

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB26-1100 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 15-14-102, **amend**
4 (1), (4), (7.5), and (10.5); and **add** (1.3), (1.5), (3.5), (4.5), (6.5), (7.3),
5 (10.3), and (11.5) as follows:

6 **15-14-102. Definitions.**

7 In parts 1 to 4 of this article 14:

8 (1) ~~"Claim", with respect to a protected person, includes a claim~~
9 ~~against an individual, whether arising in contract, tort, or otherwise, and~~
10 ~~a claim against an estate which arises at or after the appointment of a~~
11 ~~conservator, including expenses of administration~~ "ADULT" MEANS AN
12 INDIVIDUAL AT LEAST EIGHTEEN YEARS OLD OR AN EMANCIPATED
13 INDIVIDUAL UNDER EIGHTEEN YEARS OLD.

14 (1.3) "ADULT SUBJECT TO GUARDIANSHIP" MEANS AN ADULT FOR
15 WHOM A GUARDIAN HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE 14.

16 (1.5) "CLAIM", WITH RESPECT TO A PROTECTED PERSON, INCLUDES
17 A CLAIM AGAINST AN INDIVIDUAL, WHETHER ARISING IN CONTRACT, TORT,
18 OR OTHERWISE, AND A CLAIM AGAINST AN ESTATE WHICH ARISES AT OR
19 AFTER THE APPOINTMENT OF A CONSERVATOR, INCLUDING EXPENSES OF
20 ADMINISTRATION.

21 (3.5) "FULL GUARDIANSHIP" MEANS A GUARDIANSHIP THAT
22 GRANTS THE GUARDIAN ALL POWERS AVAILABLE PURSUANT TO THIS
23 ARTICLE 14.

24 (4) "Guardian" means an individual at least twenty-one years ~~of~~
25 ~~age~~ OLD, resident or non-resident, who has qualified as a guardian of a
26 minor or incapacitated person pursuant to appointment by a parent or by
27 the court. The term includes a limited, emergency, and temporary
28 substitute guardian but not a guardian ad litem.

29 (4.5) "GUARDIAN AD LITEM" MEANS A PERSON APPOINTED TO
30 INFORM THE COURT ABOUT, AND TO REPRESENT, THE NEEDS AND BEST
31 INTEREST OF AN INDIVIDUAL.

32 (6.5) "LESS RESTRICTIVE ALTERNATIVE" MEANS AN APPROACH TO
33 MEETING AN INDIVIDUAL'S NEEDS THAT RESTRICTS FEWER RIGHTS OF THE
34 INDIVIDUAL THAN WOULD THE APPOINTMENT OF A GUARDIAN OR
35 CONSERVATOR. THE TERM INCLUDES PROTECTIVE ARRANGEMENT OR
36 SERVICES, SUPPORTED DECISION-MAKING, APPROPRIATE TECHNOLOGICAL
37 ASSISTANCE, APPOINTMENT OF A REPRESENTATIVE PAYEE, AND
38 APPOINTMENT OF AN AGENT BY THE INDIVIDUAL, INCLUDING APPOINTMENT
39 UNDER A POWER OF ATTORNEY FOR HEALTH CARE OR POWER OF ATTORNEY
40 FOR FINANCES.

41 (7.3) "LIMITED GUARDIANSHIP" MEANS A GUARDIANSHIP THAT

1 GRANTS THE GUARDIAN LESS THAN ALL POWERS AVAILABLE PURSUANT TO
2 THIS ARTICLE 14 OR OTHERWISE RESTRICTS THE POWERS OF THE
3 GUARDIAN.

4 (7.5) "Member of the supportive community" means a person
5 whom the respondent, ward, or protected person has trusted for the
6 one-year period immediately preceding the filing of a petition pursuant to
7 ~~section 15-14-304~~ SECTION 15-14-302 or 15-14-403 to engage in
8 supported decision-making and who may have relevant information about
9 the respondent's, ward's, or protected person's desires and personal values.

10 (10.3) "PERSON INTERESTED IN THE WELFARE OF" MEANS AN
11 INTERESTED PERSON WITH REGARD TO THE WELL-BEING OF AN INDIVIDUAL
12 SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP, WHO, WITH RESPECT TO
13 THE MATTER UNDER CONSIDERATION, HAS RELEVANT CONCERN THAT THE
14 RELIEF REQUESTED IN THE MATTER OR OUTCOME OF THE MATTER IS
15 REQUIRED FOR THE PROTECTION OF THE INDIVIDUAL'S HEALTH, SAFETY,
16 WELFARE, OR ESTATE, OR MAY HAVE A HARMFUL EFFECT ON THE
17 INDIVIDUAL'S HEALTH, SAFETY, WELFARE, OR ESTATE.

18 (10.5) "Post-adjudication" means after appointment of a
19 permanent guardian or special or permanent conservator after a hearing
20 for which a respondent was provided notice pursuant to ~~section~~
21 ~~15-14-309~~ SECTION 15-14-303 or section 15-14-404, or both, and at which
22 the respondent had an opportunity to present evidence and be heard.

23 (11.5) "PROTECTIVE ARRANGEMENT" MEANS A COURT-ORDERED
24 ALTERNATIVE TO GUARDIANSHIP DESIGNED TO PROTECT THE
25 RESPONDENT'S PERSONAL INTERESTS AND AUTHORIZE ACTIONS NECESSARY
26 TO MEET THE RESPONDENT'S NEED FOR HEALTH, SAFETY, OR CARE.

27 **SECTION 2.** In Colorado Revised Statutes, **add** 15-14-103 as
28 follows:

29 **15-14-103. Guardianship bill of rights.**

30 (1) AN ADULT SUBJECT TO GUARDIANSHIP HAS THE RIGHT TO:

- 31 (a) BE TREATED WITH DIGNITY AND RESPECT;
32 (b) BE FREE FROM ABUSE, NEGLECT, EXPLOITATION, AND
33 DISCRIMINATION;
34 (c) REMAIN AS INDEPENDENT AS POSSIBLE;
35 (d) EXPRESS AND PRACTICE THEIR OWN RELIGIOUS PREFERENCES;
36 (e) PERSONAL PRIVACY;
37 (f) HUMANE, SAFE, AND SANITARY LIVING, LEARNING, AND
38 WORKING ENVIRONMENTS;
39 (g) SEXUAL EXPRESSION AND TO HAVE THEIR GENDER IDENTITY
40 RESPECTED;

41 (h) A COMPETENT GUARDIAN WHO ADVOCATES FOR THEIR GOALS,
42 NEEDS, AND PREFERENCES AND RESPECTS THEIR DESIRES, INCLUDING
43 MEDICAL TREATMENT PREFERENCES, CULTURAL PRACTICES, AND

1 RELIGIOUS BELIEFS;

2 (i) A COMPETENT GUARDIAN WHO MAINTAINS FREQUENT CONTACT
3 WITH THE ADULT SUBJECT TO GUARDIANSHIP. FOR THE PURPOSES OF THIS
4 SECTION, A GUARDIAN IS COMPETENT IF THE GUARDIAN OBTAINS
5 NECESSARY TRAINING AND EDUCATION, UPHOLDS APPROPRIATE
6 STANDARDS OF PRACTICE, AND IS IN COMPLIANCE WITH RELEVANT LAW
7 AND COURT ORDERS.

8 (j) FULLY PARTICIPATE, TO THE EXTENT POSSIBLE, IN ALL
9 DECISIONS, ESPECIALLY THOSE AFFECTING THEIR CARE, WHERE THEY LIVE,
10 THEIR ACTIVITIES, AND THEIR SOCIAL INTERACTIONS, TO THE EXTENT THEY
11 WISH TO BE INVOLVED AND ARE ABLE TO BE INVOLVED;

12 (k) RECEIVE NECESSARY SERVICES AND REHABILITATION, WITHIN
13 AVAILABLE RESOURCES, THAT PROTECT THEIR PERSONAL LIBERTY AND
14 ARE PROVIDED WITHIN THE LEAST RESTRICTIVE CONDITIONS;

15 (l) HAVE THE GUARDIAN PRUDENTLY MANAGE THEIR RESOURCES;

16 (m) FULLY PARTICIPATE, TO THE EXTENT POSSIBLE, IN DECISIONS
17 ABOUT HOW THEIR PROPERTY IS MANAGED, TO THE EXTENT THEY WISH TO
18 BE INVOLVED AND ARE ABLE TO BE INVOLVED;

19 (n) KEEP CONFIDENTIAL THOSE MATTERS THAT THEY WISH TO KEEP
20 CONFIDENTIAL UNLESS THE INFORMATION IS NECESSARY TO OBTAIN
21 SERVICES; TO PREVENT ABUSE, NEGLECT, OR EXPLOITATION; OR TO MODIFY
22 THE GUARDIANSHIP ORDER OR OTHER ORDERS ENTERED INTO PURSUANT
23 TO ARTICLE 14 OR 14.5 OF THIS TITLE 15;

24 (o) KEEP ALL RIGHTS THAT THE COURT HAS NOT GRANTED TO
25 GUARDIAN OR CONSERVATOR;

26 (p) A LAWYER WHO ADVOCATES FOR THE OUTCOME THE ADULT
27 SUBJECT TO GUARDIANSHIP WANTS;

28 (q) BE PRESENT AND PARTICIPATE IN ALL COURT HEARINGS;

29 (r) LET THE COURT KNOW CONCERNS OR COMPLAINTS ABOUT THEIR
30 GUARDIANSHIP;

31 (s) ASK THE COURT TO REVIEW THE NEED FOR THEIR
32 GUARDIANSHIP TO CHANGE, CONTINUE, OR END AND WHETHER THEIR
33 GUARDIAN IS AN APPROPRIATE FIT;

34 (t) IF A QUESTION ARISES ABOUT THEIR CAPACITY TO EXERCISE A
35 SPECIFIC RIGHT, HAVE A QUALIFIED PERSON EVALUATE WHAT THEY CAN
36 DO AND WHETHER TO HAVE SOME OR ALL OF THEIR RIGHTS RESTORED;

37 (u) THE SUPPORT AND ACCOMMODATIONS THEY NEED TO BE ABLE
38 TO EFFECTIVELY COMMUNICATE WITH THE COURT AND TO UNDERSTAND
39 THE COURT PROCEEDINGS; AND

40 (v) HAVE THEIR RIGHTS EXPLAINED TO THEM IN THEIR PREFERRED
41 METHOD OF COMMUNICATION AND IN THE LANGUAGE THEY CHOOSE.

42 (2) THE COURT MAY AUTHORIZE A GUARDIAN OR CONSERVATOR
43 TO MAKE DECISIONS FOR THE FOLLOWING RIGHTS ON BEHALF OF THE

1 ADULT SUBJECT TO GUARDIANSHIP IF THE AUTHORIZATION IS CONSISTENT
2 WITH THE ADULT SUBJECT TO GUARDIANSHIP'S PREFERENCES AND VALUES:

3 (a) TO DETERMINE THE ADULT SUBJECT TO GUARDIANSHIP'S SOCIAL
4 ENVIRONMENT AND SOCIAL ASPECTS OF THEIR PERSONAL LIFE;

5 (b) TO FILE AND DEFEND LAWSUITS;

6 (c) TO MAKE CONTRACTS;

7 (d) TO MAKE GIFTS OF THE ADULT SUBJECT TO GUARDIANSHIP'S
8 MONEY; AND

9 (e) TO MANAGE THE ADULT SUBJECT TO GUARDIANSHIP'S MONEY
10 AND PROPERTY.

11 (3) THE ADULT SUBJECT TO GUARDIANSHIP RETAINS THE RIGHT TO
12 VOTE, TO MAINTAIN THEIR REPRODUCTIVE HEALTH AND ABILITY TO
13 PROCREATE, AND TO CHANGE THE ADULT SUBJECT TO GUARDIANSHIP'S
14 MARITAL STATUS, UNLESS THE COURT RESTRICTS THOSE RIGHTS BY
15 STATING THE RESTRICTIONS AND THE RELEVANT FINDINGS TO SUPPORT THE
16 RESTRICTION IN THE ORDER APPOINTING THE GUARDIAN.

17 **SECTION 3.** In Colorado Revised Statutes, **repeal and reenact,**
18 **with amendments,** part 3 of article 14 of title 15 as follows:

19 **PART 3**

20 **GUARDIANSHIP OF ADULT**

21 **15-14-301. Basis for appointment of guardian for adult.**

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

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

26 (I) THE RESPONDENT LACKS THE ABILITY TO MEET ESSENTIAL
27 REQUIREMENTS FOR HEALTH, SAFETY, OR WELFARE BECAUSE THE
28 RESPONDENT IS UNABLE TO RECEIVE AND EVALUATE INFORMATION OR
29 MAKE OR COMMUNICATE DECISIONS, EVEN WITH APPROPRIATE SUPPORTIVE
30 SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
31 DECISION-MAKING; AND

32 (II) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
33 PROTECTIVE ARRANGEMENT OR OTHER LESS RESTRICTIVE ALTERNATIVE;
34 OR

35 (b) WITH APPROPRIATE FINDINGS, TREAT THE PETITION AS ONE FOR
36 A PROTECTIVE ARRANGEMENT OR OTHER LESS RESTRICTIVE ALTERNATIVE.

