERAL RIGHTS:**

22 YOU HAVE THE RIGHT TO EXERCISE ANY RIGHT THE COURT
23 HAS NOT GIVEN TO YOUR GUARDIAN OR CONSERVATOR.

24 YOU ALSO HAVE THE RIGHT TO ASK THE COURT TO:

25 END YOUR GUARDIANSHIP, CONSERVATORSHIP, OR BOTH;

1 INCREASE OR DECREASE THE POWERS GRANTED TO YOUR
2 GUARDIAN, CONSERVATOR, OR BOTH;
3 MAKE OTHER CHANGES THAT AFFECT WHAT YOUR
4 GUARDIAN OR CONSERVATOR CAN DO OR HOW THEY DO IT;
5 AND
6 REPLACE THE PERSON WHO WAS APPOINTED WITH SOMEONE
7 ELSE.
8 YOU ALSO HAVE A RIGHT TO HIRE AN ATTORNEY TO HELP
9 YOU DO ANY OF THESE THINGS.

10 ADDITIONAL RIGHTS FOR PERSONS FOR WHOM A GUARDIAN
11 HAS BEEN APPOINTED:

12 AS AN ADULT SUBJECT TO GUARDIANSHIP, YOU HAVE A
13 RIGHT TO:

14 (1) BE INVOLVED IN DECISIONS AFFECTING YOU, INCLUDING
15 DECISIONS ABOUT YOUR CARE, WHERE YOU LIVE, YOUR
16 ACTIVITIES, AND YOUR SOCIAL INTERACTIONS, TO THE
17 EXTENT REASONABLY FEASIBLE;

18 (2) BE INVOLVED IN DECISIONS ABOUT YOUR HEALTH CARE
19 TO THE EXTENT REASONABLY FEASIBLE, AND TO HAVE
20 OTHER PEOPLE HELP YOU UNDERSTAND THE RISKS AND
21 BENEFITS OF HEALTH-CARE OPTIONS;

22 (3) BE NOTIFIED AT LEAST 14 DAYS IN ADVANCE OF A
23 CHANGE IN WHERE YOU LIVE OR A PERMANENT MOVE TO A
24 NURSING HOME, MENTAL-HEALTH FACILITY, OR OTHER
25 FACILITY THAT PLACES RESTRICTIONS ON YOUR ABILITY TO
26 LEAVE OR HAVE VISITORS, UNLESS THE GUARDIAN HAS

1 PROPOSED THIS CHANGE IN THE GUARDIAN'S PLAN OR THE
2 COURT HAS EXPRESSLY AUTHORIZED IT;

3 (4) ASK THE COURT TO PREVENT YOUR GUARDIAN FROM
4 CHANGING WHERE YOU LIVE OR SELLING OR SURRENDERING
5 YOUR PRIMARY DWELLING BY [INSERT PROCESS FOR ASKING
6 THE COURT TO PREVENT SUCH A MOVE];

7 (5) VOTE AND GET MARRIED UNLESS THE COURT ORDER
8 APPOINTING YOUR GUARDIAN STATES THAT YOU CANNOT DO
9 SO;

10 (6) RECEIVE A COPY OF YOUR GUARDIAN'S REPORT AND
11 YOUR GUARDIAN'S PLAN; AND

12 (7) COMMUNICATE, VISIT, OR INTERACT WITH OTHER
13 PEOPLE (THIS INCLUDES THE RIGHT TO HAVE VISITORS, TO
14 MAKE AND RECEIVE TELEPHONE CALLS, PERSONAL MAIL, OR
15 ELECTRONIC COMMUNICATIONS) UNLESS:

16 YOUR GUARDIAN HAS BEEN AUTHORIZED BY THE COURT BY
17 SPECIFIC ORDER TO RESTRICT THESE COMMUNICATIONS,
18 VISITS, OR INTERACTIONS;

19 A PROTECTIVE ORDER IS IN EFFECT THAT LIMITS CONTACT
20 BETWEEN YOU AND OTHER PEOPLE; OR

21 YOUR GUARDIAN HAS GOOD CAUSE TO BELIEVE THE
22 RESTRICTION IS NEEDED TO PROTECT YOU FROM SIGNIFICANT
23 PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM AND THE
24 RESTRICTION IS FOR NOT MORE THAN SEVEN BUSINESS DAYS
25 IF THE PERSON HAS A FAMILY OR PRE-EXISTING SOCIAL
26 RELATIONSHIP WITH YOU OR NOT MORE THAN 60 DAYS IF
27 THE PERSON DOES NOT HAVE THAT KIND OF RELATIONSHIP

1 WITH YOU.

2 ADDITIONAL RIGHTS FOR PERSONS FOR WHOM A
3 CONSERVATOR HAS BEEN APPOINTED:

4 AS AN ADULT SUBJECT TO CONSERVATORSHIP, YOU HAVE A
5 RIGHT TO:

6 (1) PARTICIPATE IN DECISIONS ABOUT HOW YOUR PROPERTY
7 IS MANAGED TO THE EXTENT FEASIBLE; AND

8 (2) RECEIVE A COPY OF YOUR CONSERVATOR'S INVENTORY,
9 REPORT, AND PLAN.

10 PART 7
11 MISCELLANEOUS PROVISIONS

12 **15-14.7-701. Uniformity of application and construction.** IN
13 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
14 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
15 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

16 **15-14.7-702. Relation to electronic signatures in global and**
17 **national commerce act.** THIS ARTICLE 14.7 MODIFIES, LIMITS, OR
18 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
19 COMMERCE ACT", 15 U.S.C. SEC 7001 ET SEQ., BUT DOES NOT MODIFY,
20 LIMIT, OR SUPERSEDE SECTION 101(c) OF 15 U.S.C. SEC 7001(c), OR
21 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN
22 SECTION 103(b) OF 15 U.S.C. SEC 7003(b).

23 **15-14.7-703. Applicability.** (1) THIS ARTICLE 14.7 APPLIES TO:
24 (a) A PROCEEDING FOR APPOINTMENT OF A GUARDIAN OR
25 CONSERVATOR OR FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
26 GUARDIANSHIP OR CONSERVATORSHIP COMMENCED AFTER JULY 1, 2025;

1 AND

2 (b) A GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE
3 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR CONSERVATORSHIP IN
4 EXISTENCE ON JULY 1, 2025, UNLESS THE COURT FINDS APPLICATION OF A
5 PARTICULAR PROVISION OF THIS ARTICLE 14.7 WOULD SUBSTANTIALLY
6 INTERFERE WITH THE EFFECTIVE CONDUCT OF THE PROCEEDING OR
7 PREJUDICE THE RIGHTS OF A PARTY, IN WHICH CASE THE PARTICULAR
8 PROVISION OF THIS ARTICLE 14.7 DOES NOT APPLY AND THE SUPERSEDED
9 LAW APPLIES.

10 **15-14.7-704. Severability.** IF ANY PROVISION OF THIS ARTICLE 14.7
11 OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID,
12 THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF
13 THIS ARTICLE 14.7 WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID
14 PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
15 ARTICLE 14.7 ARE SEVERABLE.

16 **15-14.7-705. Effective date.** THIS ARTICLE 14.7 TAKES EFFECT
17 JULY 1, 2025.

