

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE NO. 2 FOR  
SENATE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 154

## 95TH GENERAL ASSEMBLY

0778L.08T

2009

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### AN ACT

To repeal sections 210.565, 453.030, 475.010, 475.045, and 475.105, RSMo, and to enact in lieu thereof ten new sections relating to placement of children.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 210.565, 453.030, 475.010, 475.045, and 475.105, RSMo, are  
2 repealed and ten new sections enacted in lieu thereof, to be known as sections 167.018, 167.019,  
3 210.305, 210.565, 210.1050, 453.030, 475.010, 475.045, 475.046, and 475.105, to read as  
4 follows:

**167.018. 1. Sections 167.018 and 167.019 shall be known and may be cited as the**  
2 **"Foster Care Education Bill of Rights".**

3 **2. Each school district shall designate a staff person as the educational liaison for**  
4 **foster care children. The liaison shall do all of the following in an advisory capacity:**

5 **(1) Ensure and facilitate the proper educational placement, enrollment in school,**  
6 **and checkout from school of foster children;**

7 **(2) Assist foster care pupils when transferring from one school to another or from**  
8 **one school district to another, by ensuring proper transfer of credits, records, and grades;**

9 **(3) Request school records, as provided in section 167.022, within two business days**  
10 **of placement of a foster care pupil in a school; and**

11 **(4) Submit school records of foster care pupils within three business days of**  
12 **receiving a request for school records, under subdivision (3) of this subsection.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

**167.019. 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin pending resolution of school placement disputes.**

**2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic school, or nonsectarian school in accordance with district policies or regulations.**

**3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue a diploma to the pupil.**

**4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.**

**5. School districts, subject to federal law, shall be authorized to permit access of pupil school records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.**

**6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.**

**210.305. 1. When an initial emergency placement of a child is deemed necessary, the children's division shall immediately begin diligent efforts to locate, contact, and place the child with a grandparent or grandparents of the child, except when the children's division determines that placement with a grandparent or grandparents is not in the best interest of the child and subject to the provisions of section 210.482 regarding background checks for emergency placements. If emergency placement of a child with a grandparent is deemed not to be in the best interest of the child, the children's division shall document in writing the reason the grandparent has been denied emergency placement and shall have**

9 just cause to deny the emergency placement. Prior to placement of the child in any  
10 emergency placement, the division shall assure that the child's physical needs are met.

11 2. For purposes of this section, the following terms shall mean:

12 (1) "Diligent efforts", a good faith attempt documented in writing by the children's  
13 division, which exercises reasonable efforts and care to utilize all available services and  
14 resources related to meeting the ongoing health and safety needs of the child, to locate a  
15 grandparent or grandparents of the child after all of the child's physical needs have been  
16 attended to by the children's division;

17 (2) "Emergency placement", those limited instances when the children's division  
18 is placing for an initial placement a child in the home of private individuals, including  
19 neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary  
20 caretaker.

21 3. Diligent efforts shall be made to contact the grandparent or grandparents of the  
22 child within three hours from the time the emergency placement is deemed necessary for  
23 the child. During such three-hour time period, the child may be placed in an emergency  
24 placement. If a grandparent or grandparents of the child cannot be located within the  
25 three-hour period, the child may be temporarily placed in emergency placement; except  
26 that, after the emergency placement is deemed necessary, the children's division shall  
27 continue to make diligent efforts to contact, locate, and place the child with a grandparent  
28 or grandparents, or another relative, with first consideration given to a grandparent for  
29 placement.

30 4. Nothing in this section shall be construed or interpreted to interfere with or  
31 supercede laws related to parental rights or judicial authority.

210.565. 1. Whenever a child is placed in a foster home and the court has determined  
2 pursuant to subsection 3 of this section that foster home placement with relatives is not contrary  
3 to the best interest of the child, the children's division shall give foster home placement to  
4 relatives of the child. Notwithstanding any rule of the division to the contrary, **the children's**  
5 **division shall make diligent efforts to locate the grandparents of the child and determine**  
6 **whether they wish to be considered for placement of the child.** Grandparents who request  
7 consideration shall be given preference and first consideration for foster home placement **of the**  
8 **child. If more than one grandparent requests consideration, the family support team shall**  
9 **make recommendations to the juvenile or family court about which grandparent should**  
10 **be considered for placement.**

11 2. As used in this section, the term "relative" means a **grandparent or any other** person  
12 related to another by blood or affinity within the third degree. The status of a grandparent shall  
13 not be affected by the death or the dissolution of the marriage of a son or daughter.