37 (2) THE COURT SHALL GRANT A GUARDIAN APPOINTED PURSUANT
38 TO SUBSECTION (1) OF THIS SECTION ONLY THOSE POWERS NECESSITATED
39 BY THE DEMONSTRATED NEEDS AND LIMITATIONS OF THE RESPONDENT
40 AND ISSUE ORDERS THAT WILL ENCOURAGE DEVELOPMENT OF THE
41 RESPONDENT'S MAXIMUM SELF-DETERMINATION AND INDEPENDENCE. THE
42 COURT SHALL NOT ESTABLISH A FULL GUARDIANSHIP IF A LIMITED
43 GUARDIANSHIP, PROTECTIVE ARRANGEMENT, OR OTHER LESS RESTRICTIVE

1 ALTERNATIVE WOULD MEET THE NEEDS OF THE RESPONDENT.

2 **15-14-302. Petition for appointment of guardian for adult.**

3 (1) A PERSON INTERESTED IN THE WELFARE OF AN ADULT,
4 INCLUDING THE ADULT FOR WHOM THE ORDER IS SOUGHT, MAY PETITION
5 FOR APPOINTMENT OF A GUARDIAN FOR THE ADULT.

6 (2) A PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
7 SECTION MUST STATE THE PETITIONER'S NAME; PRINCIPAL RESIDENCE;
8 CURRENT STREET ADDRESS, IF DIFFERENT; RELATIONSHIP TO THE
9 RESPONDENT; INTEREST IN THE APPOINTMENT; THE NAME AND ADDRESS OF
10 ANY ATTORNEY REPRESENTING THE PETITIONER; THE REASON
11 GUARDIANSHIP IS NECESSARY; AND, TO THE EXTENT KNOWN, THE
12 FOLLOWING:

13 (a) THE RESPONDENT'S NAME; AGE; PRINCIPAL RESIDENCE;
14 CURRENT STREET ADDRESS, IF DIFFERENT; AND, IF DIFFERENT, THE
15 ADDRESS OF THE DWELLING WHERE THE RESPONDENT IS PROPOSED TO
16 RESIDE IF THE PETITION IS GRANTED;

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

18 (I) SPOUSE OR DOMESTIC PARTNER OR, IF THE RESPONDENT HAS
19 NONE, ANY ADULT WITH WHOM THE RESPONDENT HAS SHARED
20 HOUSEHOLD RESPONSIBILITIES FOR MORE THAN SIX MONTHS IN THE
21 TWELVE-MONTH PERIOD IMMEDIATELY BEFORE THE FILING OF THE
22 PETITION;

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

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

29 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
30 FOLLOWING, IF APPLICABLE:

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

32 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;

33 (III) ANY REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
34 SECURITY ADMINISTRATION FOR THE RESPONDENT;

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

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

39 (VI) ANY FIDUCIARY FOR THE RESPONDENT APPOINTED BY THE
40 DEPARTMENT OF VETERANS AFFAIRS;

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

43 (VIII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR

1 FINANCES IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;
2 (IX) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT;
3 (X) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT'S
4 PARENT OR SPOUSE OR DOMESTIC PARTNER IN A WILL OR OTHER SIGNED
5 RECORD;
6 (XI) A PROPOSED GUARDIAN AND THE REASON FOR SELECTING THE
7 PROPOSED GUARDIAN; AND
8 (XII) A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY;
9 (d) WHETHER THE PETITIONER SEEKS A LIMITED GUARDIANSHIP OR
10 FULL GUARDIANSHIP;
11 (e) IF THE PETITIONER SEEKS A FULL GUARDIANSHIP, THE REASON
12 A LIMITED GUARDIANSHIP OR PROTECTIVE ARRANGEMENT INSTEAD OF
13 GUARDIANSHIP IS NOT APPROPRIATE;
14 (f) IF A LIMITED GUARDIANSHIP IS REQUESTED, THE POWERS TO BE
15 GRANTED TO THE GUARDIAN;
16 (g) THE NAME AND CURRENT ADDRESS, IF KNOWN, OF ANY PERSON
17 WITH WHOM THE PETITIONER SEEKS TO LIMIT THE RESPONDENT'S
18 CONTACT;
19 (h) IF THE RESPONDENT HAS PROPERTY OTHER THAN PERSONAL
20 EFFECTS, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH
21 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
22 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS;
23 AND
24 (i) WHETHER THE RESPONDENT NEEDS AN INTERPRETER,
25 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE
26 EFFECTIVELY WITH THE COURT OR TO UNDERSTAND COURT PROCEEDINGS.
27 (3) THE REASON FOR WHY GUARDIANSHIP IS NECESSARY THAT IS
28 INCLUDED IN THE PETITION PURSUANT TO SUBSECTION (2) OF THIS SECTION
29 MUST INCLUDE A BRIEF DESCRIPTION OF:
30 (a) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
31 NEED;
32 (b) ANY PROTECTIVE ARRANGEMENT OR OTHER LESS RESTRICTIVE
33 ALTERNATIVES FOR MEETING THE RESPONDENT'S ALLEGED NEED THAT
34 HAVE BEEN CONSIDERED OR IMPLEMENTED;
35 (c) IF NO PROTECTIVE ARRANGEMENT OR OTHER LESS RESTRICTIVE
36 ALTERNATIVES HAVE BEEN CONSIDERED OR IMPLEMENTED, THE REASON
37 THEY HAVE NOT BEEN CONSIDERED OR IMPLEMENTED; AND
38 (d) THE REASON A PROTECTIVE ARRANGEMENT OR OTHER LESS
39 RESTRICTIVE ALTERNATIVE IS INSUFFICIENT TO MEET THE RESPONDENT'S
40 ALLEGED NEED.
41 **15-14-303. Notice of hearing for appointment of guardian for**
42 **adult.**
43 (1) ON FILING OF A PETITION PURSUANT TO SECTION 15-14-302 FOR

1 APPOINTMENT OF A GUARDIAN FOR AN ADULT, THE COURT SHALL SET A
2 DATE, TIME, AND PLACE FOR HEARING THE PETITION.

3 (2) (a) A COPY OF A PETITION DESCRIBED IN SECTION 15-14-302
4 AND NOTICE OF A HEARING ON THE PETITION MUST BE SERVED
5 PERSONALLY ON THE RESPONDENT. THE NOTICE MUST INFORM THE
6 RESPONDENT OF THE RESPONDENT'S RIGHTS AT THE HEARING, INCLUDING
7 THE RIGHT TO AN ATTORNEY AND TO ATTEND THE HEARING. THE NOTICE
8 MUST INCLUDE A DESCRIPTION OF THE NATURE, PURPOSE, AND
9 CONSEQUENCES OF GRANTING THE PETITION. THE COURT SHALL NOT
10 GRANT THE PETITION IF NOTICE SUBSTANTIALLY COMPLYING WITH THIS
11 SUBSECTION (2)(a) IS NOT SERVED ON THE RESPONDENT.

12 (b) AFTER A COPY OF THE PETITION AND NOTICE OF A HEARING ON
13 THE PETITION IS SERVED ON THE RESPONDENT IN COMPLIANCE WITH
14 SUBSECTION (2)(a) OF THIS SECTION, THE COURT SHALL APPOINT AN
15 ATTORNEY TO REPRESENT THE RESPONDENT AT THE HEARING. THE
16 APPOINTMENT IS AT THE STATE'S EXPENSE, PENDING A DETERMINATION OF
17 INDIGENCE. IF THE RESPONDENT IS DETERMINED NOT TO BE INDIGENT, THE
18 RESPONDENT MUST BE GIVEN THE OPTION TO EITHER RETAIN THE
19 ATTORNEY APPOINTED AT THE RESPONDENT'S EXPENSE OR RETAIN AN
20 ATTORNEY OF THEIR CHOOSING AT THE RESPONDENT'S EXPENSE. IF THE
21 RESPONDENT WAIVES THEIR RIGHT TO COUNSEL, THE COURT MUST HEAR
22 THE REQUEST ON THE RECORD AND DOCUMENT THE JUSTIFICATION FOR
23 THE RESPONDENT WAIVING THEIR RIGHT TO COUNSEL.

24 (3) IN A PROCEEDING ON A PETITION DESCRIBED IN SECTION
25 15-14-302, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
26 SECTION MUST BE GIVEN TO THE PERSONS REQUIRED TO BE LISTED IN THE
27 PETITION PURSUANT TO SECTION 15-14-302 (2)(a) TO (2)(c), IF KNOWN,
28 AND ANY OTHER PERSON INTERESTED IN THE WELFARE OF THE
29 RESPONDENT THAT THE COURT DETERMINES. FAILURE TO GIVE NOTICE
30 PURSUANT TO THIS SUBSECTION (3) DOES NOT PRECLUDE THE COURT FROM
31 APPOINTING A GUARDIAN OR ORDERING A PROTECTIVE ARRANGEMENT.

32 (4) IF A PETITION FILED PURSUANT TO SECTION 15-14-302 DOES
33 NOT INCLUDE THE NAME OF AT LEAST ONE PERSON DESCRIBED IN SECTION
34 15-14-302 (2), THE PETITIONER MUST SEARCH WITH REASONABLE
35 DILIGENCE FOR AN ADULT RELATIVE OF THE RESPONDENT AND, IF AN
36 ADULT RELATIVE IS FOUND, GIVE THE ADULT RELATIVE NOTICE IN
37 ACCORDANCE WITH SECTION 15-10-401 THAT A PETITION FOR
38 GUARDIANSHIP OF THE RESPONDENT HAS BEEN FILED AND GIVE NOTICE OF
39 A HEARING ON THE PETITION. THE NOTICE SENT TO THE ADULT RELATIVE
40 OF THE RESPONDENT MUST NOT INCLUDE A COPY OF THE PETITION.
41 FAILURE TO GIVE NOTICE PURSUANT TO THIS SUBSECTION (4) DOES NOT
42 PRECLUDE THE COURT FROM APPOINTING A GUARDIAN.

43 (5) AFTER THE APPOINTMENT OF A GUARDIAN, NOTICE OF A

1 HEARING ON A PETITION FOR AN ORDER ISSUED PURSUANT TO THIS PART 3,
2 TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO:

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

6 **15-14-304. Appointment and role of visitor.**

7 (1) ON RECEIPT OF A PETITION DESCRIBED IN SECTION 15-14-302
8 FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT, THE COURT SHALL
9 APPOINT A VISITOR. THE COURT SHALL DISCLOSE IN THE ORDER
10 APPOINTING THE VISITOR THE SPECIFIC TRAINING OR EXPERIENCE THE
11 VISITOR HAS WITH RESPECT TO THE TYPES OF ABILITIES, LIMITATIONS, AND
12 NEEDS OF THE RESPONDENT ALLEGED IN THE PETITION AND THE BASIS FOR
13 FEES TO BE PAID TO THE VISITOR.

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

- 17 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE
18 PETITION; THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING; THE
19 RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION; AND THE
20 GENERAL POWERS AND DUTIES OF A GUARDIAN;
- 21 (b) DETERMINE THE RESPONDENT'S VIEWS ABOUT THE
22 APPOINTMENT SOUGHT BY THE PETITIONER, INCLUDING VIEWS ABOUT A
23 PROPOSED GUARDIAN, THE GUARDIAN'S PROPOSED POWERS AND DUTIES,
24 AND THE SCOPE AND DURATION OF THE PROPOSED GUARDIANSHIP;
- 25 (c) EXPLAIN TO THE RESPONDENT THE RESPONDENT'S RIGHT TO
26 EMPLOY AND CONSULT WITH AN ATTORNEY AT THE RESPONDENT'S
27 EXPENSE AND THE RIGHT TO REQUEST REPRESENTATION BY A
28 COURT-APPOINTED ATTORNEY AT THE RESPONDENT'S OWN EXPENSE IF THE
29 RESPONDENT IS NOT INDIGENT; AND
- 30 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF
31 THE PROCEEDING, INCLUDING THE RESPONDENT'S ATTORNEY FEES, MAY BE
32 PAID FROM THE RESPONDENT'S ASSETS UNLESS THE RESPONDENT IS
33 DETERMINED TO BE INDIGENT BY THE COURT.