18 **SECTION 2.** In Colorado Revised Statutes, 7-60-132, **amend** (1)
19 introductory portion and (1)(a) as follows:

20 **7-60-132. Dissolution by decree of court.** (1) ~~On~~ UPON
21 application by or for a partner, the court ~~shall~~ MUST decree a dissolution
22 if:

23 (a) A partner has been determined by the court to be mentally
24 incompetent to such a degree that the partner is incapable of performing
25 the partner's part of the partnership contract or a court of competent
26 jurisdiction has made such a finding pursuant to ~~part 3 or part 4 of article~~
27 ~~14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or section

1 27-65-110 (4) or 27-65-127;

2 **SECTION 3.** In Colorado Revised Statutes, 11-50-102, **amend**
3 the introductory portion and (5) as follows:

4 **11-50-102. Definitions.** As used in this ~~article~~ ARTICLE 50, unless
5 the context otherwise requires:

6 (5) "Court" means the district or probate court ~~which~~ THAT would
7 have jurisdiction of the minor's estate, if ~~he~~ THE MINOR had property other
8 than custodial property, as provided in ~~section 15-14-108 (1), C.R.S.~~
9 SECTION 15-14.7-106 (1).

10 **SECTION 4.** In Colorado Revised Statutes, 12-215-115, **amend**
11 (7) as follows:

12 **12-215-115. Discipline of licensees - suspension, revocation,**
13 **denial, and probation - grounds - definitions.** (7) In the event any
14 person holding a license to practice chiropractic in this state is determined
15 to be mentally incompetent or insane by a court of competent jurisdiction
16 and a court enters, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3,
17 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or
18 27-65-127, an order specifically finding that the mental incompetency or
19 insanity is of such a degree that the person holding a license is incapable
20 of continuing to practice chiropractic, ~~the person's license shall~~
21 ~~automatically be suspended by the board~~ THE BOARD MUST
22 AUTOMATICALLY SUSPEND THE PERSON'S LICENSE, and, anything in this
23 article 215 to the contrary notwithstanding, the suspension must continue
24 until the licensee is found by the court to be competent to practice
25 chiropractic.

26 **SECTION 5.** In Colorado Revised Statutes, 12-240-125, **amend**
27 (7) as follows:

1 **12-240-125. Disciplinary action by board - rules.** (7) If any
2 licensee is determined to be mentally incompetent or insane by a court of
3 competent jurisdiction and a court enters, pursuant to ~~part 3 or 4 of article~~
4 ~~14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or section
5 27-65-110 (4) or 27-65-127, an order specifically finding that the mental
6 incompetency or insanity is of such a degree that the licensee is incapable
7 of continuing to practice medicine, practice as a physician assistant, or
8 practice as an anesthesiologist assistant, the board ~~shall~~ MUST
9 automatically suspend the licensee's license, and, anything in this article
10 240 to the contrary notwithstanding, the suspension must continue until
11 the licensee is found by the court to be competent to practice medicine,
12 practice as a physician assistant, or practice as an anesthesiologist
13 assistant.

14 **SECTION 6.** In Colorado Revised Statutes, 12-255-119, **amend**
15 (7) as follows:

16 **12-255-119. Disciplinary procedures of the board - inquiry and**
17 **hearings panels - mental and physical examinations - definitions -**
18 **rules.** (7) In case any nurse or certified midwife is determined to be
19 mentally incompetent or insane by a court of competent jurisdiction and
20 a court enters, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR
21 5 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or 27-65-127, an
22 order specifically finding that the mental incompetency or insanity is of
23 such a degree that the nurse or certified midwife is incapable of
24 continuing the practice of nursing or as a certified midwife, the board ~~shall~~
25 MUST automatically suspend the nurse's or certified midwife's license, and,
26 notwithstanding any provision of this part 1 to the contrary, the suspension
27 must continue until the nurse or certified midwife is found by the court to

1 be competent to continue the practice of nursing or the practice as a
2 certified midwife, as applicable.

3 **SECTION 7.** In Colorado Revised Statutes, 12-290-113, **amend**
4 (8) as follows:

5 **12-290-113. Disciplinary action by board.** (8) If a person
6 holding a license to practice podiatry in this state is determined to be
7 mentally incompetent or insane by a court of competent jurisdiction and
8 a court enters, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR
9 5 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or 27-65-127, an
10 order specifically finding that the mental incompetency or insanity is of
11 such a degree that the person holding a license is incapable of continuing
12 to practice podiatry, the board ~~shall~~ MUST automatically suspend the
13 license, and, anything in this article 290 to the contrary notwithstanding,
14 the suspension must continue until the licensee is found by the court to be
15 competent to practice podiatry.

16 **SECTION 8.** In Colorado Revised Statutes, 12-315-112, **amend**
17 (1)(v) as follows:

18 **12-315-112. Discipline of licensees.** (1) Upon receipt of a signed
19 complaint by a complainant or upon its own motion, the board may
20 proceed to a hearing in accordance with section 12-315-113. After a
21 hearing, and by a concurrence of a majority of members, the board may
22 take disciplinary or other action as authorized in section 12-20-404 against
23 an applicant for a license or a licensed veterinarian for any of the
24 following reasons:

25 (v) A determination that the individual is mentally incompetent by
26 a court of competent jurisdiction and the court has entered, pursuant to
27 ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE

1 15 or section 27-65-110 (4) or 27-65-127, an order specifically finding
2 that the mental incompetency is of such a degree that the individual is
3 incapable of continuing to practice veterinary medicine;

4 **SECTION 9.** In Colorado Revised Statutes, 12-315-207, **amend**
5 (1)(l) as follows:

6 **12-315-207. Discipline of a registered veterinary technician -**
7 **repeal.** (1) Upon receipt of a signed complaint by a complainant or upon
8 its own motion, the board may proceed to a hearing in accordance with
9 section 12-315-113. After a hearing, and by a concurrence of a majority
10 of members, the board may take disciplinary action as authorized in
11 section 12-20-404 against an applicant for a registration or a registered
12 veterinary technician for any of the following reasons:

13 (l) A determination that the individual is mentally incompetent by
14 a court of competent jurisdiction, and the court has entered, pursuant to
15 ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE
16 15 or section 27-65-110 (4) or 27-65-127, an order specifically finding
17 that the mental incompetency is of such a degree that the individual is
18 incapable of continuing to hold a registration as a veterinary technician;

19 **SECTION 10.** In Colorado Revised Statutes, 13-5-142, **amend**
20 (1)(a), (3) introductory portion, and (3)(b)(I) as follows:

21 **13-5-142. National instant criminal background check system**
22 **- reporting.** (1) On and after March 20, 2013, the state court administrator
23 shall send electronically the following information to the Colorado bureau
24 of investigation created pursuant to section 24-33.5-401, referred to in this
25 section as the "bureau":

26 (a) The name of each person who has been found to be
27 ~~incapacitated~~ A PERSON SUBJECT TO GUARDIANSHIP by order of the court

1 pursuant to ~~part 3 of article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7
2 OF TITLE 15;

3 (3) The state court administrator ~~shall~~ MUST take all necessary steps
4 to cancel a record made by the state court administrator in the national
5 instant criminal background check system if:

6 (b) No less than three years before the date of the written request:

7 (I) The court entered an order pursuant to ~~section 15-14-318,~~
8 ~~C.R.S.,~~ SECTION 15-14.7-319 terminating a guardianship on a finding that
9 the person is no longer ~~an incapacitated person~~ A PERSON SUBJECT TO
10 GUARDIANSHIP, if the record in the national instant criminal background
11 check system is based on ~~a finding of incapacity~~ FINDING THE PERSON IS
12 SUBJECT TO GUARDIANSHIP;

13 **SECTION 11.** In Colorado Revised Statutes, 13-5-142.5, **amend**

14 (2)(a)(I) as follows:

15 **13-5-142.5. National instant criminal background check system**
16 **- judicial process for awarding relief from federal prohibitions -**
17 **legislative declaration. (2) Eligibility.** A person may petition for relief
18 pursuant to this section if:

19 (a) (I) ~~He or she~~ THE PERSON has been found to be ~~incapacitated~~
20 SUBJECT TO GUARDIANSHIP by order of the court pursuant to ~~part 3 of~~
21 ~~article 14 of title 15, C.R.S.~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15;

