

CHAPTER 46

PROBATE, TRUSTS, AND FIDUCIARIES

HOUSE BILL 12-1074

BY REPRESENTATIVE(S) Kerr J., Miklosi, Acree, Barker, Fischer, Gerou, Kerr A., Labuda, Nikkel, Schafer S., Singer, Summers, Vigil, Wilson, Young;
also SENATOR(S) King S., Tochtrop, Aguilar, Foster, Guzman, Heath, Hudak, Jahn, Newell, Roberts, Steadman, White, Williams S.

AN ACT

CONCERNING ACCESS TO DATA TO ASSIST THE COURTS IN OVERSEEING PERSONS APPOINTED TO MANAGE THE AFFAIRS OF PERSONS UNDER DISABILITY.

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

SECTION 1. In Colorado Revised Statutes, **amend** 15-14-317 as follows:

15-14-317. Reports - monitoring of guardianship - court access to records.

(1) Within sixty days after appointment or as otherwise directed by the court, a guardian shall report to the court in writing on the condition of the ward, the guardian's personal care plan for the ward, and account for money and other assets in the guardian's possession or subject to the guardian's control. A guardian shall report at least annually thereafter and whenever ordered by the court. The annual report must state or contain:

- (a) The current mental, physical, and social condition of the ward;
- (b) The living arrangements for all addresses of the ward during the reporting period;
- (c) The medical, educational, vocational, and other services provided to the ward and the guardian's opinion as to the adequacy of the ward's care;
- (d) A summary of the guardian's visits with the ward and activities on the ward's behalf and the extent to which the ward has participated in decision-making;
- (e) Whether the guardian considers the current plan for care, treatment, or habilitation to be in the ward's best interest;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(f) Plans for future care; and

(g) A recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship.

(2) The court may appoint a visitor OR OTHER SUITABLE PERSON to review a report, interview the ward or guardian, and make any other investigation the court directs.

(3) The court shall establish a system for monitoring guardianships, including the filing and review of annual reports.

(4) (a) WHENEVER A GUARDIAN FAILS TO FILE A REPORT OR FAILS TO RESPOND TO AN ORDER OF THE COURT TO SHOW CAUSE WHY THE GUARDIAN SHOULD NOT BE HELD IN CONTEMPT OF COURT, THE CLERK OF THE COURT OR HIS OR HER DESIGNEE MAY RESEARCH THE WHEREABOUTS AND CONTACT INFORMATION OF THE GUARDIAN AND THE WARD. TO FACILITATE THIS RESEARCH, THE CLERK OF THE COURT OR HIS OR HER DESIGNEE SHALL HAVE ACCESS TO DATA MAINTAINED BY OTHER STATE AGENCIES, INCLUDING BUT NOT LIMITED TO VITAL STATISTICS INFORMATION MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WAGE AND EMPLOYMENT DATA MAINTAINED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT, LISTS OF LICENSED DRIVERS AND INCOME TAX DATA MAINTAINED BY THE DEPARTMENT OF REVENUE AND PROVIDED PURSUANT TO SECTION 13-71-107, C.R.S., AND VOTER REGISTRATION INFORMATION OBTAINED ANNUALLY BY THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION 13-71-107, C.R.S. THE COURT MAY ACCESS THE DATA ONLY TO OBTAIN CONTACT INFORMATION FOR THE GUARDIAN OR THE WARD. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE JUDICIAL DEPARTMENT AND THE OTHER STATE AGENCIES LISTED IN THIS PARAGRAPH (a) MAY ENTER INTO AGREEMENTS FOR THE SHARING OF THIS DATA. THE JUDICIAL DEPARTMENT AND THE COURTS SHALL NOT ACCESS DATA MAINTAINED PURSUANT TO THE "ADDRESS CONFIDENTIALITY PROGRAM ACT", PART 21 OF ARTICLE 30 OF TITLE 24, C.R.S.

(b) THE COURT SHALL PRESERVE THE CONFIDENTIALITY OF THE DATA OBTAINED FROM OTHER STATE AGENCIES AND USE THE DATA ONLY FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (4). NOTWITHSTANDING THE PROVISIONS OF ARTICLE 72 OF TITLE 24, C.R.S., DOCUMENTS AND INFORMATION OBTAINED BY THE COURT PURSUANT TO THIS SUBSECTION (4) ARE NOT PUBLIC RECORDS AND SHALL BE OPEN TO PUBLIC INSPECTION ONLY UPON AN ORDER OF THE COURT BASED ON A FINDING OF GOOD CAUSE, EXCEPT TO THE EXTENT THEY WOULD OTHERWISE BE OPEN TO INSPECTION FROM THE PROVIDING STATE AGENCY.

(c) FOR PURPOSES OF THIS SUBSECTION (4), "CONTACT INFORMATION" MEANS NAME, RESIDENTIAL ADDRESS, BUSINESS ADDRESS, DATE OF BIRTH, DATE OF DEATH, PHONE NUMBER, E-MAIL ADDRESS, OR OTHER IDENTIFYING INFORMATION AS DIRECTED BY THE COURT.

SECTION 2. In Colorado Revised Statutes, **amend** 15-14-420 as follows:

15-14-420. Reports - appointment of monitor - monitoring - records - court

access to records. (1) A conservator shall report to the court about the administration of the estate annually unless the court otherwise directs. Upon filing a petition or motion and after notice, a conservator shall be entitled to a hearing to settle all matters covered in an intermediate or final report. An order, after notice and hearing, allowing an intermediate report of a conservator adjudicates all of the conservator's, his or her other counsel's, and his or her other agent's liabilities concerning all matters adequately disclosed in the report. An order, after notice and hearing, allowing a final report adjudicates all previously unsettled liabilities of the conservator, his or her counsel, and that of his or her agents relating to the conservatorship, the protected person, or the protected person's successors.