34 (3) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
35 SECTION SHALL:

- 36 (a) INTERVIEW THE PETITIONER AND PROPOSED GUARDIAN, IF ANY;
- 37 (b) VISIT THE RESPONDENT'S PRESENT DWELLING AND ANY
38 DWELLING WHERE THE RESPONDENT IS PROPOSED TO RESIDE IF THE
39 APPOINTMENT IS MADE;
- 40 (c) ATTEMPT TO OBTAIN INFORMATION FROM A PHYSICIAN OR
41 OTHER PERSON KNOWN TO HAVE TREATED, ADVISED, OR ASSESSED THE
42 RESPONDENT'S RELEVANT PHYSICAL OR MENTAL CONDITION; AND
- 43 (d) INVESTIGATE THE ALLEGATIONS IN THE PETITION AND ANY

1 OTHER MATTER RELATING TO THE PETITION THAT THE COURT DIRECTS THE
2 VISITOR MUST INVESTIGATE.

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

6 (a) A RECOMMENDATION WHETHER TO APPOINT AN ATTORNEY TO
7 REPRESENT THE RESPONDENT IF AN ATTORNEY HAS NOT ALREADY BEEN
8 APPOINTED PURSUANT TO SECTION 15-14-305;

9 (b) A RECOMMENDATION WHETHER TO APPOINT A GUARDIAN AD
10 LITEM TO REPRESENT THE RESPONDENT'S INTERESTS;

11 (c) A SUMMARY OF SELF-CARE AND INDEPENDENT-LIVING TASKS
12 THE RESPONDENT CAN MANAGE WITHOUT ASSISTANCE OR WITH EXISTING
13 SUPPORTS; COULD MANAGE WITH THE ASSISTANCE OF APPROPRIATE
14 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
15 DECISION-MAKING; AND CANNOT MANAGE;

16 (d) A RECOMMENDATION REGARDING THE APPROPRIATENESS OF
17 GUARDIANSHIP, INCLUDING WHETHER A PROTECTIVE ARRANGEMENT OR
18 OTHER LESS RESTRICTIVE ALTERNATIVE FOR MEETING THE RESPONDENT'S
19 NEEDS IS AVAILABLE, AND:

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

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

24 (e) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED
25 GUARDIAN AND WHETHER THE RESPONDENT APPROVES OR DISAPPROVES
26 OF THE PROPOSED GUARDIAN;

27 (f) A STATEMENT WHETHER THE PROPOSED DWELLING MEETS THE
28 RESPONDENT'S NEEDS AND WHETHER THE RESPONDENT HAS EXPRESSED A
29 PREFERENCE AS TO RESIDENCE;

30 (g) A RECOMMENDATION WHETHER A PROFESSIONAL EVALUATION
31 ORDERED PURSUANT TO SECTION 15-14-306 IS NECESSARY;

32 (h) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO ATTEND
33 A HEARING AT THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD;

34 (i) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
35 PARTICIPATE IN A HEARING AND A STATEMENT THAT IDENTIFIES ANY
36 TECHNOLOGY OR OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE
37 RESPONDENT'S ABILITY TO PARTICIPATE; AND

38 (j) ANY OTHER MATTER THE COURT DETERMINES.

39 **15-14-305. Appointment and role of attorney for adult.**

40 (1) THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT THE
41 RESPONDENT IN A PROCEEDING FOR APPOINTMENT OF A GUARDIAN FOR AN
42 ADULT. THE APPOINTMENT MUST BE AT THE STATE'S EXPENSE, PENDING A
43 DETERMINATION OF INDIGENCE. IF THE RESPONDENT IS DETERMINED NOT

1 TO BE INDIGENT, THE RESPONDENT MUST BE GIVEN THE OPTION TO EITHER
2 RETAIN THE ATTORNEY APPOINTED AT THE RESPONDENT'S EXPENSE OR
3 RETAIN AN ATTORNEY OF THEIR CHOOSING AT THE RESPONDENT'S
4 EXPENSE. IF THE RESPONDENT WAIVES THEIR RIGHT TO COUNSEL, THE
5 COURT MUST HEAR THE REQUEST ON THE RECORD AND DOCUMENT THE
6 JUSTIFICATION FOR THE RESPONDENT WAIVING THEIR RIGHT TO COUNSEL.

7 (2) IF AT ANY POINT THE RESPONDENT'S ATTORNEY EXPRESSES
8 CONCERN TO THE COURT ABOUT THE RESPONDENT'S CAPACITY TO FORM AN
9 ATTORNEY-CLIENT RELATIONSHIP, THE COURT MUST HOLD A HEARING TO
10 DETERMINE WHETHER THE RESPONDENT HAS THE CAPACITY TO FORM AN
11 ATTORNEY-CLIENT RELATIONSHIP. IF THE COURT DETERMINES THAT THE
12 RESPONDENT LACKS THE CAPACITY TO FORM AN ATTORNEY-CLIENT
13 RELATIONSHIP, THE COURT SHALL APPOINT A GUARDIAN AD LITEM TO
14 REPRESENT THE RESPONDENT.

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

17 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
18 WISHES;

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

21 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
22 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
23 RESTRICTIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT WITH THE
24 RESPONDENT'S INTERESTS.

25 **15-14-306. Professional evaluation.**

26 (1) AT OR BEFORE A HEARING ON A PETITION FOR A GUARDIANSHIP
27 FOR AN ADULT, THE COURT SHALL ORDER A PROFESSIONAL EVALUATION
28 OF THE RESPONDENT IF:

29 (a) THE RESPONDENT REQUESTS THE EVALUATION; OR

30 (b) THE COURT FINDS THAT ADDITIONAL INFORMATION MAY ASSIST
31 THE COURT IN DETERMINING THE RESPONDENT'S NEEDS AND ABILITIES.

32 (2) THE COURT SHALL ISSUE AN ORDER FOR AN EVALUATION AS
33 SOON AS PRACTICABLE AFTER RECEIVING A REQUEST FROM THE
34 RESPONDENT OR UPON FINDING THAT AN EVALUATION IS NECESSARY TO
35 DETERMINE THE RESPONDENT'S NEEDS AND ABILITIES. IF THE EVALUATION
36 CANNOT BE COMPLETED PRIOR TO THE DATE OF THE HEARING HELD
37 PURSUANT TO SECTION 15-14-303, THE RESPONDENT MAY REQUEST AN
38 EXTENSION TO ALLOW TIME TO COMPLETE THE EVALUATION.

39 (3) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
40 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED
41 BY A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
42 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE
43 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND

1 LIMITATIONS AND IS NOT ADVANTAGED OR DISADVANTAGED BY A
2 DECISION TO GRANT THE PETITION OR OTHERWISE DOES NOT HAVE A
3 CONFLICT OF INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION
4 PROMPTLY SHALL FILE A REPORT IN A RECORD WITH THE COURT. UNLESS
5 OTHERWISE DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

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

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

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

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

15 (4) THE RESPONDENT MAY DECLINE TO PARTICIPATE IN AN
16 EVALUATION ORDERED PURSUANT TO THIS SECTION.

17 **15-14-307. Attendance and rights at hearing.**

18 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
19 SECTION, A HEARING HELD PURSUANT TO SECTION 15-14-303 MUST NOT
20 PROCEED UNLESS THE RESPONDENT ATTENDS THE HEARING. IF IT IS NOT
21 REASONABLY FEASIBLE FOR THE RESPONDENT TO ATTEND A HEARING AT
22 THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD, THE COURT
23 SHALL HOLD A HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY
24 OR, AT THE COURT'S DISCRETION, HOLD THE HEARING AT AN ALTERNATIVE
25 LOCATION WHERE THE RESPONDENT CAN ATTEND USING REAL-TIME
26 AUDIO-VISUAL TECHNOLOGY.

27 (2) A HEARING HELD PURSUANT TO SECTION 15-14-303 MAY
28 PROCEED WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS
29 BY CLEAR AND CONVINCING EVIDENCE THAT:

30 (a) THE RESPONDENT HAS REFUSED TO ATTEND THE HEARING
31 AFTER HAVING BEEN FULLY INFORMED OF THE RIGHT TO ATTEND AND THE
32 POTENTIAL CONSEQUENCES OF FAILING TO DO SO; OR

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

36 (3) THE RESPONDENT MAY BE ASSISTED IN A HEARING HELD
37 PURSUANT TO SECTION 15-14-303 BY A PERSON OR PERSONS OF THE
38 RESPONDENT'S CHOOSING, ASSISTIVE TECHNOLOGY, OR AN INTERPRETER
39 OR TRANSLATOR, OR A COMBINATION OF THESE SUPPORTS. IF ASSISTANCE
40 WOULD FACILITATE THE RESPONDENT'S PARTICIPATION IN THE HEARING
41 HELD PURSUANT TO SECTION 15-14-303 BUT IS NOT OTHERWISE
42 AVAILABLE TO THE RESPONDENT, THE COURT SHALL MAKE REASONABLE
43 EFFORTS TO PROVIDE THE ASSISTANCE.

1 (4) THE RESPONDENT HAS A RIGHT TO BE REPRESENTED BY AN
2 ATTORNEY AT A HEARING HELD PURSUANT TO SECTION 15-14-303, WHICH
3 MAY BE A COURT-APPOINTED ATTORNEY OR AN ATTORNEY OF THE
4 RESPONDENT'S CHOICE.

5 (5) AT A HEARING HELD PURSUANT TO SECTION 15-14-303, THE
6 RESPONDENT MAY:

7 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
8 DOCUMENTS;

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

11 (c) OTHERWISE PARTICIPATE IN THE HEARING.

12 (6) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, A
13 PROPOSED GUARDIAN, OR THE PROPOSED GUARDIAN'S ATTORNEY, SHALL
14 ATTEND A HEARING HELD PURSUANT TO SECTION 15-14-303.

15 (7) A HEARING HELD PURSUANT TO SECTION 15-14-303 MUST BE
16 CLOSED ON REQUEST OF THE RESPONDENT OR ON A SHOWING OF GOOD
17 CAUSE. IF THE HEARING HELD PURSUANT TO SECTION 15-14-303 IS NOT
18 CLOSED, ALL RECORDS OF THE HEARING MUST BE AVAILABLE FOR
19 NONPARTIES TO ACCESS WITH A SIGNED RELEASE OF INFORMATION.

20 (8) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING
21 HELD PURSUANT TO SECTION 15-14-303. THE COURT MAY GRANT THE
22 REQUEST, WITH OR WITHOUT A HEARING, ON DETERMINING THAT THE BEST
23 INTEREST OF THE RESPONDENT WILL BE SERVED. THE COURT SHALL
24 CONSIDER THE PREFERENCES AND OPINIONS OF THE RESPONDENT PRIOR TO
25 GRANTING A REQUEST TO PARTICIPATE IN THE HEARING. THE COURT MAY
26 IMPOSE APPROPRIATE CONDITIONS ON THE PERSON'S PARTICIPATION.

27 **15-14-308. Confidentiality of records.**

28 THE COURT SHALL COMPLY WITH THE ADMINISTRATIVE RULES
29 ADOPTED BY THE JUDICIAL DEPARTMENT CONCERNING THE
30 CONFIDENTIALITY OF COURT RECORDS.

31 **15-14-309. Who may be guardian for adult - order of priority.**

32 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
33 SECTION, THE COURT, IN APPOINTING A GUARDIAN FOR AN ADULT, SHALL
34 CONSIDER PERSONS QUALIFIED TO BE A GUARDIAN IN THE FOLLOWING
35 ORDER OF PRIORITY:

36 (a) A GUARDIAN CURRENTLY ACTING FOR THE RESPONDENT IN
37 ANOTHER JURISDICTION;

38 (b) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT, IN
39 WRITING OR ORALLY AT THE HEARING, INCLUDING THE RESPONDENT'S
40 MOST RECENT NOMINATION MADE IN A POWER OF ATTORNEY;

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

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

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

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

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

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

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

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

28 (5) THE COURT SHALL NOT APPOINT AN OWNER, OPERATOR, OR
29 EMPLOYEE OF A LONG-TERM CARE FACILITY AT WHICH THE RESPONDENT
30 IS RECEIVING CARE AS A GUARDIAN UNLESS THE OWNER, OPERATOR, OR
31 EMPLOYEE IS RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR
32 ADOPTION.

33 (6) AN INDIVIDUAL WHO HAS A FINANCIAL OR PROPERTY INTEREST
34 IN THE RESPONDENT'S ESTATE MUST NOT BE APPOINTED AS A GUARDIAN
35 UNLESS THE FINANCIAL OR PROPERTY INTEREST IS THE RESULT OF AN
36 EXPECTED INHERITANCE.

37 **15-14-310. Order of appointment for guardian.**

38 (1) A COURT ORDER APPOINTING A GUARDIAN FOR AN ADULT
39 SHALL:

40 (a) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
41 EVIDENCE ESTABLISHED THAT THE IDENTIFIED NEEDS OF THE RESPONDENT
42 CANNOT BE MET BY A LESS RESTRICTIVE ALTERNATIVE, INCLUDING USE OF
43 APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR

1 SUPPORTED DECISION-MAKING; AND
2 (b) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
3 EVIDENCE ESTABLISHED THE RESPONDENT WAS GIVEN PROPER NOTICE OF
4 THE HEARING ON THE PETITION.
5 (2) A COURT ORDER ESTABLISHING A FULL GUARDIANSHIP FOR AN
6 ADULT MUST STATE THE BASIS FOR GRANTING A FULL GUARDIANSHIP AND
7 INCLUDE SPECIFIC FINDINGS THAT SUPPORT THE CONCLUSION THAT A
8 LIMITED GUARDIANSHIP WOULD NOT MEET THE FUNCTIONAL NEEDS OF THE
9 ADULT SUBJECT TO GUARDIANSHIP.
10 (3) A COURT ORDER ESTABLISHING A LIMITED GUARDIANSHIP FOR
11 AN ADULT MUST STATE THE SPECIFIC POWERS GRANTED TO THE GUARDIAN.
12 (4) THE COURT, AS PART OF AN ORDER ESTABLISHING A
13 GUARDIANSHIP FOR AN ADULT, SHALL IDENTIFY ANY PERSON THAT
14 SUBSEQUENTLY IS ENTITLED TO:
15 (a) NOTICE OF THE RIGHTS OF THE ADULT GIVEN PURSUANT TO
16 SECTION 15-14-311 (2);
17 (b) NOTICE OF A CHANGE IN THE PRIMARY DWELLING OF THE
18 ADULT;
19 (c) NOTICE THAT THE GUARDIAN HAS DELEGATED:
20 (I) THE POWER TO MANAGE THE CARE OF THE ADULT;
21 (II) THE POWER TO MAKE DECISIONS ABOUT WHERE THE ADULT
22 LIVES;
23 (III) THE POWER TO MAKE MAJOR MEDICAL DECISIONS ON BEHALF
24 OF THE ADULT;
25 (IV) THE POWER THAT REQUIRES COURT APPROVAL PURSUANT TO
26 SECTION 15-14-315; OR
27 (V) SUBSTANTIALLY ALL POWERS OF THE GUARDIAN;
28 (d) NOTICE WHEN THE GUARDIAN IS UNAVAILABLE TO VISIT THE
29 ADULT FOR MORE THAN THREE MONTHS OR UNAVAILABLE TO PERFORM
30 THE GUARDIAN'S DUTIES FOR MORE THAN ONE MONTH;
31 (e) A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN SECTION
32 15-14-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
33 15-14-317;
34 (f) ACCESS TO COURT RECORDS RELATING TO THE GUARDIANSHIP;
35 (g) NOTICE OF THE DEATH OR SIGNIFICANT CHANGE IN THE
36 CONDITION OF THE ADULT;
37 (h) NOTICE THAT THE COURT HAS LIMITED OR MODIFIED THE
38 POWERS OF THE GUARDIAN; AND
39 (i) NOTICE OF THE REMOVAL OF THE GUARDIAN.
40 (5) A SPOUSE, DOMESTIC PARTNER, AND ADULT CHILD OF AN
41 ADULT SUBJECT TO GUARDIANSHIP ARE ENTITLED TO NOTICE PURSUANT TO
42 SUBSECTION (4) OF THIS SECTION UNLESS THE COURT DETERMINES NOTICE
43 IS CONTRARY TO THE PREFERENCES OR PRIOR DIRECTIONS OF THE ADULT