22 **SECTION 12.** In Colorado Revised Statutes, 13-9-103, **amend** (7)
23 as follows:

24 **13-9-103. Jurisdiction. (7)** With respect to any trust
25 established by or for an individual with ~~his or her~~ THE INDIVIDUAL'S assets,
26 income, or property of any kind, notwithstanding any statutory provision
27 to the contrary, the court shall not authorize, direct, or ratify any trust that

1 either has the effect of qualifying or purports to qualify the trust
2 beneficiary for federal supplemental security income, or public or medical
3 assistance pursuant to title 26, ~~C.R.S.~~, unless the trust meets the criteria set
4 forth in sections ~~15-14-412.6 to 15-14-412.9, C.R.S.~~, and any rule adopted
5 by the medical services board pursuant to section 25.5-6-103. ~~C.R.S.~~

6 **SECTION 13.** In Colorado Revised Statutes, 13-9-123, **amend**
7 (1)(a), (3) introductory portion, and (3)(b)(I) as follows:

8 **13-9-123. National instant criminal background check system**
9 **- reporting.** (1) On and after March 20, 2013, the state court
10 administrator shall send electronically the following information to the
11 Colorado bureau of investigation created pursuant to section 24-33.5-401,
12 referred to in this section as the "bureau":

13 (a) The name of each person who has been found to be
14 ~~incapacitated~~ SUBJECT TO GUARDIANSHIP by order of the court pursuant to
15 ~~part 3 of article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7 OF TITLE 15;

16 (3) The state court administrator ~~shall~~ MUST take all necessary
17 steps to cancel a record made by the state court administrator in the
18 national instant criminal background check system if:

19 (b) No less than three years before the date of the written request:

20 (I) The court entered an order pursuant to ~~section 15-14-318,~~
21 ~~C.R.S.~~, SECTION 15-14.7-319 terminating a guardianship on a finding that
22 the person is no longer ~~an incapacitated person~~ A PERSON SUBJECT TO
23 GUARDIANSHIP, if the record in the national instant criminal background
24 check system is based on a ~~finding of incapacity~~ FINDING THE PERSON IS
25 SUBJECT TO GUARDIANSHIP;

26 **SECTION 14.** In Colorado Revised Statutes, 13-9-124, **amend**
27 (2)(a)(I) as follows:

1 **13-9-124. National instant criminal background check system**
2 **- judicial process for awarding relief from federal prohibitions -**
3 **legislative declaration. (2) Eligibility.** A person may petition for relief
4 pursuant to this section if:

5 (a) (I) ~~He or she~~ THE PERSON has been found to be incapacitated
6 SUBJECT TO GUARDIANSHIP by order of the court pursuant to ~~part 3 of~~
7 ~~article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7 OF TITLE 15;

8 **SECTION 15.** In Colorado Revised Statutes, 13-32-101, **amend**
9 (3)(b)(I) as follows:

10 **13-32-101. Docket fees in civil actions - judicial stabilization**
11 **cash fund - justice center cash fund - justice center maintenance fund**
12 **- created - report - legislative declaration. (3) (b) (I) ~~No~~** A docket fee
13 ~~shall~~ MUST NOT be charged in mental health proceedings ~~under~~ PURSUANT
14 TO article 10 or 10.5 of title 27 ~~C.R.S.~~; but, where an estate is thereafter
15 probated for any mental incompetent, the committing court has a claim
16 against ~~such~~ THE estate, as a cost of the mental health proceedings, in the
17 sum of twenty dollars, in addition to any other expense of commitment
18 allowed and paid by the county, to be paid by the conservator of such
19 estate as a claim pursuant to ~~section 15-14-429, C.R.S.~~ SECTION
20 15-14.7-428.

21 **SECTION 16.** In Colorado Revised Statutes, 13-32-102, **amend**
22 (1) introductory portion and (1)(a) as follows:

23 **13-32-102. Fees in probate proceedings. (1)** On and after July
24 1, 2019, for services rendered by judges and clerks of district or probate
25 courts in all counties of the state of Colorado in proceedings ~~had~~ HELD
26 pursuant to articles 10 to 17 of title 15, the court shall charge the
27 following fees:

1 (a) Docket fee at the time of filing first papers in any decedent's
2 estate eligible for summary administrative procedures ~~under~~ PURSUANT TO
3 section 15-12-1203 ~~or in any small estate of a person under disability~~
4 ~~qualifying under section 15-14-118, which estates involve no real property~~
5 \$ 83.00

6 **SECTION 17.** In Colorado Revised Statutes, 13-64-205, **amend**
7 (1)(f)(I)(B) as follows:

8 **13-64-205. Determination of judgment to be entered.** (1) In
9 order to determine what judgment is to be entered on a verdict requiring
10 findings of special damages under this part 2, the court shall proceed as
11 follows:

12 (f) The plaintiff who meets the criteria set forth in this subsection
13 (1) may elect to receive the immediate payment to the plaintiff of the
14 present value of the future damage award in a lump-sum amount in lieu
15 of periodic payments. In order to exercise this right, the plaintiff must
16 either:

17 (I) (B) ~~Not be an incapacitated person, as defined in section~~
18 ~~15-14-102 (5), C.R.S. A PERSON SUBJECT TO GUARDIANSHIP PURSUANT TO~~
19 ~~SECTION 15-14.7-201 OR 15-14.7-301 OR A PERSON SUBJECT TO~~
20 ~~CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401; and~~

21 **SECTION 18.** In Colorado Revised Statutes, 13-81-102, **repeal**
22 (2)(c) and (2)(d) as follows:

23 **13-81-102. Right of legal representative.** (2) A legal
24 representative may:

25 (c) ~~Petition a court of competent jurisdiction to establish a~~
26 ~~disability trust pursuant to section 15-14-412.8, C.R.S., funded by the~~
27 ~~proceeds of a settlement or judgment received by, or on behalf of, a~~

1 ~~person under disability who is under sixty-five years of age and who is~~
2 ~~disabled, as defined in Title XIX of the federal "Social Security Act", 42~~
3 ~~U.S.C. sec. 1382c (a)(3); or~~

4 (d) ~~Petition a court of competent jurisdiction to establish a pooled~~
5 ~~trust account pursuant to section 15-14-412.9, C.R.S., funded by the~~
6 ~~proceeds of a settlement or judgment received by, or on behalf of, a~~
7 ~~person under disability who is disabled, as defined in Title XIX of the~~
8 ~~federal "Social Security Act", 42 U.S.C. sec. 1382c (a)(3).~~

9 **SECTION 19.** In Colorado Revised Statutes, 13-94-103, **amend**
10 (1) as follows:

11 **13-94-103. Definitions.** (1) Except as otherwise indicated in this
12 section, the definitions set forth in ~~section 15-14-102~~ SECTION 15-14.7-102
13 apply to this article 94.

14 **SECTION 20.** In Colorado Revised Statutes, 13-94-105, **amend**
15 (1.5)(a)(II) as follows:

16 **13-94-105. Office of public guardianship - director - duties -**
17 **memorandum of understanding - annual report - repeal.** (1.5) In
18 addition to any other duties or responsibilities set forth in this article 94,
19 the office:

20 (a) May:

21 (II) Take any action on behalf of an indigent PERSON and
22 ~~incapacitated person~~ A PERSON SUBJECT TO GUARDIANSHIP PURSUANT TO
23 SECTION 15-14.7-201 OR 15-14.7-301 OR A PERSON SUBJECT TO
24 CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401 that a private
25 guardian may take, except as otherwise limited by law or court order; and

26 **SECTION 21.** In Colorado Revised Statutes, 14-10-107, **amend**
27 (3) as follows:

1 **14-10-107. Commencement - pleadings - abolition of existing**
2 **defenses - automatic, temporary injunction - enforcement.** (3) Either
3 or both parties to the marriage may initiate the proceeding. In addition, a
4 legal guardian, with court approval pursuant to ~~section 15-14-315.5,~~
5 ~~C.R.S., or a conservator, with court approval pursuant to section~~
6 ~~15-14-425.5, C.R.S.,~~ SECTION 15-14.7-314 may initiate the proceeding. If
7 a legal guardian ~~or conservator~~ initiates the proceeding, the legal guardian
8 ~~or conservator shall~~ MUST receive notice in the same manner as the parties
9 to the proceeding.