(2) Unless the court orders otherwise, a report must:

(a) Contain a list of the assets of the estate under the conservator's control and a list of the receipts, disbursements, and distributions during the period for which the report is made;

(b) Reflect the services provided to the protected person; and

(c) State any recommended changes in the plan for the conservatorship as well as a recommendation as to the continued need for conservatorship and any recommended changes in the scope of the conservatorship.

(3) The court may appoint a VISITOR OR OTHER suitable person to review a report or plan, interview the protected person or conservator, and make any other investigation the court directs. In connection with a report, the court may order a conservator to submit the assets of the estate to an appropriate examination to be made in a manner the court directs.

(4) The court shall establish a system for monitoring conservatorships, including the filing and review of conservators' reports and plans.

(5) A conservator shall keep records of the administration of the estate and make them available for examination on reasonable request of an interested person within thirty days unless the court otherwise directs.

(6) (a) WHENEVER A CONSERVATOR FAILS TO FILE A REPORT OR FAILS TO RESPOND TO AN ORDER OF THE COURT TO SHOW CAUSE WHY THE CONSERVATOR SHOULD NOT BE HELD IN CONTEMPT OF COURT, THE CLERK OF THE COURT OR HIS OR HER DESIGNEE MAY RESEARCH THE WHEREABOUTS AND CONTACT INFORMATION OF THE CONSERVATOR AND THE PROTECTED PERSON. TO FACILITATE THIS RESEARCH, THE CLERK OF THE COURT OR HIS OR HER DESIGNEE SHALL HAVE ACCESS TO DATA MAINTAINED BY OTHER STATE AGENCIES, INCLUDING BUT NOT LIMITED TO VITAL STATISTICS INFORMATION MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WAGE AND EMPLOYMENT DATA MAINTAINED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT, LISTS OF LICENSED DRIVERS AND INCOME TAX DATA MAINTAINED BY THE DEPARTMENT OF REVENUE AND PROVIDED PURSUANT TO SECTION 13-71-107, C.R.S., AND VOTER REGISTRATION INFORMATION OBTAINED ANNUALLY BY THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION 13-71-107, C.R.S. THE COURT MAY ACCESS THE DATA ONLY TO OBTAIN CONTACT INFORMATION FOR THE CONSERVATOR OR THE WARD. NOTWITHSTANDING ANY PROVISION OF LAW

TO THE CONTRARY, THE JUDICIAL DEPARTMENT AND THE OTHER STATE AGENCIES LISTED IN THIS PARAGRAPH (a) MAY ENTER INTO AGREEMENTS FOR THE SHARING OF THIS DATA. THE JUDICIAL DEPARTMENT AND THE COURTS SHALL NOT ACCESS DATA MAINTAINED PURSUANT TO THE "ADDRESS CONFIDENTIALITY PROGRAM ACT", PART 21 OF ARTICLE 30 OF TITLE 24, C.R.S.

(b) THE COURT SHALL PRESERVE THE CONFIDENTIALITY OF THE DATA OBTAINED FROM THE OTHER STATE AGENCIES AND USE THE DATA ONLY FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (6). NOTWITHSTANDING THE PROVISIONS OF ARTICLE 72 OF TITLE 24, C.R.S., DOCUMENTS AND INFORMATION OBTAINED BY THE COURT PURSUANT TO THIS SUBSECTION (6) ARE NOT PUBLIC RECORDS AND SHALL BE OPEN TO PUBLIC INSPECTION ONLY UPON AN ORDER OF THE COURT BASED ON A FINDING OF GOOD CAUSE, EXCEPT TO THE EXTENT THEY WOULD OTHERWISE BE OPEN TO INSPECTION FROM THE PROVIDING STATE AGENCY.

(c) FOR PURPOSES OF THIS SUBSECTION (6), "CONTACT INFORMATION" MEANS NAME, RESIDENTIAL ADDRESS, BUSINESS ADDRESS, DATE OF BIRTH, DATE OF DEATH, PHONE NUMBER, E-MAIL ADDRESS, OR OTHER IDENTIFYING INFORMATION AS DIRECTED BY THE COURT.

SECTION 3. In Colorado Revised Statutes, 15-14-110 , **amend** (1) as follows:

15-14-110. Letters of office. (1) A nominee for guardian, emergency guardian, conservator, or special conservator shall file an acceptance of office with the court. The acceptance of office shall be signed by the nominee and, except as otherwise provided in this section, shall include a statement by the nominee informing the court of the following:

(a) Whether the nominee has been convicted of, pled nolo contendere to, or received a deferred sentence for a felony or misdemeanor, and, if so, the name of the state and court issuing the order;

(b) Whether a temporary civil protection or restraining order or a permanent civil protection or restraining order has been issued against the nominee in the state of Colorado or another state at any time;

(c) Whether a civil judgment has been entered against the nominee, and, if so, the name of the state and court granting the judgment; ~~and~~

(d) Whether the nominee has been relieved of any court-appointed responsibilities, and, if so, the name of the court relieving the nominee; AND

(e) THAT THE NOMINEE ACKNOWLEDGES AND UNDERSTANDS THAT IF THE NOMINEE FAILS TO FILE REQUIRED REPORTS WITH THE COURT OR FAILS TO RESPOND TO AN ORDER OF THE COURT TO SHOW CAUSE WHY THE NOMINEE SHOULD NOT BE HELD IN CONTEMPT OF COURT, COLORADO LAW AUTHORIZES THE COURT TO ACCESS DATA AND RECORDS OF STATE AGENCIES IN ORDER TO OBTAIN CONTACT INFORMATION, AS DEFINED IN SECTIONS 15-14-317 (4) (c) AND 15-14-420 (6) (c).

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 22, 2012