1 SUBJECT TO GUARDIANSHIP OR NOT IN THE BEST INTEREST OF THE ADULT.
2 (6) (a) FOR AN ADULT SUBJECT TO GUARDIANSHIP WHO IS UNDER
3 TWENTY-SIX YEARS OLD OR WAS UNDER TWENTY-SIX YEARS OLD WHEN
4 THE GUARDIANSHIP BEGAN, THE COURT SHALL REVIEW THE ORDER FOR
5 GUARDIANSHIP AT LEAST ONCE EVERY SIX MONTHS TO DETERMINE
6 WHETHER THE GUARDIANSHIP REMAINS NECESSARY AND WHETHER A LESS
7 RESTRICTIVE ALTERNATIVE WOULD ADEQUATELY PROTECT THE ADULT
8 SUBJECT TO GUARDIANSHIP.

9 (b) THE SIX-MONTH REVIEW REQUIREMENT DETAILED IN THIS
10 SUBSECTION (6) DOES NOT APPLY TO THE GUARDIANSHIP OF AN ADULT
11 SUBJECT TO GUARDIANSHIP WHO IS UNDER TWENTY-SIX YEARS OLD IF THE
12 COURT FINDS, BASED ON CLEAR AND CONVINCING EVIDENCE, THAT:

13 (I) THE ADULT SUBJECT TO GUARDIANSHIP HAS A PERMANENT OR
14 IRREVERSIBLE MEDICAL OR DEVELOPMENTAL CONDITION; AND

15 (II) THE CONDITION IS NOT REASONABLY EXPECTED TO
16 MATERIALLY CHANGE IN A MANNER THAT WOULD INCREASE THE ADULT
17 SUBJECT TO GUARDIANSHIP'S DECISION-MAKING CAPACITY.

18 (c) A COURT'S FINDINGS MADE PURSUANT TO SUBSECTION (6)(b)
19 OF THIS SECTION MUST BE SUPPORTED BY MEDICAL OR PSYCHOLOGICAL
20 EVIDENCE AND SPECIFIC FINDINGS OF THE COURT.

21 **15-14-311. Notice of order of appointment - rights.**

22 (1) A GUARDIAN APPOINTED PURSUANT TO SECTION 15-14-309
23 SHALL GIVE THE ADULT SUBJECT TO GUARDIANSHIP AND ALL OTHER
24 PERSONS GIVEN NOTICE PURSUANT TO SECTION 15-14-303 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.

28 (2) NOT LATER THAN THIRTY DAYS AFTER APPOINTING A
29 GUARDIAN PURSUANT TO SECTION 15-14-309, THE COURT SHALL GIVE TO
30 THE ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN, AND ANY OTHER
31 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-310 (4) OR A
32 SUBSEQUENT ORDER A STATEMENT OF THE RIGHTS OF THE ADULT SUBJECT
33 TO GUARDIANSHIP AND PROCEDURES TO SEEK RELIEF IF THE ADULT IS
34 DENIED THOSE RIGHTS. THE STATEMENT MUST BE IN AT LEAST
35 SIXTEEN-POINT FONT, IN PLAIN LANGUAGE, AND, TO THE EXTENT FEASIBLE,
36 IN A LANGUAGE IN WHICH THE ADULT SUBJECT TO GUARDIANSHIP IS
37 PROFICIENT. THE STATEMENT MUST NOTIFY THE ADULT SUBJECT TO
38 GUARDIANSHIP OF THE RIGHT TO:

39 (a) SEEK TERMINATION OR MODIFICATION OF THE GUARDIANSHIP,
40 OR REMOVAL OF THE GUARDIAN, AND CHOOSE AN ATTORNEY TO
41 REPRESENT THE ADULT IN THESE MATTERS OR USE AN ATTORNEY
42 APPOINTED BY THE COURT;

43 (b) BE INVOLVED IN DECISIONS AFFECTING THE ADULT, INCLUDING

1 DECISIONS ABOUT THE ADULT'S CARE, DWELLING, ACTIVITIES, OR SOCIAL
2 INTERACTIONS, TO THE EXTENT REASONABLY FEASIBLE;

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

7 (d) BE NOTIFIED AT LEAST THIRTY DAYS BEFORE A CHANGE IN THE
8 ADULT'S PRIMARY DWELLING OR PERMANENT MOVE TO A NURSING HOME,
9 MENTAL HEALTH INSTITUTION, OR OTHER FACILITY THAT PLACES
10 RESTRICTIONS ON THE INDIVIDUAL'S ABILITY TO LEAVE OR HAVE VISITORS,
11 TO THE EXTENT REASONABLY FEASIBLE, UNLESS THE CHANGE OR MOVE IS
12 PROPOSED IN THE GUARDIAN'S PLAN PURSUANT TO SECTION 15-14-316 OR
13 AUTHORIZED BY THE COURT BY SPECIFIC ORDER;

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

16 (f) COMMUNICATE, VISIT, OR INTERACT WITH OTHERS, INCLUDING
17 RECEIVING OR REFUSING VISITORS; HAVING PRIVATE CONVERSATIONS WITH
18 OTHERS; AND MAKING, RECEIVING, OR DECLINING TELEPHONE CALLS,
19 PERSONAL MAIL, OR ELECTRONIC COMMUNICATIONS, INCLUDING THROUGH
20 SOCIAL MEDIA, UNLESS:

21 (I) THE GUARDIAN HAS BEEN AUTHORIZED BY THE COURT BY
22 SPECIFIC ORDER TO RESTRICT COMMUNICATIONS, VISITS, OR
23 INTERACTIONS;

24 (II) A PROTECTIVE ORDER OR PROTECTIVE ARRANGEMENT IS IN
25 EFFECT THAT LIMITS CONTACT BETWEEN THE ADULT AND A PERSON; OR

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

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

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

37 (g) RECEIVE A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN
38 SECTION 15-14-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
39 15-14-317; AND

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

41 (3) IF A RESTRICTION IS IMPOSED PURSUANT TO SUBSECTION
42 (2)(f)(III) OF THIS SECTION, THE GUARDIAN MUST SUBMIT NOTICE OF THE
43 RESTRICTION TO THE COURT.

1 **15-14-312. Emergency guardian for adult.**

2 (1) ON ITS OWN AFTER A PETITION HAS BEEN FILED PURSUANT TO
3 SECTION 15-14-302, OR ON PETITION BY A PERSON INTERESTED IN THE
4 WELFARE OF AN ADULT, THE COURT MAY APPOINT AN EMERGENCY
5 GUARDIAN FOR THE ADULT IF THE COURT FINDS:

6 (a) APPOINTMENT OF AN EMERGENCY GUARDIAN IS LIKELY TO
7 PREVENT SUBSTANTIAL HARM TO THE ADULT'S HEALTH, SAFETY, WELFARE,
8 OR CIVIL LIBERTIES;

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

11 (c) THERE IS REASON TO BELIEVE THAT A BASIS FOR APPOINTING
12 A GUARDIAN PURSUANT TO SECTION 15-14-301 EXISTS.

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

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

27 (4) THE COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR AN
28 ADULT WITHOUT NOTICE TO THE ADULT AND AN ATTORNEY FOR THE
29 ADULT ONLY IF THE COURT FINDS FROM AN AFFIDAVIT OR TESTIMONY
30 THAT THE RESPONDENT'S HEALTH, SAFETY, WELFARE, OR CIVIL LIBERTIES
31 MAY BE SUBSTANTIALLY HARMED BEFORE A HEARING WITH NOTICE ON THE
32 APPOINTMENT CAN BE HELD. IF THE COURT APPOINTS AN EMERGENCY
33 GUARDIAN WITHOUT REASONABLE NOTICE TO THE RESPONDENT OR THE
34 RESPONDENT'S ATTORNEY AND THE RESPONDENT IS NOT PRESENT AT THE
35 HEARING, THE COURT MUST:

36 (a) PERSONALLY SERVE NOTICE OF THE APPOINTMENT NOT LATER
37 THAN FORTY-EIGHT BUSINESS HOURS AFTER THE APPOINTMENT TO:

38 (I) THE RESPONDENT;

39 (II) THE RESPONDENT'S ATTORNEY, IF APPOINTED; AND

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

41 (b) HOLD A HEARING ON THE APPROPRIATENESS OF THE
42 APPOINTMENT NOT LATER THAN SEVEN DAYS AFTER THE APPOINTMENT
43 UPON THE REQUEST OF THE RESPONDENT, THE RESPONDENT'S ATTORNEY,

1 A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY, OR A PERSON
2 INTERESTED IN THE WELFARE OF AN ADULT SUBJECT TO GUARDIANSHIP.

3 (5) APPOINTING OF AN EMERGENCY GUARDIAN PURSUANT TO THIS
4 SECTION IS NOT A DETERMINATION THAT A BASIS EXISTS FOR APPOINTMENT
5 OF A GUARDIAN PURSUANT TO SECTION 15-14-301.

6 (6) THE COURT MAY TERMINATE THE APPOINTMENT OF AN
7 EMERGENCY GUARDIAN APPOINTED PURSUANT TO THIS SECTION AT ANY
8 TIME. THE EMERGENCY GUARDIAN SHALL MAKE ANY REPORT THE COURT
9 REQUIRES.

10 **15-14-313. Duties of guardian for adult.**

11 (1) UNLESS A CONSERVATOR IS SPECIFICALLY APPOINTED FOR THE
12 ADULT TO MANAGE THE ADULT'S FINANCES, A GUARDIAN FOR AN ADULT
13 IS A FIDUCIARY. EXCEPT AS OTHERWISE LIMITED BY THE COURT, A
14 GUARDIAN FOR AN ADULT SHALL MAKE DECISIONS REGARDING THE
15 SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF THE ADULT
16 SUBJECT TO GUARDIANSHIP TO THE EXTENT NECESSITATED BY THE
17 ADULT'S LIMITATIONS.

18 (2) A GUARDIAN FOR AN ADULT SHALL PROMOTE THE
19 SELF-DETERMINATION OF THE ADULT AND, TO THE EXTENT REASONABLY
20 FEASIBLE, ENCOURAGE THE ADULT TO PARTICIPATE IN DECISIONS, ACT ON
21 THE ADULT'S OWN BEHALF, AND DEVELOP OR REGAIN THE CAPACITY TO
22 MANAGE THE ADULT'S PERSONAL AFFAIRS. IN FURTHERANCE OF THIS DUTY,
23 THE GUARDIAN SHALL:

24 (a) BECOME OR REMAIN PERSONALLY ACQUAINTED WITH THE
25 ADULT AND MAINTAIN SUFFICIENT CONTACT WITH THE ADULT, INCLUDING
26 THROUGH REGULAR VISITATION ON AT LEAST A QUARTERLY BASIS, TO
27 KNOW THE ADULT'S ABILITIES, LIMITATIONS, NEEDS, OPPORTUNITIES, AND
28 PHYSICAL AND MENTAL HEALTH;

29 (b) TO THE EXTENT REASONABLY FEASIBLE, IDENTIFY THE VALUES
30 AND PREFERENCES OF THE ADULT AND INVOLVE THE ADULT IN DECISIONS
31 AFFECTING THE ADULT, INCLUDING DECISIONS ABOUT THE ADULT'S CARE,
32 DWELLING, ACTIVITIES, OR SOCIAL INTERACTIONS; AND

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

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

39 (a) ENSURE REASONABLE CARE OF THE PERSONAL EFFECTS, PETS,
40 AND SERVICE OR SUPPORT ANIMALS OF THE ADULT AND BRING A
41 PROCEEDING FOR CONSERVATORSHIP OR A PROTECTIVE ARRANGEMENT IF
42 NECESSARY TO PROTECT THE ADULT'S PROPERTY;

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

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

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

9 (d) ACCOUNT FOR ANY EXPENDITURES OF THE ADULT'S FUNDS
10 MADE BY THE GUARDIAN ON BEHALF OF THE ADULT AND PROVIDE THE
11 ACCOUNTING TO THE ADULT ON A QUARTERLY BASIS;

12 (e) MONITOR THE QUALITY OF SERVICES, INCLUDING LONG-TERM
13 CARE SERVICES, PROVIDED TO THE ADULT; AND

14 (f) NOTIFY THE COURT IF THE GUARDIAN IS UNABLE TO DEVELOP
15 OR MAINTAIN A SUPPORTIVE WORKING RELATIONSHIP WITH THE ADULT.