10 **SECTION 22.** In Colorado Revised Statutes, 15-1-1515, **repeal**
11 (9) as follows:

12 **15-1-1515. Fiduciary duty and authority.** (9) ~~A foreign~~
13 ~~conservator is not required to comply with the provisions of section~~
14 ~~15-14-433 as a condition to obtaining disclosure of a digital asset pursuant~~
15 ~~to this part 15.~~

16 **SECTION 23.** In Colorado Revised Statutes, 15-5-205, **repeal** (4)
17 as follows:

18 **15-5-205. Registration of trusts.** (4) ~~This section and sections~~
19 ~~15-5-206 to 15-5-209 do not apply to any trust created pursuant to section~~
20 ~~15-14-412.5 or 15-14-412.6.~~

21 **SECTION 24.** In Colorado Revised Statutes, 15-10-201, **amend**
22 (14), (25), (26), (43), (44), and (58) as follows:

23 **15-10-201. General definitions.** Subject to additional definitions
24 contained in this article 10 and the subsequent articles that are applicable
25 to specific articles, parts, or sections, and unless the context otherwise
26 requires, in this code:

27 (14) "Disability" means cause for a protective order as described

1 in ~~section 15-14-401~~ SECTION 15-14.7-401.

2 (25) "Incapacitated person" means an individual ~~described in~~
3 ~~section 15-14-102 (5)~~ OTHER THAN A MINOR WHO IS UNABLE TO
4 EFFECTIVELY RECEIVE OR EVALUATE INFORMATION, OR BOTH, OR MAKE OR
5 COMMUNICATE DECISIONS TO SUCH AN EXTENT THAT THE INDIVIDUAL
6 LACKS THE ABILITY TO SATISFY ESSENTIAL REQUIREMENTS FOR PHYSICAL
7 HEALTH, SAFETY, OR SELF-CARE, EVEN WITH APPROPRIATE AND
8 REASONABLY AVAILABLE TECHNOLOGICAL ASSISTANCE.

9 (26) "Informal proceedings" means those conducted without notice
10 to interested persons by an officer of the court acting as a registrar for
11 probate of a will, appointment of a personal representative, or
12 determination of a guardian ~~under sections 15-14-202 and 15-14-301~~
13 PURSUANT TO SECTIONS 15-14.7-201 AND 15-14.7-301.

14 (43) "Protected person" ~~has the same meaning as set forth in~~
15 ~~section 15-14-102 (11)~~ MEANS A MINOR OR OTHER INDIVIDUAL FOR WHOM
16 A CONSERVATOR HAS BEEN APPOINTED OR OTHER PROTECTIVE ORDER HAS
17 BEEN MADE.

18 (44) "Protective proceeding" ~~has the same meaning as used in~~
19 ~~section 15-14-401~~ MEANS THE PROCEEDING TO APPOINT A CONSERVATOR
20 AS DESCRIBED IN SECTION 15-14.7-401.

21 (58) "Ward" means an individual ~~described in section 15-14-102~~
22 ~~(15)~~ FOR WHOM A GUARDIAN HAS BEEN APPOINTED.

23 **SECTION 25.** In Colorado Revised Statutes, 15-10-601, **amend**
24 (3)(a)(VII) as follows:

25 **15-10-601. Definitions.** As used in this part 6, unless the context
26 otherwise requires:

27 (3) (a) "Governing instrument" means a will or a trust or a

1 donative, appointive, or nominative instrument of any other type,
2 including but not limited to:

3 (VII) A court order appointing a conservator as described in ~~part~~
4 ~~4 of article 14 of this title~~ PART 4 OF ARTICLE 14.7 OF THIS TITLE 15.

5 **SECTION 26.** In Colorado Revised Statutes, 15-10-602, **amend**
6 (6) and (9) as follows:

7 **15-10-602. Recovery of reasonable compensation and costs.**

8 (6) Except as provided in sections 15-10-605 (2), (3), and (4); ~~15-14-318~~
9 ~~(4); and 15-14-431 (5); 15-14.7-318; AND 15-14.7-431,~~ if any fiduciary or
10 person with priority for appointment as personal representative,
11 conservator, guardian, agent, custodian, or trustee defends or prosecutes
12 a proceeding in good faith, whether successful or not, the fiduciary or
13 person is entitled to receive from the estate reimbursement for reasonable
14 costs and disbursements, including but not limited to reasonable attorney
15 fees.

16 (9) Every application or petition for appointment of a fiduciary
17 filed under this code, including without limitation those required ~~under~~
18 PURSUANT TO sections 15-12-301, 15-12-402, 15-12-614, 15-12-621,
19 15-12-622, ~~15-14-202, 15-14-204, 15-14-304, and 15-14-403,~~ shall
20 **15-14.7-201, 15-14.7-208, 15-14.7-312, AND 15-14.7-402,** MUST include
21 a statement by the applicant or petitioner disclosing the basis upon which
22 any compensation is to be charged to the estate by the fiduciary and ~~his or~~
23 ~~her or its~~ THE FIDUCIARY'S counsel or ~~shall~~ MUST state that the basis has
24 not yet been determined. The disclosure statement ~~shall~~ MUST specifically
25 describe, as is applicable, the hourly rates to be charged, any amounts to
26 be charged pursuant to a published fee schedule, including the rates and
27 basis for charging fees for any extraordinary services, and any other bases

1 upon which a fee charged to the estate will be calculated. This disclosure
2 obligation ~~shall~~ MUST be continuing in nature so as to require
3 supplemental disclosures if material changes to the basis for charging fees
4 take place.

5 **SECTION 27.** In Colorado Revised Statutes, 15-14-501, **amend**
6 (1) as follows:

7 **15-14-501. When power of attorney not affected by disability.**

8 (1) Whenever a principal designates another ~~his~~ AS THE PRINCIPAL'S
9 attorney-in-fact or agent by a power of attorney in writing and the writing
10 contains the words "This power of attorney ~~shall not be~~ IS NOT affected by
11 disability of the principal" or "This power of attorney ~~shall become~~
12 BECOMES effective upon the disability of the principal" or similar words
13 showing the intent of the principal that the authority conferred ~~shall be~~ IS
14 exercisable notwithstanding ~~his~~ THE PRINCIPAL'S disability, the authority
15 of the attorney-in-fact or agent is exercisable by ~~him~~ THE
16 ATTORNEY-IN-FACT OR AGENT as provided in the power on behalf of the
17 principal notwithstanding later disability or incapacity of the principal at
18 law or later uncertainty as to whether the principal is dead or alive. The
19 authority of the attorney-in-fact or agent to act on behalf of the principal
20 ~~shall be~~ IS set forth in the power and may relate to any act, power, duty,
21 right, or obligation ~~which~~ THAT the principal has or ~~after~~ acquires LATER
22 relating to the principal or any matter, transaction, or property, real or
23 personal, tangible or intangible. The authority of the agent with regard to
24 medical treatment decisions on behalf of a principal is set forth in sections
25 15-14-503 to 15-14-509. The attorney-in-fact or agent, however, is subject
26 to the same limitations imposed upon court-appointed guardians contained
27 in ~~section 15-14-312 (1)(a)~~ SECTION 15-14.7-312. Additionally, the