14 3. The **preference for placement and first consideration for grandparents or**  
15 preference for placement with **other** relatives created by this section shall only apply where the

16 court finds that placement with such **grandparents or other** relatives is not contrary to the best  
17 interest of the child considering all circumstances. If the court finds that it is contrary to the best  
18 interest of a child to be placed with **grandparents or other** relatives, the court shall make  
19 specific findings on the record detailing the reasons why the best interests of the child necessitate  
20 placement of the child with persons other than **grandparents or other** relatives.

21 4. The age of the child's **grandparent or other** relative shall not be the only factor that  
22 the children's division takes into consideration when it makes placement decisions and  
23 recommendations to the court about placing the child with such **grandparent or other** relative.

24 5. For any Native American child placed in protective custody, the children's division  
25 shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

26 **6. A grandparent or other relative may, on a case-by-case basis, have standards for**  
27 **licensure not related to safety waived for specific children in care that would otherwise**  
28 **impede licensing of the grandparent's or relative's home.**

29 **7. The guardian ad litem shall ascertain the child's wishes and feelings about his**  
30 **or her placement by conducting an interview or interviews with the child, if appropriate**  
31 **based on the child's age and maturity level, which shall be considered as a factor in**  
32 **placement decisions and recommendations, but shall not supersede the preference for**  
33 **relative placement created by this section or be contrary to the child's best interests.**

**210.1050. 1. For purposes of this section, for pupils in foster care or children**  
2 **placed for treatment in a licensed residential care facility by the department of social**  
3 **services, "full school day" shall mean six hours in which the child is under the guidance**  
4 **and direction of teachers in the educational process.**

5 **2. Each pupil in foster care or child placed for treatment in a licensed residential**  
6 **care facility by the department of social services shall be entitled to a full school day of**  
7 **education unless the school district determines that fewer hours are warranted.**

8 **3. The commissioner of education, or his or her designee, shall be an ombudsman**  
9 **to assist the family support team and the school district as they work together to meet the**  
10 **needs of children placed for treatment in a licensed residential care facility by the**  
11 **department of social services. The ombudsman shall have the final decision over**  
12 **discrepancies regarding school day length. A full school day of education shall be provided**  
13 **pending the ombudsman's final decision.**

14 **4. Nothing in this section shall be construed to infringe upon the rights or due**  
15 **process provisions of the federal Individuals with Disabilities Education Act. The**  
16 **provisions of the Individuals with Disabilities Education Act shall apply and control in**  
17 **decisions regarding school day. Nothing in this section shall be construed to deny any child**  
18 **domiciled in Missouri appropriate and necessary free public education services.**

453.030. 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same. **In a case involving a child under fourteen years of age, the guardian ad litem shall ascertain the child's wishes and feelings about his or her adoption by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered by the court as a factor in determining if the adoption is in the child's best interests.**

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; and

(2) Only the man who:

(a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child and has served a copy of the petition on the mother in accordance with section 506.100, RSMo; or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written

39 consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment,  
40 the signature of the person giving such written consent shall be witnessed by the signatures of  
41 at least two adult persons who are present at the execution whose signatures and addresses shall  
42 be plainly written thereon and who determine and certify that the consent is knowingly and freely  
43 given. The two adult witnesses shall not be the prospective adoptive parents or any attorney  
44 representing a party to the adoption proceeding. The notary public or witnesses shall verify the  
45 identity of the party signing the consent.

46 6. The written consents shall be reviewed and, if found to be in compliance with this  
47 section, approved by the court within three business days of such consents being presented to the  
48 court. Upon review, in lieu of approving the consent within three business days, the court may  
49 set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and  
50 approve the written consent within three business days shall not void the consent, but a party may  
51 seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set  
52 by the court pursuant to this subsection.