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

26 (5) IF A GUARDIAN FOR AN ADULT CANNOT MAKE A DECISION
27 PURSUANT TO SUBSECTION (4) OF THIS SECTION BECAUSE THE GUARDIAN
28 DOES NOT KNOW AND CANNOT REASONABLY DETERMINE THE DECISION
29 THE ADULT PROBABLY WOULD MAKE IF ABLE, OR THE GUARDIAN
30 REASONABLY BELIEVES THE DECISION THE ADULT WOULD MAKE WOULD
31 UNREASONABLY HARM OR ENDANGER THE WELFARE OR PERSONAL OR
32 FINANCIAL INTERESTS OF THE ADULT, THE GUARDIAN SHALL ACT IN
33 ACCORDANCE WITH THE BEST INTEREST OF THE ADULT. IN DETERMINING
34 THE BEST INTEREST OF THE ADULT, THE GUARDIAN SHALL CONSIDER:

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

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

39 (c) OTHER FACTORS A REASONABLE PERSON IN THE
40 CIRCUMSTANCES OF THE ADULT WOULD CONSIDER, INCLUDING
41 CONSEQUENCES FOR OTHERS.

42 (6) A GUARDIAN FOR AN ADULT IMMEDIATELY SHALL NOTIFY THE
43 COURT IF THE CONDITION OF THE ADULT HAS CHANGED SO THAT THE

1 ADULT IS CAPABLE OF EXERCISING RIGHTS PREVIOUSLY REMOVED.

2 (7) A GUARDIAN FOR AN ADULT SHALL IMMEDIATELY NOTIFY THE

3 COURT IN WRITING OF THE ADULT'S DEATH AND THE TERMINATION OF THE

4 GUARDIANSHIP PURSUANT TO SECTION 15-14-319.

5 **15-14-314. Powers of guardian for adult.**

6 (1) EXCEPT AS LIMITED BY COURT ORDER, A GUARDIAN FOR AN

7 ADULT MAY:

8 (a) APPLY FOR AND RECEIVE FUNDS AND BENEFITS FOR THE

9 SUPPORT OF THE ADULT, UNLESS A CONSERVATOR IS APPOINTED FOR THE

10 ADULT AND THE APPLICATION OR RECEIPT IS WITHIN THE POWERS OF THE

11 CONSERVATOR;

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

13 ADULT'S PLACE OF DWELLING THAT IS CONSISTENT WITH THE

14 REQUIREMENTS SET FORTH IN SUBSECTION (5) OF THIS SECTION;

15 (c) CONSENT TO HEALTH OR OTHER CARE, TREATMENT, OR SERVICE

16 FOR THE ADULT;

17 (d) IF A CONSERVATOR FOR THE ADULT HAS NOT BEEN APPOINTED,

18 COMMENCE A PROCEEDING, INCLUDING AN ADMINISTRATIVE PROCEEDING,

19 OR TAKE OTHER APPROPRIATE ACTION TO COMPEL ANOTHER PERSON TO

20 SUPPORT THE ADULT OR PAY FUNDS FOR THE ADULT'S BENEFIT;

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

22 RESPONSIBILITY FOR A DECISION AFFECTING THE ADULT'S WELL-BEING;

23 AND

24 (f) RECEIVE PERSONALLY IDENTIFIABLE HEALTH-CARE

25 INFORMATION REGARDING THE ADULT.

26 (2) THE COURT BY SPECIFIC ORDER MAY AUTHORIZE A GUARDIAN

27 FOR AN ADULT TO CONSENT TO THE ADOPTION OF THE ADULT.

28 (3) THE COURT BY SPECIFIC ORDER MAY AUTHORIZE A GUARDIAN

29 FOR AN ADULT TO:

30 (a) CONSENT OR WITHHOLD CONSENT TO THE MARRIAGE OF THE

31 ADULT IF THE ADULT'S RIGHT TO MARRY HAS BEEN REMOVED PURSUANT

32 TO SECTION 15-14-310;

33 (b) PETITION FOR DIVORCE, DISSOLUTION, OR ANNULMENT OF

34 MARRIAGE OF THE ADULT OR A DECLARATION OF INVALIDITY OF THE

35 ADULT'S MARRIAGE; OR

36 (c) SUPPORT OR OPPOSE A PETITION FOR DIVORCE, DISSOLUTION,

37 OR ANNULMENT OF MARRIAGE OF THE ADULT OR A DECLARATION OF

38 INVALIDITY OF THE ADULT'S MARRIAGE.

39 (4) IN DETERMINING WHETHER TO AUTHORIZE A POWER PURSUANT

40 TO SUBSECTION (2) OR (3) OF THIS SECTION, THE COURT SHALL CONSIDER

41 WHETHER THE UNDERLYING ACT WOULD BE IN ACCORDANCE WITH THE

42 ADULT'S PREFERENCES, VALUES, AND PRIOR OR CURRENT DIRECTIONS AND

43 WHETHER THE UNDERLYING ACT WOULD BE IN THE ADULT'S BEST

1 INTEREST.

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

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

17 (b) IN SELECTING AMONG RESIDENTIAL SETTINGS, GIVE PRIORITY
18 TO A RESIDENTIAL SETTING IN A LOCATION THAT ALLOWS THE ADULT TO
19 INTERACT WITH PERSONS IMPORTANT TO THE ADULT AND MEETS THE
20 ADULT'S NEEDS;

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

23 (I) GIVE NOTICE OF THE CHANGE TO THE COURT AND, IN THE
24 MANNER DESCRIBED IN SECTION 15-10-401, TO THE ADULT AND ANY
25 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
28 NEW DWELLING AND STATE WHETHER THE ADULT RECEIVED ADVANCE
29 NOTICE OF THE CHANGE AND WHETHER THE ADULT OBJECTED TO THE
30 CHANGE;

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

35 (I) THE ESTABLISHMENT OR MOVE IS IN THE GUARDIAN'S PLAN
36 DESCRIBED IN SECTION 15-14-316;

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

38 (III) THE GUARDIAN GIVES NOTICE OF THE ESTABLISHMENT OR
39 MOVE AT LEAST FOURTEEN DAYS BEFORE THE ESTABLISHMENT OR MOVE
40 TO THE ADULT AND ALL PERSONS ENTITLED TO NOTICE PURSUANT TO
41 SECTION 15-14-310 (4)(b) OR A SUBSEQUENT ORDER, AND NO OBJECTION
42 IS FILED; AND

43 (e) ESTABLISH OR MOVE THE PLACE OF DWELLING OF THE ADULT

1 OUTSIDE THIS STATE ONLY IF CONSISTENT WITH THE GUARDIAN'S PLAN AND
2 AUTHORIZED BY THE COURT BY SPECIFIC ORDER.

3 (6) IN EXERCISING A GUARDIAN'S POWER PURSUANT TO
4 SUBSECTION (1)(b) OF THIS SECTION TO ESTABLISH THE ADULT'S PLACE OF
5 DWELLING, IF THE GUARDIAN SELECTS A MORE RESTRICTIVE OUT-OF-HOME
6 PLACEMENT, SUCH AS A NURSING FACILITY, GROUP HOME, OR OTHER
7 OUT-OF-HOME PLACEMENT, THE COURT MUST HOLD A HEARING AT WHICH
8 THE ADULT SUBJECT TO GUARDIANSHIP MUST ATTEND. IN ORDER FOR THE
9 GUARDIAN TO PROCEED WITH PLACEMENT ARRANGEMENTS FOR AN
10 OUT-OF-HOME PLACEMENT, THE COURT MUST FIND BY CLEAR AND
11 CONVINCING EVIDENCE THAT THE PLACEMENT IS NECESSARY FOR THE
12 ADULT'S SAFETY, HEALTH, AND WELFARE AND THAT NO LESS RESTRICTIVE
13 ALTERNATIVE OR IN-HOME PLACEMENT WOULD PROVIDE THE SAME
14 SAFEGUARDS FOR THE ADULT.

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

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

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

26 (c) TAKE INTO ACCOUNT:

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

28 (II) THE CURRENT AND PREVIOUS WISHES AND VALUES OF THE
29 ADULT, IF KNOWN OR REASONABLY ASCERTAINABLE BY THE GUARDIAN;

30 (d) IF THE GUARDIAN DECIDES TO COMMIT THE ADULT TO A
31 MENTAL INSTITUTION, INITIATE THE COMMITMENT IN ACCORDANCE WITH
32 THE STATE'S PROCEDURE FOR INVOLUNTARY TREATMENT AND
33 EVALUATION OF A MENTAL HEALTH DISORDER, AS DESCRIBED IN ARTICLE
34 65 OF TITLE 27;

35 (e) IF THE GUARDIAN DECIDES TO OBTAIN SERVICES AND SUPPORTS
36 FOR THE ADULT FROM AN APPROVED SERVICE AGENCY, AS DEFINED IN
37 SECTION 25.5-10-202, PROCEED AS REQUIRED BY ARTICLE 10 OF TITLE 25.5
38 TO OBTAIN THE SERVICES AND SUPPORTS; AND

39 (f) IF THE GUARDIAN DECIDES TO OBTAIN CARE AND TREATMENT
40 FOR THE ADULT'S SUBSTANCE USE DISORDER, PROCEED AS PROVIDED
41 PURSUANT TO ARTICLES 81 AND 82 OF TITLE 27 TO OBTAIN THE CARE AND
42 TREATMENT FOR THE ADULT'S SUBSTANCE USE DISORDER.

43 (8) IN EXERCISING A GUARDIAN'S POWER PURSUANT TO

1 SUBSECTION (1)(c) OF THIS SECTION TO MAKE HEALTH-CARE DECISIONS,
2 THE GUARDIAN SHALL NOT CONSENT TO ANY CARE OR TREATMENT THAT
3 IS AGAINST THE ADULT SUBJECT TO GUARDIANSHIP'S WILL.

4 **15-14-315. Special limitations on guardian's power.**

5 (1) UNLESS AUTHORIZED BY THE COURT BY SPECIFIC ORDER, A
6 GUARDIAN FOR AN ADULT DOES NOT HAVE THE POWER TO REVOKE OR
7 AMEND A POWER OF ATTORNEY FOR HEALTH CARE OR POWER OF
8 ATTORNEY FOR FINANCES EXECUTED BY THE ADULT PRIOR TO THE
9 APPOINTMENT OF THE GUARDIAN. IF A POWER OF ATTORNEY FOR HEALTH
10 CARE IS IN EFFECT, UNLESS THERE IS A COURT ORDER TO THE CONTRARY,
11 A HEALTH-CARE DECISION OF AN AGENT TAKES PRECEDENCE OVER THAT
12 OF THE GUARDIAN AND THE GUARDIAN SHALL COOPERATE WITH THE
13 AGENT TO THE EXTENT FEASIBLE. IF A POWER OF ATTORNEY FOR FINANCES
14 IS IN EFFECT, UNLESS THERE IS A COURT ORDER TO THE CONTRARY, A
15 DECISION BY THE AGENT WHICH THE AGENT IS AUTHORIZED TO MAKE
16 UNDER THE POWER OF ATTORNEY FOR FINANCES TAKES PRECEDENCE OVER
17 THAT OF THE GUARDIAN AND THE GUARDIAN SHALL COOPERATE WITH THE
18 AGENT TO THE EXTENT FEASIBLE, EXCEPT WHEN DOING SO WOULD
19 JEOPARDIZE THE ADULT'S HEALTH, SAFETY, WELFARE, OR CIVIL LIBERTIES,
20 IN WHICH CASE, THE COURT SHALL HOLD A HEARING NO LATER THAN
21 SEVEN DAYS AFTER THE AGENT'S DECISION TO DETERMINE WHICH
22 DECISION-MAKING AUTHORITY TAKES PRECEDENCE.