1 principal may expressly empower ~~his~~ THE PRINCIPAL'S attorney-in-fact or
2 agent to renounce and disclaim interests and powers; to make gifts, in trust
3 or otherwise; and to release and exercise powers of appointment. All acts
4 done by the attorney-in-fact or agent pursuant to the power during any
5 period of disability or incompetence or uncertainty as to whether the
6 principal is dead or alive have the same effect and inure to the benefit of
7 and bind the principal or ~~his~~ THE PRINCIPAL'S heirs, devisees, and personal
8 representative as if the principal were alive, competent, and not disabled.
9 If a guardian or conservator thereafter is appointed for the principal, the
10 attorney-in-fact or agent, during the continuance of the appointment, shall
11 consult with the guardian on matters concerning the principal's personal
12 care or account to the conservator on matters concerning the principal's
13 financial affairs. The conservator has the same power the principal would
14 have had if ~~he~~ THE PRINCIPAL were not disabled or incompetent to revoke,
15 suspend, or terminate all or any part of the power of attorney or agency as
16 it relates to financial matters. Subject to any limitation or restriction of the
17 guardian's powers or duties set forth in the order of appointment and
18 endorsed on the letters of guardianship, a guardian has the same power to
19 revoke, suspend, or terminate all or any part of the power of attorney or
20 agency as it relates to matters concerning the principal's personal care that
21 the principal would have had if the principal were not disabled or
22 incompetent, except with respect to medical treatment decisions made by
23 an agent pursuant to sections 15-14-506 to 15-14-509; however, such
24 exception ~~shall~~ MUST not preclude a court from removing an agent in the
25 event an agent becomes incapacitated or is unwilling or unable to serve as
26 an agent.

27 **SECTION 28.** In Colorado Revised Statutes, 15-14.5-102, **amend**

1 the introductory portion, (2), and (3) as follows:

2 **15-14.5-102. Definitions.** In this ~~article~~ ARTICLE 14.5:

3 (2) "Conservator" means a person appointed by the court to
4 administer the property of an adult, including a person appointed ~~under~~
5 ~~section 15-14-401~~ PURSUANT TO SECTION 15-14.7-401.

6 (3) "Guardian" means a person appointed by the court to make
7 decisions regarding ~~the person of~~ an adult, including a person appointed
8 ~~under section 15-14-301~~ PURSUANT TO SECTION 15-14.7-301.

9 **SECTION 29.** In Colorado Revised Statutes, 15-18.5-103, **amend**
10 (4)(a) and (4)(b) as follows:

11 **15-18.5-103. Proxy decision-makers for medical treatment**
12 **authorized - definitions.** (4) (a) Interested persons who are informed of
13 the patient's lack of decisional capacity shall make reasonable efforts to
14 reach a consensus as to who among them shall make medical treatment
15 decisions on behalf of the patient. The person selected to act as the
16 patient's proxy decision-maker should be the person who has a close
17 relationship with the patient and who is most likely to be currently
18 informed of the patient's wishes regarding medical treatment decisions. If
19 any of the interested persons disagrees with the selection or the decision
20 of the proxy decision-maker or, if, after reasonable efforts, the interested
21 persons are unable to reach a consensus as to who should act as the proxy
22 decision-maker, then any of the interested persons may seek guardianship
23 of the patient by initiating guardianship proceedings pursuant to part 3 of
24 ~~article 14~~ ARTICLE 14.7 of this ~~title~~ TITLE 15. Only ~~said~~ THE interested
25 persons may initiate such proceedings with regard to the patient.

26 (b) Nothing in this section precludes any interested person from
27 initiating a guardianship proceeding pursuant to part 3 of ~~article 14~~

1 ARTICLE 14.7 of this ~~title~~ TITLE 15 for any reason any time after ~~said~~ THE
2 persons have conformed with ~~paragraph (a) of this subsection (4)~~
3 SUBSECTION (4)(a) OF THIS SECTION.

4 **SECTION 30.** In Colorado Revised Statutes, 15-23-103, **amend**
5 (13) as follows:

6 **15-23-103. Definitions.** As used in this article 23, unless the
7 context otherwise requires:

8 (13) "Original estate planning document" and "original document"
9 mean an original instrument in writing that is any will document,
10 including, but not limited to, wills, as defined in section 15-10-201 (59);
11 codicils; holographic wills; documents purporting to be wills; instruments
12 that revoke or revise a testamentary instrument; testamentary instruments
13 that merely appoint a personal representative; AND other testamentary
14 instruments, such as memoranda distributing tangible personal property,
15 as described in section 15-11-513. ~~and testamentary appointments of~~
16 ~~guardian as described in section 15-14-202 (1).~~

17 **SECTION 31.** In Colorado Revised Statutes, 19-1-103, **amend**
18 (49)(a) as follows:

19 **19-1-103. Definitions.** As used in this title 19 or in the specified
20 portion of this title 19, unless the context otherwise requires:

21 (49) "Custodial adoption", as used in part 2 of article 5 of this title
22 19, means an adoption of a child by any person and the person's spouse,
23 as required pursuant to section 19-5-202 (3), who:

24 (a) Has been awarded custody or allocated parental responsibilities
25 by a court of law in a dissolution of marriage, custody or allocation of
26 parental responsibilities proceeding, or has been awarded guardianship of
27 the child by a court of law in a probate action, such as pursuant to ~~part 2~~

1 of ~~article 14 of title 15~~ PART 2 OF ARTICLE 14.7 OF TITLE 15; and

2 **SECTION 32.** In Colorado Revised Statutes, 19-1-104, **amend**
3 (1)(c) as follows:

4 **19-1-104. Jurisdiction.** (1) Except as otherwise provided by law,
5 the juvenile court has exclusive original jurisdiction in proceedings:

6 (c) To determine the legal custody of any child or to appoint a
7 guardian of the person or legal custodian of any child who comes within
8 the juvenile court's jurisdiction ~~under provisions of~~ PURSUANT TO this
9 section, and THE JUVENILE COURT may also enter findings and orders as
10 described in ~~section~~ SECTIONS 14-10-123 (1.5) and ~~section 15-14-204(2.5)~~
11 AND 15-14.7-208;

12 **SECTION 33.** In Colorado Revised Statutes, 19-3-205, **amend** (1)
13 introductory portion and (1)(a) as follows:

14 **19-3-205. Continuing jurisdiction.** (1) Except as otherwise
15 provided in this article 3, the jurisdiction of the court over any child or
16 youth adjudicated as neglected or dependent ~~shall continue~~ CONTINUES
17 until the child or youth becomes eighteen and one-half years of age, unless
18 earlier terminated by court order; except that:

19 (a) If a determination is pending or the youth has been determined
20 to be ~~an incapacitated person pursuant to section 15-14-102~~ A MINOR
21 SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION 15-14.7-201 OR A
22 MINOR SUBJECT TO CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401,
23 then jurisdiction continues until either the youth has made a complete
24 transition into adult disability services and it is in the youth's best interests
25 for the juvenile court to terminate jurisdiction or the youth reaches
26 twenty-one years of age or such greater age of foster care eligibility as
27 required by federal law, whichever comes first;

1 **SECTION 34.** In Colorado Revised Statutes, **amend** 19-3-704 as
2 follows:

3 **19-3-704. Youth with disabilities - minors subject to**
4 **guardianship or conservatorship.** (1) A party may request the court to
5 determine whether a youth is ~~an incapacitated person, as defined in section~~
6 ~~15-14-102~~ A MINOR SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION
7 15-14.7-201 OR A MINOR SUBJECT TO CONSERVATORSHIP PURSUANT TO
8 SECTION 15-14.7-401. The motion must be filed with the court prior to the
9 youth's eighteenth birthday.

10 (2) If there has been a determination, or if a determination is
11 pending, that a youth is ~~an incapacitated person, as defined in section~~
12 ~~15-14-102~~ A MINOR SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION
13 15-14.7-201 OR A MINOR SUBJECT TO CONSERVATORSHIP PURSUANT TO
14 SECTION 15-14.7-401, then jurisdiction continues as provided in section
15 19-3-205.

16 **SECTION 35.** In Colorado Revised Statutes, 19-5-105.5, **amend**
17 (5)(b) as follows:

18 **19-5-105.5. Termination of parent-child legal relationship**
19 **upon a finding that the child was conceived as a result of sexual**
20 **assault - legislative declaration - definitions.** (5) (b) The court ~~will~~
21 SHALL work to ensure that a petitioner or a respondent who has a disability
22 has equal access to participate in the proceeding. If the petitioner or
23 respondent has a disability, ~~he or she~~ THE PETITIONER OR RESPONDENT has
24 the right to request reasonable accommodations in order to participate in
25 the proceeding; except that the disability of the petitioner, the respondent,
26 or the child must not be the cause for the unnecessary delay of the process.
27 The court shall presume that a petitioner or a respondent with a disability

1 is legally competent and able to understand and participate in the
2 proceeding unless the petitioner or respondent is determined to be an
3 ~~incapacitated person, as defined in section 15-14-102 (5), C.R.S.~~ A
4 PERSON SUBJECT TO GUARDIANSHIP PURSUANT TO SECTION 15-14.7-301 OR
5 A PERSON SUBJECT TO CONSERVATORSHIP PURSUANT TO SECTION
6 15-14.7-401.

7 **SECTION 36.** In Colorado Revised Statutes, 19-5-105.7, **amend**
8 (5)(b) as follows:

9 **19-5-105.7. Termination of parent-child legal relationship in**
10 **a case of an allegation that a child was conceived as a result of sexual**
11 **assault but in which no conviction occurred - legislative declaration**
12 **- definitions.** (5) (b) The court ~~will~~ SHALL work to ensure that a petitioner
13 or a respondent who has a disability has equal access to participate in the
14 proceeding. If the petitioner or respondent has a disability, ~~he or she~~ THE
15 PETITIONER OR RESPONDENT has the right to request reasonable
16 accommodations in order to participate in the proceeding; except that the
17 disability of the petitioner, the respondent, or the child must not be the
18 cause for the unnecessary delay of the process. The court shall presume
19 that a petitioner or a respondent with a disability is legally competent and
20 able to understand and participate in the proceeding unless the petitioner
21 or respondent is determined to be ~~an incapacitated person, as defined in~~
22 ~~section 15-14-102 (5), C.R.S.~~ A PERSON SUBJECT TO GUARDIANSHIP
23 PURSUANT TO SECTION 15-14.7-301 OR A PERSON SUBJECT TO
24 CONSERVATORSHIP PURSUANT TO SECTION 15-14.7-401.

25 **SECTION 37.** In Colorado Revised Statutes, 22-31-129, **amend**
26 (1) introductory portion and (1)(g) as follows:

27 **22-31-129. Vacancies.** (1) A school director office ~~shall be~~ IS

1 deemed to be vacant upon the occurrence of any one of the following
2 events prior to the expiration of the term of office:

3 (g) If a court of competent jurisdiction determines that the person
4 duly elected or appointed is insane or otherwise mentally incompetent, but
5 only after the right to appeal has been waived or otherwise exhausted, and
6 a court enters, pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3,
7 4, OR 5 OF ARTICLE 14.7 OF TITLE 15 or ~~section 27-65-109 (4)~~ SECTION
8 27-65-110 (4) or 27-65-127, ~~C.R.S.~~, an order specifically finding that the
9 insanity or mental incompetency is of such a degree that the person is
10 incapable of serving as a school director;

11 **SECTION 38.** In Colorado Revised Statutes, 22-60.5-107, **amend**
12 (2)(a) as follows:

13 **22-60.5-107. Grounds for denying, annulling, suspending, or**
14 **revoking license, certificate, endorsement, or authorization -**
15 **definitions.** (2) Any license, certificate, endorsement, or authorization
16 may be denied, annulled, suspended, or revoked in the manner prescribed
17 in section 22-60.5-108, notwithstanding the provisions of subsection (1)
18 of this section:

19 (a) When the holder has been determined to be mentally
20 incompetent by a court of competent jurisdiction and a court has entered,
21 pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
22 ARTICLE 14.7 OF TITLE 15 or ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4)
23 or 27-65-127, ~~C.R.S.~~, an order specifically finding that the mental
24 incompetency is of such a degree that the holder is incapable of continuing
25 to perform ~~his or her~~ THE HOLDER'S job; except that the license, certificate,
26 endorsement, or authorization held by a person who has been determined
27 to be mentally incompetent and for whom such an order has been entered

1 ~~shall~~ MUST be revoked or suspended by operation of law without a
2 hearing, notwithstanding the provisions of section 22-60.5-108;

3 **SECTION 39.** In Colorado Revised Statutes, 25.5-6-102, **amend**
4 (3)(a) introductory portion, (3)(a)(V), and (7) as follows:

5 **25.5-6-102. Court-approved trusts - transfer of property for**
6 **persons seeking medical assistance for nursing home care - undue**
7 **hardship - legislative declaration.** (3) (a) If a person who applies for
8 medical assistance for nursing home care would be deemed ineligible for
9 assistance as a result of deeming a court-approved trust established for the
10 applicant as a medicaid qualifying trust or as a result of deeming property
11 in the court-approved trust as an improper transfer of assets, the person's
12 application ~~shall, nonetheless,~~ MUST be treated as a case of undue hardship
13 and the person ~~shall be~~ IS eligible for medical assistance for ~~said~~ THE care
14 if the establishment of the court-approved trust meets the following
15 criteria:

16 (V) The trust ~~shall not be~~ IS NOT subject to modification by the
17 beneficiary or the trustee. ~~unless otherwise provided by this section or~~
18 ~~section 15-14-412.5, C.R.S.~~

19 (7) This section ~~shall apply~~ APPLIES to trusts established or
20 transfers of property made prior to July 1, 1994. ~~The provisions set forth~~
21 ~~in sections 15-14-412.6 to 15-14-412.9, C.R.S., and~~ Any rules adopted by
22 the state board pursuant to section 25.5-6-103 ~~shall~~ apply to trusts
23 established or property transferred on or after that date.

24 **SECTION 40.** In Colorado Revised Statutes, 25.5-6-103, **amend**
25 (1) introductory portion as follows:

26 **25.5-6-103. Court-approved trusts - transfer of property for**
27 **persons seeking medical assistance - rule-making authority for trusts**

1 **created on or after July 1, 1994 - undue hardship.** (1) ~~The state board~~
2 ~~shall adopt such rules as are necessary with respect to trusts established~~
3 ~~pursuant to sections 15-14-412.6 to 15-14-412.9.~~ The state board shall
4 adopt rules that address, but need not be limited to, the following:

5 **SECTION 41.** In Colorado Revised Statutes, 26-3.1-104, **amend**
6 (2) as follows:

7 **26-3.1-104. Provision of protective services for at-risk adults**
8 **- consent - nonconsent - least restrictive intervention.** (2) If a county
9 director or ~~his or her~~ THE COUNTY DIRECTOR'S designee determines that an
10 at-risk adult is being or has been mistreated or self-neglected, or is at risk
11 thereof, and if the at-risk adult appears to lack capacity to make decisions
12 and does not consent to the receipt of protective services, the county
13 director is urged, if no other appropriate person is able or willing, to
14 petition the court, pursuant to ~~part 3 of article 14 of title 15, C.R.S.~~ PART
15 3 OF ARTICLE 14.7 OF TITLE 15, for an order authorizing the provision of
16 specific protective services and for the appointment of a guardian, for an
17 order authorizing the appointment of a conservator pursuant to ~~part 4 of~~
18 ~~article 14 of title 15, C.R.S.~~ PART 4 OF ARTICLE 14.7 OF TITLE 15, or for a
19 court order providing for any combination of these actions.