23 (2) IF THE GUARDIAN DECIDES TO COMMIT THE ADULT TO A
24 MENTAL INSTITUTION, THE GUARDIAN SHALL INITIATE THE COMMITMENT
25 IN ACCORDANCE WITH THE STATE'S PROCEDURE FOR INVOLUNTARY
26 TREATMENT AND EVALUATION OF A MENTAL HEALTH DISORDER, AS
27 DESCRIBED IN ARTICLE 65 OF TITLE 27;

28 (3) A GUARDIAN FOR AN ADULT MAY NOT RESTRICT OR COMPEL
29 THE ABILITY OF THE ADULT TO COMMUNICATE, VISIT, OR INTERACT WITH
30 OTHERS, INCLUDING RECEIVING OR REFUSING VISITORS AND MAKING,
31 RECEIVING, OR REFUSING TELEPHONE CALLS, PERSONAL MAIL, OR
32 ELECTRONIC COMMUNICATIONS, INCLUDING THROUGH SOCIAL MEDIA, OR
33 PARTICIPATING IN SOCIAL ACTIVITIES, UNLESS:

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

35 (b) A PROTECTIVE ORDER OR A PROTECTIVE ARRANGEMENT IS IN
36 EFFECT THAT LIMITS CONTACT BETWEEN THE ADULT AND A PERSON; OR

37 (c) THE GUARDIAN HAS GOOD CAUSE TO BELIEVE RESTRICTION OR
38 COMPULSION IS NECESSARY BECAUSE INTERACTION WITH A SPECIFIED
39 PERSON POSES A RISK OF SUBSTANTIAL PHYSICAL, PSYCHOLOGICAL, OR
40 FINANCIAL HARM TO THE ADULT, AND THE RESTRICTION OR COMPULSION
41 IS:

42 (I) FOR A PERIOD OF NOT MORE THAN SEVEN BUSINESS DAYS IF THE
43 PERSON HAS A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH THE

1 ADULT; OR
2 (II) FOR A PERIOD OF NOT MORE THAN SIXTY DAYS IF THE PERSON
3 DOES NOT HAVE A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH
4 THE ADULT.
5 (4) A GUARDIAN FOR AN ADULT SHALL NOT TAKE ANY ACTION
6 THAT WOULD RESULT IN THE SALE OR SURRENDER OF THE LEASE TO THE
7 ADULT'S PRIMARY DWELLING WITHOUT PRIOR APPROVAL FROM THE COURT.
8 **15-14-316. Guardian's plan.**
9 (1) A GUARDIAN FOR AN ADULT, NOT LATER THAN SIXTY DAYS
10 AFTER APPOINTMENT AND WHEN THERE IS A SIGNIFICANT CHANGE IN
11 CIRCUMSTANCES, SUCH AS A CHANGE IN THE ADULT'S MEDICAL
12 CONDITION, CHANGE IN LIVING ARRANGEMENTS, OR A MOVE TO A
13 DIFFERENT GEOGRAPHICAL AREA, OR THE GUARDIAN SEEKS TO DEVIATE
14 SIGNIFICANTLY FROM THE GUARDIAN'S PLAN, SHALL FILE WITH THE COURT
15 A PLAN FOR THE CARE OF THE ADULT, TOGETHER WITH THE GUARDIAN'S
16 REPORT AS REQUIRED PURSUANT TO SECTION 15-14-317. THE PLAN MUST
17 BE BASED ON THE NEEDS OF THE ADULT AND TAKE INTO ACCOUNT THE
18 BEST INTEREST OF THE ADULT AS WELL AS THE ADULT'S PREFERENCES,
19 VALUES, AND PRIOR DIRECTIONS, TO THE EXTENT KNOWN TO OR
20 REASONABLY ASCERTAINABLE BY THE GUARDIAN. THE GUARDIAN SHALL
21 INCLUDE IN THE PLAN:
22 (a) THE LIVING ARRANGEMENT, SERVICES, AND SUPPORTS THE
23 GUARDIAN EXPECTS TO ARRANGE, FACILITATE, OR CONTINUE FOR THE
24 ADULT;
25 (b) SOCIAL AND EDUCATIONAL ACTIVITIES THE GUARDIAN EXPECTS
26 TO FACILITATE ON BEHALF OF THE ADULT;
27 (c) ANY PERSON WITH WHOM THE ADULT HAS A CLOSE PERSONAL
28 RELATIONSHIP OR RELATIONSHIP INVOLVING REGULAR VISITATION AND
29 ANY PLAN THE GUARDIAN HAS FOR FACILITATING VISITS WITH THE PERSON;
30 (d) THE ANTICIPATED NATURE AND FREQUENCY OF THE
31 GUARDIAN'S VISITS AND COMMUNICATION WITH THE ADULT;
32 (e) GOALS FOR THE ADULT, INCLUDING ANY GOAL RELATED TO THE
33 RESTORATION OF THE ADULT'S RIGHTS, AND HOW THE GUARDIAN
34 ANTICIPATES ACHIEVING THE GOALS;
35 (f) WHETHER THE ADULT HAS AN EXISTING PLAN AND, IF SO,
36 WHETHER THE GUARDIAN'S PLAN IS CONSISTENT WITH THE ADULT'S PLAN;
37 AND
38 (g) A STATEMENT OR LIST OF THE AMOUNT THE GUARDIAN
39 PROPOSES TO CHARGE FOR EACH SERVICE THE GUARDIAN ANTICIPATES
40 PROVIDING TO THE ADULT.
41 (2) A GUARDIAN SHALL GIVE NOTICE, IN THE MANNER DESCRIBED
42 IN SECTION 15-10-401, OF THE FILING OF THE GUARDIAN'S PLAN PURSUANT
43 TO SUBSECTION (1) OF THIS SECTION, TOGETHER WITH A COPY OF THE

1 PLAN, TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON ENTITLED TO
2 NOTICE PURSUANT TO SECTION 15-14-310 OR A SUBSEQUENT ORDER, AND
3 ANY OTHER PERSON THE COURT DETERMINES. THE NOTICE MUST INCLUDE
4 A STATEMENT OF THE RIGHT TO OBJECT TO THE PLAN AND BE GIVEN NOT
5 LATER THAN FOURTEEN DAYS AFTER THE FILING.

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

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

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

22 **15-14-317. Guardian's report - monitoring of guardianship.**

23 (1) A GUARDIAN FOR AN ADULT, NOT LATER THAN SIXTY DAYS
24 AFTER APPOINTMENT AND AT LEAST ANNUALLY THEREAFTER, SHALL FILE
25 WITH THE COURT A REPORT IN A RECORD REGARDING THE CONDITION OF
26 THE ADULT AND ACCOUNTING FOR FUNDS AND OTHER PROPERTY IN THE
27 GUARDIAN'S POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL,
28 TOGETHER WITH THE GUARDIAN'S PLAN AS REQUIRED PURSUANT TO
29 SECTION 15-14-316.

30 (2) A REPORT FILED PURSUANT TO SUBSECTION (1) OF THIS
31 SECTION MUST STATE OR CONTAIN:

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

34 (b) THE LIVING ARRANGEMENTS OF THE ADULT DURING THE
35 REPORTING PERIOD;

36 (c) A SUMMARY OF THE SUPPORTED DECISION-MAKING,
37 TECHNOLOGICAL ASSISTANCE, MEDICAL SERVICES, EDUCATIONAL AND
38 VOCATIONAL SERVICES, AND OTHER SUPPORTS AND SERVICES PROVIDED
39 TO THE ADULT AND THE GUARDIAN'S OPINION AS TO THE ADEQUACY OF
40 THE ADULT'S CARE;

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

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

1 (f) THE EXTENT TO WHICH THE ADULT HAS PARTICIPATED IN
2 DECISION-MAKING;

3 (g) IF THE ADULT IS LIVING IN A MENTAL HEALTH INSTITUTION OR
4 LIVING IN A FACILITY THAT PROVIDES THE ADULT WITH HEALTH-CARE OR
5 OTHER PERSONAL SERVICES, WHETHER THE GUARDIAN CONSIDERS THE
6 FACILITY'S CURRENT PLAN FOR SUPPORT, CARE, TREATMENT, OR
7 HABILITATION CONSISTENT WITH THE ADULT'S PREFERENCES, VALUES,
8 PRIOR DIRECTIONS, AND BEST INTEREST;

9 (h) ANYTHING OF MORE THAN DE MINIMIS VALUE WHICH THE
10 GUARDIAN, ANY INDIVIDUAL WHO RESIDES WITH THE GUARDIAN, OR THE
11 SPOUSE, DOMESTIC PARTNER, PARENT, CHILD, OR SIBLING OF THE
12 GUARDIAN HAS RECEIVED FROM AN INDIVIDUAL PROVIDING GOODS OR
13 SERVICES TO THE ADULT;

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

16 (j) ANY BUSINESS RELATION THE GUARDIAN HAS WITH A PERSON
17 THE GUARDIAN HAS PAID OR WHO HAS BENEFITTED FROM THE PROPERTY
18 OF THE ADULT;

19 (k) A COPY OF THE GUARDIAN'S MOST RECENTLY APPROVED PLAN
20 DESCRIBED IN SECTION 15-14-316 AND A STATEMENT WHETHER THE
21 GUARDIAN HAS DEVIATED FROM THE PLAN AND, IF SO, HOW THE GUARDIAN
22 HAS DEVIATED AND WHY;

23 (l) PLANS FOR FUTURE CARE AND SUPPORT OF THE ADULT, IF NOT
24 OTHERWISE PROVIDED IN THE GUARDIAN'S MOST RECENT PLAN APPROVED
25 PURSUANT TO SECTION 15-14-316;

26 (m) A RECOMMENDATION AS TO THE NEED FOR CONTINUED
27 GUARDIANSHIP AND ANY RECOMMENDED CHANGE IN THE SCOPE OF THE
28 GUARDIANSHIP;

29 (n) WHETHER ANY CO-GUARDIAN OR SUCCESSOR GUARDIAN
30 APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS IS ALIVE AND
31 ABLE TO SERVE;

32 (o) THE ADULT'S EXPRESS WISHES REGARDING ANY OF THE ITEMS
33 LISTED IN THIS SUBSECTION (2), EVEN IF THE ADULT'S EXPRESS WISHES ARE
34 CONTRARY TO THE GUARDIAN'S ACTIONS; AND

35 (p) COPIES OF FINANCIAL ACCOUNTING STATEMENTS PROVIDED TO
36 THE ADULT.

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

42 (4) NOTICE OF THE FILING OF A GUARDIAN'S REPORT GIVEN
43 PURSUANT TO THIS SECTION, TOGETHER WITH A COPY OF THE REPORT,

1 MUST BE GIVEN TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON
2 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-310 OR A SUBSEQUENT
3 ORDER, AND ANY OTHER PERSON THE COURT DETERMINES. THE NOTICE
4 AND REPORT MUST BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE
5 FILING.

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

9 (a) THE REPORT PROVIDES SUFFICIENT INFORMATION TO ESTABLISH
10 THE GUARDIAN HAS COMPLIED WITH THE GUARDIAN'S DUTIES;
11 (b) THE GUARDIANSHIP NEEDS TO CONTINUE; AND
12 (c) THE GUARDIAN'S FEES, IF ANY, ARE REASONABLE PURSUANT TO
13 SECTION 15-10-603.

14 (6) IF THE COURT DETERMINES THERE IS REASON TO BELIEVE A
15 GUARDIAN FOR AN ADULT HAS NOT COMPLIED WITH THE GUARDIAN'S
16 DUTIES OR THE GUARDIANSHIP REQUIRES MODIFICATION OR TERMINATION,
17 THE COURT:

18 (a) SHALL NOTIFY THE ADULT, THE GUARDIAN, AND ANY OTHER
19 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-310 OR A
20 SUBSEQUENT ORDER;
21 (b) MAY REQUIRE ADDITIONAL INFORMATION FROM THE
22 GUARDIAN;
23 (c) IF THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, SHALL
24 APPOINT AN ATTORNEY TO REPRESENT THE ADULT PURSUANT TO THE SAME
25 CONDITIONS SET FORTH IN SECTION 15-14-305;
26 (d) MAY APPOINT A VISITOR TO INTERVIEW THE ADULT OR
27 GUARDIAN OR INVESTIGATE ANY MATTER INVOLVING THE GUARDIANSHIP;
28 AND
29 (e) CONSISTENT WITH SECTIONS 15-14-318 AND 15-14-319, MAY
30 HOLD A HEARING TO CONSIDER REMOVAL OF THE GUARDIAN, TERMINATION
31 OF THE GUARDIANSHIP, OR A CHANGE IN THE POWERS GRANTED TO THE
32 GUARDIAN OR TERMS OF THE GUARDIANSHIP.

33 (7) IF THE COURT HAS REASON TO BELIEVE A GUARDIAN'S FEES ARE
34 NOT REASONABLE, THE COURT SHALL HOLD A HEARING, PURSUANT TO
35 SECTION 15-10-604, TO DETERMINE WHETHER TO ADJUST THE FEES.

36 (8) A GUARDIAN FOR AN ADULT MAY PETITION THE COURT FOR
37 APPROVAL OF A REPORT FILED PURSUANT TO THIS SECTION. THE COURT,
38 AFTER REVIEW, MAY APPROVE THE REPORT. AFTER THE REPORT IS
39 APPROVED, A PERSON INTERESTED IN THE WELFARE OF THE ADULT MAY
40 FILE AN OBJECTION ABOUT THE ACCURACY OF THE REPORT WITH THE
41 COURT.

42 (9) IF A GUARDIAN DOES NOT COMPLY WITH THE REQUIREMENTS
43 OF SUBSECTION (1) OF THIS SECTION, THE COURT MAY:

- 1 (a) HOLD THE GUARDIAN IN CONTEMPT OF COURT;
2 (b) ISSUE SANCTIONS AGAINST THE GUARDIAN;
3 (c) ISSUE A SUMMONS TO SHOW CAUSE FOR NOT SUBMITTING A
4 REPORT AS REQUIRED BY SUBSECTION (1) OF THIS SECTION; OR
5 (d) REMOVE THE GUARDIAN.

6 **15-14-318. Removal of guardian for adult - appointment of**
7 **successor.**

8 (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 A
11 GUARDIAN AS DESCRIBED IN SECTION 15-14-313.