20 **SECTION 42.** In Colorado Revised Statutes, 26-3.1-111, **amend**
21 (8.5)(e) as follows:

22 **26-3.1-111. Access to CAPS - employment checks -**
23 **conservatorship and guardianship checks - confidentiality - fees -**
24 **rules - legislative declaration - definitions.** (8.5) (e) Nothing in this
25 subsection (8.5) delays or precludes the court's appointment of an
26 emergency guardian or conservator of an at-risk adult pursuant to ~~section~~
27 ~~15-14-312 or 15-14-412~~ SECTION 15-14.7-312, 15-14.7-413, OR

1 15-14.7-503, regardless of the timing of the state department's notification
2 of the CAPS check results.

3 **SECTION 43.** In Colorado Revised Statutes, **amend** 26-6-702 as
4 follows:

5 **26-6-702. Definitions.** As used in this part 7, unless the context
6 otherwise requires:

7 (1) "Approved temporary caregiver" means a person approved by
8 a temporary care assistance program pursuant to this part 7 who is
9 delegated temporary care responsibility of a minor by a parent or guardian
10 through a power of attorney, as described in ~~section 15-14-105~~ SECTION
11 15-14.7-128.

12 (2) "Temporary care assistance program" means a program
13 operated by a child placement agency that assists a parent or guardian with
14 recruiting and identifying an appropriate and safe approved temporary
15 caregiver to whom the parent or guardian can choose to delegate
16 temporary care responsibility of a minor through a power of attorney
17 pursuant to ~~section 15-14-105~~ SECTION 15-14.7-128.

18 **SECTION 44.** In Colorado Revised Statutes, 26-6-704, **amend**
19 (1)(a)(I) as follows:

20 **26-6-704. Temporary care assistance program - limitations on**
21 **duration of delegation - approved temporary caregiver.** (1) (a) (I) A
22 parent or guardian of a minor may use the assistance of a temporary care
23 assistance program to identify an approved temporary caregiver to
24 delegate any power regarding care, custody, or property of the minor,
25 except the power to consent to marriage or adoption, by a power of
26 attorney, as described in ~~section 15-14-105~~ SECTION 15-14.7-128.

27 **SECTION 45.** In Colorado Revised Statutes, 26-6-905, **amend**

1 (10) as follows:

2 **26-6-905. Licenses - out-of-state notices and consent -**
3 **demonstration pilot program - report - rules - definition.** (10) The
4 state department shall not issue a license to operate a residential or day
5 treatment child care facility, foster care home, or child placement agency
6 if the person applying for the license or an affiliate of the applicant, a
7 person employed by the applicant, or a person who resides with the
8 applicant at the facility has been determined to be insane or mentally
9 incompetent by a court of competent jurisdiction and, if the court enters,
10 pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
11 ARTICLE 14.7 OF TITLE 15, or section 27-65-110 (4) or 27-65-127, an order
12 specifically finding that the mental incompetency or insanity is of such a
13 degree that the applicant is incapable of operating a residential or day
14 treatment child care facility, foster care home, or child placement agency.
15 The record of ~~such~~ THE determination and entry of ~~such~~ THE order ~~being~~
16 ARE conclusive evidence ~~thereof~~ OF THE DETERMINATION.

17 **SECTION 46.** In Colorado Revised Statutes, 26-6-914, **amend**
18 (2)(c) and (6)(a)(I)(C) as follows:

19 **26-6-914. Denial of license - suspension - revocation -**
20 **probation - refusal to renew license - fines - definitions.** (2) The
21 department may deny an application, or suspend, revoke, or make
22 probationary the license, of any facility or agency regulated and licensed
23 pursuant to this part 9 or assess a fine against the licensee pursuant to
24 section 26-6-921 if the licensee, an affiliate of the licensee, a person
25 employed by the licensee, or a person who resides with the licensee at the
26 facility or agency:

27 (c) Is determined to be insane or mentally incompetent by a court

1 of competent jurisdiction; ~~and~~, a court has entered, pursuant to ~~part 3 or~~
2 ~~part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15,
3 or section 27-65-110 (4) or 27-65-127, an order specifically finding that
4 the mental incompetency or insanity is of such a degree that the licensee
5 is incapable of operating a facility or agency; AND the record of ~~such~~ THE
6 determination and entry of ~~such~~ THE order ~~being~~ ARE conclusive evidence
7 ~~thereof~~ OF THE DETERMINATION; or

8 (6) (a) (I) The state department shall deny an application for a
9 license under the circumstances described in section 26-6-905 (8). The
10 state department shall revoke or suspend a license previously issued if:

11 (C) The licensee, an affiliate of the licensee, a person employed by
12 the licensee, or a person who resides with the licensee at the facility or
13 agency has been determined to be insane or mentally incompetent by a
14 court of competent jurisdiction and a court has entered, pursuant to ~~part~~
15 ~~3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE
16 15, or section 27-65-110 (4) or 27-65-127, an order specifically finding
17 that the mental incompetency or insanity is of such a degree that the
18 licensee is incapable of operating a facility or agency. The record of ~~such~~
19 THE determination and entry of ~~such~~ THE order ~~being~~ ARE conclusive
20 evidence ~~thereof~~ OF THE DETERMINATION.

21 **SECTION 47.** In Colorado Revised Statutes, 26.5-4-112, **amend**
22 (2) as follows:

23 **26.5-4-112. Exemptions - requirements.** (2) As a prerequisite to
24 entering into a valid CCCAP contract with a county office or to being a
25 party to any other payment agreement for the provision of care for a child
26 whose care is funded in whole or in part with money received on the
27 child's behalf from publicly funded state child care assistance programs,

1 an exempt family child care home provider shall sign an attestation that
2 affirms the provider, and any qualified adult residing in the exempt family
3 child care home, has not been determined to be insane or mentally
4 incompetent by a court of competent jurisdiction and a court has not
5 entered, pursuant to ~~part 3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
6 ARTICLE 14.7 OF TITLE 15, or section 27-65-110 (4) or 27-65-127, an order
7 specifically finding that the mental incompetency or insanity is of such a
8 degree that the provider cannot safely operate an exempt family child care
9 home.

10 **SECTION 48.** In Colorado Revised Statutes, 26.5-5-309, **amend**
11 (5) as follows:

12 **26.5-5-309. Licenses - rules - definition.** (5) The department
13 shall not issue a license to operate an agency or facility defined in this part
14 3 if the person applying for the license or an affiliate of the applicant, a
15 person employed by the applicant, or a person who resides with the
16 applicant at the facility has been determined to be insane or mentally
17 incompetent by a court of competent jurisdiction and a court has entered,
18 pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF
19 ARTICLE 14.7 OF TITLE 15, or section 27-65-110 (4) or 27-65-127, an order
20 specifically finding that the mental incompetency or insanity is of such a
21 degree that the applicant is incapable of operating a family child care
22 home or child care center. The record of the determination and entry of the
23 order are conclusive evidence of the determination.