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
16 IN 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) FILING, FROM THE ADULT, GUARDIAN, OR PERSON INTERESTED
23 IN THE WELFARE OF THE ADULT THAT SUPPORTS A REASONABLE BELIEF
24 THAT REMOVAL OF THE GUARDIAN AND APPOINTMENT OF A SUCCESSOR
25 GUARDIAN IS APPROPRIATE; OR

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

28 (3) NOTICE OF A HEARING GIVEN PURSUANT TO SUBSECTION (2) OF
29 THIS SECTION MUST BE PERSONALLY SERVED ON THE ADULT SUBJECT TO
30 GUARDIANSHIP, AND GIVEN PURSUANT TO SECTION 15-10-401 TO THE
31 GUARDIAN, AND ANY OTHER PERSON THE COURT DETERMINES.

32 (4) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO REMOVE
33 THE GUARDIAN AND HAVE A SUCCESSOR GUARDIAN APPOINTED HAS THE
34 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THIS
35 MATTER. IF THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT
36 SHALL APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS AS IN
37 SECTION 15-14-305.

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

40 (6) NOT LATER THAN THIRTY DAYS AFTER APPOINTING A
41 SUCCESSOR GUARDIAN, THE COURT SHALL GIVE NOTICE, IN THE MANNER
42 DESCRIBED IN SECTION 15-10-401, OF THE APPOINTMENT TO THE ADULT
43 SUBJECT TO GUARDIANSHIP AND ANY PERSON ENTITLED TO NOTICE

1 PURSUANT TO SECTION 15-14-310 (4) OR A SUBSEQUENT ORDER.
2 **15-14-319. Termination or modification of guardianship for**
3 **adult.**
4 (1) AN ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN FOR THE
5 ADULT, OR A PERSON INTERESTED IN THE WELFARE OF THE ADULT MAY
6 FILE A PETITION FOR:
7 (a) TERMINATION OF THE GUARDIANSHIP ON THE GROUNDS THAT
8 A BASIS FOR APPOINTMENT DESCRIBED IN SECTION 15-14-301 DOES NOT
9 EXIST OR TERMINATION IS IN THE BEST INTEREST OF THE ADULT OR FOR
10 OTHER GOOD CAUSE; OR
11 (b) MODIFICATION OF THE GUARDIANSHIP ON THE GROUNDS THAT
12 THE EXTENT OF PROTECTION OR ASSISTANCE GRANTED IS NOT
13 APPROPRIATE OR FOR OTHER GOOD CAUSE.
14 (2) NOT LATER THAN THIRTY DAYS AFTER FILING A PETITION
15 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL SET A
16 DATE, TIME, AND PLACE FOR HEARING THE PETITION WITHIN SIXTY DAYS
17 AFTER RECEIPT OF THE PETITION. THE COURT MAY EXTEND THIS DEADLINE
18 TO NINETY DAYS UPON A FINDING OF GOOD CAUSE.
19 (3) (a) THE COURT SHALL HOLD A HEARING TO DETERMINE
20 WHETHER TERMINATION OR MODIFICATION OF A GUARDIANSHIP FOR AN
21 ADULT IS APPROPRIATE ON:
22 (I) PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION THAT
23 CONTAINS ALLEGATIONS THAT, IF TRUE, WOULD SUPPORT A REASONABLE
24 BELIEF THAT TERMINATION OR MODIFICATION OF THE GUARDIANSHIP IS
25 APPROPRIATE, BUT THE COURT MAY DECLINE TO HOLD A HEARING IF A
26 PETITION BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS WAS
27 FILED DURING THE PRECEDING SIX MONTHS;
28 (II) FILING, FROM THE ADULT, GUARDIAN, OR PERSON INTERESTED
29 IN THE WELFARE OF THE ADULT THAT SUPPORTS A REASONABLE BELIEF
30 THAT TERMINATION OR MODIFICATION OF THE GUARDIANSHIP IS
31 APPROPRIATE, INCLUDING BECAUSE THE FUNCTIONAL NEEDS OF THE ADULT
32 OR SUPPORTS OR SERVICES AVAILABLE TO THE ADULT HAVE CHANGED;
33 (III) A REPORT FROM A GUARDIAN OR CONSERVATOR THAT
34 INDICATES THAT TERMINATION OR MODIFICATION IS APPROPRIATE
35 BECAUSE THE FUNCTIONAL NEEDS OF THE ADULT OR SUPPORTS OR
36 SERVICES AVAILABLE TO THE ADULT HAVE CHANGED OR A PROTECTIVE
37 ARRANGEMENT OR OTHER LESS RESTRICTIVE ALTERNATIVE FOR MEETING
38 THE ADULT'S NEEDS IS AVAILABLE; OR
39 (IV) A DETERMINATION BY THE COURT THAT A HEARING IS IN THE
40 BEST INTEREST OF THE ADULT.
41 (b) A COMMUNICATION TO THE COURT FROM THE ADULT
42 REQUESTING CHANGES TO THE ADULT'S GUARDIANSHIP PLAN OR RAISING
43 CONCERNS ABOUT THE ADULT'S GUARDIAN OR GUARDIANSHIP MUST BE

1 BROADLY CONSTRUED AS A PETITION TO MODIFY OR TERMINATE A
2 GUARDIANSHIP.

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

7 (5) ON PRESENTATION OF PRIMA FACIE EVIDENCE FOR
8 TERMINATION OF A GUARDIANSHIP FOR AN ADULT, THE COURT SHALL
9 ORDER TERMINATION UNLESS IT IS PROVEN THAT A BASIS FOR
10 APPOINTMENT OF A GUARDIAN PURSUANT TO SECTION 15-14-301 EXISTS.

11 (6) THE COURT SHALL MODIFY THE POWERS GRANTED TO A
12 GUARDIAN FOR AN ADULT IF THE POWERS ARE EXCESSIVE OR INADEQUATE
13 DUE TO A CHANGE IN THE ABILITIES OR LIMITATIONS OF THE ADULT, THE
14 ADULT'S SUPPORTS, OR OTHER CIRCUMSTANCES.

15 (7) UNLESS THE COURT OTHERWISE ORDERS FOR GOOD CAUSE,
16 BEFORE TERMINATING OR MODIFYING A GUARDIANSHIP FOR AN ADULT,
17 THE COURT SHALL FOLLOW THE SAME PROCEDURES TO SAFEGUARD THE
18 RIGHTS OF THE ADULT THAT APPLY TO A PETITION FOR GUARDIANSHIP.

19 (8) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO
20 TERMINATE OR MODIFY THE TERMS OF THE GUARDIANSHIP HAS THE RIGHT
21 TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THE MATTER. IF
22 THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT SHALL
23 APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS SET FORTH
24 IN SECTION 15-14-305.

25 (9) THE FOLLOWING PROVISIONS APPLY IN A CONTESTED
26 TERMINATION PROCEEDING:

27 (a) THE GUARDIAN MAY FILE A WRITTEN REPORT TO THE COURT
28 REGARDING ANY MATTER RELEVANT TO THE TERMINATION PROCEEDING,
29 AND THE GUARDIAN MAY FILE A MOTION FOR INSTRUCTIONS REGARDING
30 ANY RELEVANT MATTER, INCLUDING, BUT NOT LIMITED TO:

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

33 (II) WHETHER ANY FURTHER INVESTIGATION OR PROFESSIONAL
34 EVALUATION OF THE ADULT SUBJECT TO GUARDIANSHIP MUST BE
35 CONDUCTED, THE SCOPE OF THE INVESTIGATION OR PROFESSIONAL
36 EVALUATION, AND WHEN THE INVESTIGATION OR PROFESSIONAL
37 EVALUATION MUST BE COMPLETED; AND

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

40 (b) IF THE GUARDIAN ELECTS TO FILE A WRITTEN REPORT OR A
41 MOTION FOR INSTRUCTIONS, THE GUARDIAN MUST FILE INITIAL PLEADINGS
42 WITHIN TWENTY-ONE DAYS AFTER THE PETITION TO TERMINATE IS FILED
43 AND SEND A COPY OF THE WRITTEN REPORT TO THE ADULT SUBJECT TO

1 GUARDIANSHIP. THE ADULT OR A PERSON INTERESTED IN THE WELFARE OF
2 THE ADULT SUBJECT TO GUARDIANSHIP HAS FOURTEEN DAYS AFTER THE
3 INITIAL PLEADINGS ARE FILED TO FILE A RESPONSE. IF A RESPONSE IS FILED,
4 THE GUARDIAN HAS SEVEN DAYS AFTER THE RESPONSE IS FILED TO FILE A
5 REPLY. AFTER THE FILING OF THE GUARDIAN'S INITIAL MOTION FOR
6 INSTRUCTIONS, THE GUARDIAN MAY FILE SUBSEQUENT MOTIONS FOR
7 INSTRUCTION, AS APPROPRIATE. THE COURT SHALL ACCEPT AND CONSIDER
8 ADDITIONAL MOTIONS FOR INSTRUCTIONS OR OTHER PLEADINGS FILED BY
9 A GUARDIAN AFTER THE INITIAL TWENTY-ONE-DAY PERIOD, BUT THE
10 ADDITIONAL MOTIONS AND PLEADINGS MUST NOT IMPACT THE DEADLINES
11 FOR HOLDING A HEARING UNLESS THE COURT DETERMINES A DELAY IS
12 ABSOLUTELY NECESSARY. THE COURT MAY CONSIDER RECOMMENDATIONS
13 BY THE GUARDIAN, BUT THE COURT RETAINS FINAL DECISION-MAKING
14 AUTHORITY.

15 (c) EXCEPT FOR THE ACTIONS AUTHORIZED IN SUBSECTIONS (9)(a),
16 (9)(b), AND (10) OF THIS SECTION, OR AS OTHERWISE ORDERED BY THE
17 COURT, THE GUARDIAN SHALL NOT TAKE ANY ACTION TO OPPOSE OR
18 INTERFERE IN THE TERMINATION PROCEEDING. THE FILING OF THE INITIAL
19 OR SUBSEQUENT MOTION FOR INSTRUCTIONS BY THE GUARDIAN MUST NOT
20 ALONE BE DEEMED OPPOSITION OR INTERFERENCE.

21 (d) UNLESS ORDERED BY THE COURT, THE GUARDIAN DOES NOT
22 HAVE A DUTY TO PARTICIPATE IN THE TERMINATION PROCEEDING, AND THE
23 GUARDIAN DOES NOT INCUR LIABILITY FOR FILING THE REPORT OR MOTION
24 FOR INSTRUCTION OR FOR FAILING TO PARTICIPATE IN THE PROCEEDING;
25 AND

26 (e) ANY INDIVIDUAL WHO HAS BEEN APPOINTED AS A GUARDIAN,
27 AND IS ALSO A PERSON INTERESTED IN THE WELFARE OF THE ADULT
28 SUBJECT TO GUARDIANSHIP, AND WHO WANTS TO PARTICIPATE IN THE
29 TERMINATION PROCEEDING IN THE INDIVIDUAL'S INDIVIDUAL CAPACITY
30 AND NOT IN THE INDIVIDUAL'S FIDUCIARY CAPACITY MAY DO SO WITHOUT
31 RESTRICTION OR LIMITATION. THE PAYMENT OF ANY FEES AND COSTS TO
32 THAT INDIVIDUAL RELATED TO THE INDIVIDUAL'S DECISION TO
33 PARTICIPATE IN THE TERMINATION PROCEEDING IS GOVERNED BY SECTION
34 15-10-602 (7) AND NOT BY SECTION 15-10-602 (1).

35 (10) NOTHING IN SUBSECTION (8) OF THIS SECTION PREVENTS:

36 (a) THE COURT, ON ITS OWN MOTION, AND REGARDLESS OF
37 WHETHER THE GUARDIAN HAS FILED A REPORT OR MOTION FOR
38 INSTRUCTIONS, FROM ORDERING THE GUARDIAN TO TAKE ANY ACTION
39 THAT THE COURT DEEMS APPROPRIATE OR FROM APPOINTING AN
40 ATTORNEY, GUARDIAN AD LITEM, VISITOR, OR PROFESSIONAL EVALUATOR;

41 (b) THE COURT FROM ORDERING THE GUARDIAN TO APPEAR AT THE
42 TERMINATION PROCEEDING AND GIVE TESTIMONY; OR

43 (c) ANY PERSON INTERESTED IN THE WELFARE OF THE ADULT

1 SUBJECT TO GUARDIANSHIP FROM CALLING THE GUARDIAN AS A WITNESS
2 IN THE TERMINATION PROCEEDING.

3 (11) THE COURT MAY REMOVE A GUARDIAN PURSUANT TO SECTION
4 15-10-503 OR PERMIT A GUARDIAN TO RESIGN PURSUANT TO SECTION
5 15-14-112.

6 (12) GUARDIANSHIP FOR AN ADULT SUBJECT TO GUARDIANSHIP
7 AUTOMATICALLY TERMINATES UPON THE DEATH OF THE ADULT. UPON THE
8 DEATH OF THE ADULT, THE GUARDIAN SHALL SUBMIT WRITTEN NOTICE TO
9 THE COURT INFORMING THE COURT OF THE ADULT'S DEATH AND THE
10 TERMINATION OF THE GUARDIANSHIP.

11 **15-14-320. Compensation for the guardian - guardian liability**
12 **- conservator room and board.**

13 (1) A GUARDIAN IS ENTITLED TO REASONABLE COMPENSATION FOR
14 SERVICES RENDERED TO THE ADULT SUBJECT TO GUARDIANSHIP THAT ARE
15 PROVIDED PURSUANT TO THE GUARDIAN'S DUTIES AND POWERS AS
16 DESCRIBED IN THIS PART 3 AS WELL AS REASONABLE ROOM AND BOARD, AS
17 APPROVED BY THE COURT.