24 **SECTION 49.** In Colorado Revised Statutes, 26.5-5-317, **amend**
25 (2)(c), (5)(a)(I) introductory portion, and (5)(a)(I)(C) as follows:

26 **26.5-5-317. Denial of license - suspension - revocation -**
27 **probation - refusal to renew license - fines.** (2) The department may

1 deny an application, or suspend, revoke, or make probationary the license
2 of any facility regulated and licensed pursuant to this part 3 or assess a
3 fine against the licensee pursuant to section 26.5-5-323 if the licensee, an
4 affiliate of the licensee, a person employed by the licensee, or a person
5 who resides with the licensee at the facility:

6 (c) Is determined to be insane or mentally incompetent by a court
7 of competent jurisdiction; ~~and, if a court enters, pursuant to part 3 or part~~
8 ~~4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15, or
9 section 27-65-110 (4) or 27-65-127, an order specifically finding that the
10 mental incompetency or insanity is of such a degree that the licensee is
11 incapable of operating a family child care home or child care center; AND
12 the record of ~~such~~ THE determination and entry of ~~such~~ THE order ~~being~~
13 ARE conclusive evidence ~~thereof~~ OF THE DETERMINATION; or

14 (5) (a) (I) The department shall deny an application for a license
15 under the circumstances described in section 26.5-5-309 (4). The
16 department ~~shall~~ MUST revoke or suspend a license previously issued if:

17 (C) The licensee, an affiliate of the licensee, a person employed by
18 the licensee, or a person who resides with the licensee at the facility has
19 been determined to be insane or mentally incompetent by a court of
20 competent jurisdiction; ~~and~~ the court has entered pursuant to ~~part 3 or part~~
21 ~~4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15, or
22 ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4) or 27-65-127, an order
23 specifically finding that the mental incompetency or insanity is of such a
24 degree that the licensee is incapable of operating a family child care home
25 or child care center; AND the record of the determination and entry of the
26 order ~~being~~ ARE conclusive evidence ~~thereof~~ OF THE DETERMINATION.

27 **SECTION 50.** In Colorado Revised Statutes, 26.5-5-326, **amend**

1 (4)(b) as follows:

2 **26.5-5-326. Exempt family child care home providers -**
3 **fingerprint-based criminal history record check - child care assistance**
4 **program money - temporary care - rules - definitions.** (4) The
5 department or a county department shall not issue or renew a contract to
6 provide money pursuant to the Colorado child care assistance program
7 pursuant to part 1 of article 4 of this title 26.5 to a qualified provider if the
8 qualified provider or a qualified adult:

9 (b) Has been determined to be insane or mentally incompetent by
10 a court of competent jurisdiction and a court has entered, pursuant to ~~part~~
11 ~~3 or 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15,
12 or section 27-65-110 (4) or 27-65-127, an order specifically finding that
13 the mental incompetency or insanity is of such a degree that the qualified
14 provider cannot safely operate a child care home. The record of the
15 determination and entry of the order are conclusive evidence ~~thereof~~ OF
16 THE DETERMINATION. A qualified provider shall sign an attestation
17 affirming the lack of such a finding prior to entering into or renewing a
18 contract for money under the Colorado child care assistance program,
19 pursuant to section 26.5-4-112 (2).

20 **SECTION 51.** In Colorado Revised Statutes, 27-65-103, **amend**
21 (1) as follows:

22 **27-65-103. Voluntary applications for mental health services.**
23 (1) Nothing in this article 65 in any way limits the right of any person to
24 make a voluntary application at any time to any public or private agency
25 or professional person for mental health services, either by direct
26 application in person or by referral from any other public or private
27 agency or professional person. Subject to ~~section 15-14-316 (4), a ward,~~

1 as defined in section ~~15-14-102 (15)~~ SECTION 15-14.7-315, AN INDIVIDUAL
2 WHO IS APPOINTED A GUARDIAN may be admitted to a hospital or
3 institutional care and treatment for a mental health disorder with the
4 guardian's consent for as long as the ~~ward~~ INDIVIDUAL agrees to ~~such~~ THE
5 care and treatment. The guardian shall immediately notify in writing the
6 court that appointed the guardian of the admission.

7 **SECTION 52.** In Colorado Revised Statutes, 27-65-127, **amend**
8 (1)(a) as follows:

9 **27-65-127. Imposition of legal disability - deprivation of legal**
10 **right - restoration - repeal.** (1) (a) When an interested person wishes to
11 obtain a determination as to the imposition of a legal disability or the
12 deprivation of a legal right for a person who has a mental health disorder
13 and who is a danger to the person's self or others, is gravely disabled, or
14 is insane, as defined in section 16-8-101, and who is not then subject to
15 proceedings pursuant to this article 65 or ~~part 3 or part 4 of article 14 of~~
16 ~~title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE 15, the interested person
17 may petition the court for a specific finding as to the legal disability or
18 deprivation of a legal right. Actions commenced pursuant to this
19 subsection (1) may include but are not limited to actions to determine
20 contractual rights and rights with regard to the operation of motor
21 vehicles.

22 **SECTION 53.** In Colorado Revised Statutes, 30-10-105, **amend**
23 (4)(a) as follows:

24 **30-10-105. When office becomes vacant.** (4) (a) Any county
25 officer shall be declared incapacitated when there is a judicial
26 determination that ~~he~~ THE COUNTY OFFICER is unable to routinely and fully
27 carry out the responsibilities of ~~his~~ THE office by virtue of mental or

1 physical illness or disability and ~~he~~ THE COUNTY OFFICER has been ~~so~~
2 unable TO DO SO for a continuous period of not less than six months
3 immediately preceding the finding of incapacity. The quantum of proof
4 required, the procedures to be followed, and the rights reserved to the
5 subject of any determination of incapacity ~~under~~ PURSUANT TO this
6 subsection (4) ~~shall be~~ ARE those specified for the appointment of
7 guardians in ~~part 3 of article 14 of title 15, C.R.S.~~ PART 3 OF ARTICLE 14.7
8 OF TITLE 15 to the extent applicable.

9 **SECTION 54.** In Colorado Revised Statutes, **amend** 38-10-111.5
10 as follows:

11 **38-10-111.5. Trusts to establish or maintain eligibility for**
12 **certain public assistance void - exceptions.** Any trust established by or
13 for a person that consists of the person's individual assets, income, or
14 property of any kind is void for the purpose of establishing or maintaining
15 eligibility for any public assistance as provided by article 2 of title 26,
16 child care assistance as provided by part 1 of article 4 of title 26.5, or
17 medical assistance as provided by articles 4, 5, and 6 of title 25.5. ~~unless~~
18 ~~the trust is established in accordance with the provisions of sections~~
19 ~~15-14-412.6 to 15-14-412.9.~~

20 **SECTION 55.** In Colorado Revised Statutes, 42-2-116, **amend** (5)
21 as follows:

22 **42-2-116. Restricted license.** (5) The department is authorized
23 after examination to issue a restricted license to a person with a behavioral
24 or mental health disorder or an intellectual and developmental disability,
25 containing such restrictions as may be imposed upon ~~said~~ THE person by
26 a court pursuant to ~~part 3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5
27 OF ARTICLE 14.7 OF TITLE 15 or section 27-65-110 (4) or 27-65-127.

1 **SECTION 56.** In Colorado Revised Statutes, 42-2-125, **amend**
2 (1)(h) as follows:

3 **42-2-125. Mandatory revocation of license and permit.** (1) The
4 department shall immediately revoke the license or permit of any driver
5 or minor driver upon receiving a record showing that the driver has:

6 (h) Been determined to be mentally incompetent by a court of
7 competent jurisdiction and for whom a court has entered, pursuant to ~~part~~
8 ~~3 or part 4 of article 14 of title 15~~ PART 3, 4, OR 5 OF ARTICLE 14.7 OF TITLE
9 15 or section 27-65-110 (4) or 27-65-127, an order specifically finding
10 that the mental incompetency is of such a degree that the person is
11 incapable of safely operating a motor vehicle;

12 **SECTION 57.** In Colorado Revised Statutes, **repeal** parts 1, 2, 3,
13 and 4 of article 14 of title 15.

14 **SECTION 58. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2024 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.