18 (2) IF A CONSERVATOR IS APPOINTED FOR THE ADULT SUBJECT TO
19 GUARDIANSHIP, REASONABLE COMPENSATION AND REIMBURSEMENT FOR
20 ROOM AND BOARD MAY BE APPROVED AND PAID BY THE CONSERVATOR
21 WITHOUT A COURT ORDER.

22 (3) A GUARDIAN IS NOT REQUIRED TO USE THE GUARDIAN'S
23 PERSONAL FUNDS TO PAY FOR THE EXPENSES OF THE ADULT SUBJECT TO
24 GUARDIANSHIP.

25 (4) A GUARDIAN IS NOT LIABLE TO A THIRD PARTY FOR THE ACTS
26 OF THE ADULT SUBJECT TO GUARDIANSHIP SOLELY BY REASON OF BEING
27 THE ADULT'S GUARDIAN.

28 (5) A GUARDIAN WHO EXERCISES REASONABLE CARE IN CHOOSING
29 A MEDICAL PROFESSIONAL FOR THE ADULT'S CARE OR TREATMENT IS NOT
30 LIABLE FOR INJURY THE ADULT MAY SUFFER AS A RESULT OF THE
31 NEGLIGENCE OR WRONGFUL CONDUCT OF THE MEDICAL PROFESSIONAL.

32 **SECTION 4.** In Colorado Revised Statutes, **repeal** 15-14-101.

33 **SECTION 5.** In Colorado Revised Statutes, 13-5-142, **amend**
34 (3)(b)(I) as follows:

35 **13-5-142. National instant criminal background check system**
36 **- reporting.**

37 (3) The state court administrator shall take all necessary steps to
38 cancel a record made by the state court administrator in the national
39 instant criminal background check system if:

40 (b) No less than three years before the date of the written request:

41 (I) The court entered an order pursuant to ~~section 15-14-318,~~
42 ~~C.R.S.~~ SECTION 15-14-319, terminating a guardianship on a finding that
43 the person is no longer an incapacitated person, if the record in the

1 national instant criminal background check system is based on a finding
2 of incapacity;

3 **SECTION 6.** In Colorado Revised Statutes, 13-9-123, **amend**
4 (3)(b)(I) as follows:

5 **13-9-123. National instant criminal background check system**
6 **- reporting.**

7 (3) The state court administrator shall take all necessary steps to
8 cancel a record made by the state court administrator in the national
9 instant criminal background check system if:

10 (b) No less than three years before the date of the written request:

11 (I) The court entered an order pursuant to ~~section 15-14-318,~~
12 ~~C.R.S.~~ SECTION 15-14-319, terminating a guardianship on a finding that
13 the person is no longer an incapacitated person, if the record in the
14 national instant criminal background check system is based on a finding
15 of incapacity;

16 **SECTION 7.** In Colorado Revised Statutes, 14-10-107, **amend**
17 (3) as follows:

18 **14-10-107. Commencement - pleadings - abolition of existing**
19 **defenses - automatic, temporary injunction - enforcement.**

20 (3) ~~Either or both parties~~ PARTY to the marriage may initiate the
21 proceeding. In addition, a legal guardian, with court approval pursuant to
22 ~~section 15-14-315.5, C.R.S.~~ SECTION 15-14-314 (3), or a conservator, with
23 court approval pursuant to section 15-14-425.5, ~~C.R.S.~~, may initiate the
24 proceeding. If a legal guardian or conservator initiates the proceeding, the
25 legal guardian or conservator ~~shall~~ MUST receive notice in the same
26 manner as the parties to the proceeding.

27 **SECTION 8.** In Colorado Revised Statutes, 15-10-201, **amend**
28 (26) as follows:

29 **15-10-201. General definitions.**

30 Subject to additional definitions contained in this article 10 and the
31 subsequent articles that are applicable to specific articles, parts, or
32 sections, and unless the context otherwise requires, in this code:

33 (26) "Informal proceedings" means those conducted without
34 notice to interested persons by an officer of the court acting as a registrar
35 for probate of a will, appointment of a personal representative, or
36 determination of a guardian under ~~sections 15-14-202 and 15-14-301~~
37 SECTIONS 15-14-202, 15-14-301, AND 15-14-302.

38 **SECTION 9.** In Colorado Revised Statutes, 15-10-602, **amend**
39 (6) and (9) as follows:

40 **15-10-602. Recovery of reasonable compensation and costs.**

41 (6) Except as provided in sections 15-10-605 (2), (3), and (4)
42 ~~15-14-318 (4);~~ and 15-14-431 (5), if ~~any~~ A fiduciary or person with
43 priority for appointment as personal representative, conservator, guardian,

1 agent, custodian, or trustee defends or prosecutes a proceeding in good
2 faith, whether successful or not, the fiduciary or person is entitled to
3 receive from the estate reimbursement for reasonable costs and
4 disbursements, including ~~but not limited to~~ reasonable attorney fees.

5 (9) Every application or petition for appointment of a fiduciary
6 filed under this code, including without limitation those required under
7 sections 15-12-301, 15-12-402, 15-12-614, 15-12-621, 15-12-622,
8 15-14-202, 15-14-204, ~~15-14-304~~ **15-14-302**, and 15-14-403, ~~shall~~ MUST
9 include a statement by the applicant or petitioner disclosing the basis
10 upon which any compensation is ~~to be~~ charged to the estate by the
11 fiduciary and ~~his or her or its~~ THE FIDUCIARY'S counsel or ~~shall~~ MUST state
12 that the basis has not yet been determined. The disclosure statement ~~shall~~
13 MUST specifically describe, as is applicable, the hourly rates ~~to be~~
14 charged, any amounts ~~to be~~ charged pursuant to a published fee schedule,
15 including the rates and basis for charging fees for any extraordinary
16 services, and any other bases upon which a fee charged to the estate will
17 be calculated. This disclosure obligation ~~shall be~~ IS continuing in nature
18 ~~so as to require~~ AND REQUIRES supplemental disclosures if material
19 changes to the basis for charging fees take place.

20 **SECTION 10.** In Colorado Revised Statutes, 15-14-110, **amend**
21 (1) introductory portion and (1)(e) as follows:

22 **15-14-110. Letters of office.**

23 (1) A nominee for guardian, emergency guardian, conservator, or
24 special conservator shall file an acceptance of office with the court. The
25 acceptance of office ~~shall~~ MUST be signed by the nominee and, except as
26 otherwise provided in this section, ~~shall~~ MUST include a statement by the
27 nominee informing the court of the following:

28 (e) That the nominee acknowledges and understands that if the
29 nominee fails to file required reports with the court or fails to respond to
30 an order of the court to show cause why the nominee should not be held
31 in contempt of court, Colorado law authorizes the court to access data and
32 records of state agencies in order to obtain contact information, as defined
33 in ~~sections 15-14-317 (4)(c) and~~ SECTION 15-14-420 (6)(c).

34 **SECTION 11.** In Colorado Revised Statutes, 15-14-113.5,
35 **amend** (1), (2) introductory portion, (2)(a), (4) introductory portion, and
36 (4)(c) as follows:

37 **15-14-113.5. Appointments without notice - investigation -**
38 **report - procedures.**

39 (1) A visitor appointed pursuant to section ~~15-14-312 (5) or~~
40 15-14-412 (3)(b) OR 15-14-905 must be a person who has ~~such~~ THE
41 training ~~as~~ the court deems appropriate.

42 (2) A visitor appointed pursuant to section ~~15-14-312 (5) or~~
43 15-14-412 (3)(b) shall interview the respondent in person and, to the

1 extent that the respondent is able to understand:

2 (a) Explain to the respondent the substance of the petition; the
3 nature, purpose, and effect of the proceeding; the respondent's right to a
4 hearing pursuant to ~~section 15-14-312 (2)~~ SECTION 15-14-312 (4), if
5 applicable; and the powers and duties of the emergency guardian or
6 special conservator;

7 (4) The visitor shall promptly file a report in writing with the court
8 ~~which must include~~ THAT INCLUDES:

9 (c) Recommendations on whether ~~any~~ A member of the supportive
10 community should be granted permission to participate in the proceedings
11 pursuant to ~~section 15-14-308 (2)~~ SECTION 15-14-307 (8) or 15-10-201
12 (27);

13 **SECTION 12.** In Colorado Revised Statutes, 15-14-501, **amend**
14 (1) as follows:

15 **15-14-501. When power of attorney not affected by disability.**

16 (1) ~~Whenever~~ IF a principal designates another ~~his~~ THE
17 PRINCIPAL'S attorney-in-fact or agent by a power of attorney in writing
18 and the writing contains the words "This power of attorney shall not be
19 affected by disability of the principal." or "This power of attorney shall
20 become effective upon the disability of the principal." or similar words
21 showing the intent of the principal that the authority conferred shall be
22 exercisable notwithstanding ~~his~~ THE PRINCIPAL'S disability, the authority
23 of the attorney-in-fact or agent is exercisable ~~by him~~ as provided in the
24 power on behalf of the principal notwithstanding later disability or
25 incapacity of the principal at law or later uncertainty as to whether the
26 principal is dead or alive. The authority of the attorney-in-fact or agent to
27 act on behalf of the principal ~~shall~~ MUST be set forth in the power and
28 may relate to any act, power, duty, right, or obligation ~~which~~ THAT the
29 principal has or after acquires relating to the principal or any matter,
30 transaction, or property, real or personal, tangible or intangible. The
31 authority of the agent with regard to medical treatment decisions on
32 behalf of a principal is set forth in sections 15-14-503 to 15-14-509. The
33 attorney-in-fact or agent, however, is subject to the same limitations
34 imposed upon court-appointed guardians contained in ~~section 15-14-312~~
35 ~~(1)(a)~~ SECTION 15-14-315. Additionally, the principal may expressly
36 empower ~~his~~ THE PRINCIPAL'S attorney-in-fact or agent to renounce and
37 disclaim interests and powers, to make gifts, in trust or otherwise, and to
38 release and exercise powers of appointment. All acts done by the
39 attorney-in-fact or agent pursuant to the power during any period of
40 disability or incompetence or uncertainty as to whether the principal is
41 dead or alive have the same effect and inure to the benefit of and bind the
42 principal or ~~his~~ THE PRINCIPAL'S heirs, devisees, and personal
43 representative as if the principal were alive, competent, and not disabled.

1 If a guardian or conservator thereafter is appointed for the principal, the
2 attorney-in-fact or agent, during the continuance of the appointment, ~~shall~~
3 MUST consult with the guardian on matters concerning the principal's
4 personal care or account to the conservator on matters concerning the
5 principal's financial affairs. The conservator has the same power the
6 principal would have had if ~~he~~ THE PRINCIPAL were not disabled or
7 incompetent to revoke, suspend, or terminate all or any part of the power
8 of attorney or agency as it relates to financial matters. Subject to any
9 limitation or restriction of the guardian's powers or duties set forth in the
10 order of appointment and endorsed on the letters of guardianship, a
11 guardian has the same power to revoke, suspend, or terminate all or any
12 part of the power of attorney or agency as it relates to matters concerning
13 the principal's personal care that the principal would have had if the
14 principal were not disabled or incompetent, except with respect to
15 medical treatment decisions made by an agent pursuant to sections
16 15-14-506 to 15-14-509; however, ~~such~~ THIS exception ~~shall~~ DOES not
17 preclude a court from removing an agent in the event an agent becomes
18 incapacitated, or is unwilling or unable to serve as an agent.

19 **SECTION 13.** In Colorado Revised Statutes, 15-14.5-102,
20 **amend** the introductory portion and (3) as follows:

21 **15-14.5-102. Definitions.**

22 AS USED in this article 14.5, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (3) "Guardian" means a person appointed by the court to make
25 decisions regarding the person of an adult, including a person appointed
26 ~~under section 15-14-301~~ PURSUANT TO SECTIONS 15-14-301 AND
27 15-14-302.

28 **SECTION 14.** In Colorado Revised Statutes, 27-65-103, **amend**
29 (1) as follows:

30 **27-65-103. Voluntary applications for mental health services.**

31 (1) Nothing in this article 65 in any way limits the right of ~~any~~ A
32 person to make a voluntary application at any time to ~~any~~ A public or
33 private agency or professional person for mental health services, either by
34 direct application in person or by referral from any other public or private
35 agency or professional person. Subject to ~~section 15-14-316(4)~~ SECTIONS
36 15-14-315 (2) AND 15-14-314 (7)(d), a ward, as defined in section
37 15-14-102 (15), may be admitted to a hospital or institutional care and
38 treatment for a mental health disorder with the guardian's consent ~~for as~~
39 ~~long as~~ IF the ward agrees to ~~such~~ THE care and treatment. The guardian
40 shall immediately notify in writing the court that appointed the guardian
41 of the admission.

42 **SECTION 15. Applicability.** This act applies to guardianships
43 established on or after the effective date of this act.

1 **SECTION 16. Act subject to petition - effective date.** This act
2 takes effect January 1, 2028; except that, if a referendum petition is filed
3 pursuant to section 1 (3) of article V of the state constitution against this
4 act or an item, section, or part of this act within the ninety-day period
5 after final adjournment of the general assembly, then the act, item,
6 section, or part will not take effect unless approved by the people at the
7 general election to be held in November 2026 and, in such case, will take
8 effect on January 1, 2028."

** ** ** ** **