53 7. The written consent required in subsection 3 of this section may be withdrawn anytime  
54 until it has been reviewed and accepted by a judge.

55 8. A consent form shall be developed through rules and regulations promulgated by the  
56 department of social services. No rule or portion of a rule promulgated under the authority of  
57 this section shall become effective unless it has been promulgated pursuant to the provisions of  
58 chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the  
59 development of a consent form by the department and the written consent complies with the  
60 provisions of subsection 9 of this section, such written consent shall be deemed valid.

61 9. However, the consent form must specify that:

62 (1) The birth parent understands the importance of identifying all possible fathers of the  
63 child and may provide the names of all such persons; and

64 (2) The birth parent understands that if he denies paternity, but consents to the adoption,  
65 he waives any future interest in the child.

66 10. The written consent to adoption required by subsection 3 and executed through  
67 procedures set forth in subsection 5 of this section shall be valid and effective even though the  
68 parent consenting was under eighteen years of age, if such parent was represented by a guardian  
69 ad litem, at the time of the execution thereof.

70 11. Where the person sought to be adopted is eighteen years of age or older, his written  
71 consent alone to his adoption shall be sufficient.

72 12. A birth parent, including a birth parent less than eighteen years of age, shall have the  
73 right to legal representation and payment of any reasonable legal fees incurred throughout the  
74 adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

75 (1) A birth parent requests representation;

76 (2) The court finds that hiring an attorney to represent such birth parent would cause a  
77 financial hardship for the birth parent; and

78 (3) The birth parent is not already represented by counsel.

79 13. Except in cases where the court determines that the adoptive parents are unable to  
80 pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall  
81 order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid  
82 by the prospective adoptive parents or the child-placing agency.

475.010. When used in this chapter, unless otherwise apparent from the context, the  
2 following terms mean:

3 (1) "Adult", a person who has reached the age of eighteen years;

4 (2) "Claims", liabilities of the protectee arising in contract, in tort or otherwise, before  
5 or after the appointment of a conservator, and liabilities of the estate which arise at or after the  
6 adjudication of disability or after the appointment of a conservator of the estate, including  
7 expenses of the adjudication and of administration. The term does not include demands or  
8 disputes regarding title of the protectee to specific assets alleged to be included in the estate;

9 (3) "Conservator", one appointed by a court to have the care and custody of the estate  
10 of a minor or a disabled person. A "limited conservator" is one whose duties or powers are  
11 limited. The term "conservator", as used in this chapter, includes "limited conservator" unless  
12 otherwise specified or apparent from the context;

13 (4) **"Custodial parent", the parent of a minor who has been awarded sole or joint**  
14 **physical custody of such minor, or the parent of an incapacitated person who has been**  
15 **appointed as guardian of such person, by an order or judgment of a court of this state or**  
16 **of another state or territory of the United States, or if there is no such order or judgment,**  
17 **the parent with whom the minor or incapacitated person primarily resides;**

18 (5) "Disabled" or "disabled person", one who is:

19 (a) Unable by reason of any physical or mental condition to receive and evaluate  
20 information or to communicate decisions to such an extent that the person lacks ability to  
21 manage his financial resources[,] ; or

22 (b) The term "disabled" or "disabled person", as used in this chapter includes the terms  
23 "partially disabled" or "partially disabled person" unless otherwise specified or apparent from  
24 the context;

25 [(5)] (6) "Eligible person" or "qualified person", a natural person, social service agency,  
26 corporation or national or state banking organization qualified to act as guardian of the person  
27 or conservator of the estate pursuant to the provisions of section 475.055;

28 [(6)] (7) "Guardian", one appointed by a court to have the care and custody of the person  
29 of a minor or of an incapacitated person. A "limited guardian" is one whose duties or powers  
30 are limited. **A "standby guardian" is one approved by the court to temporarily assume the**  
31 **duties of guardian of a minor or of an incapacitated person under section 475.046.** The

32 term "guardian", as used in this chapter, includes "limited guardian" **and "standby guardian"**  
33 unless otherwise specified or apparent from the context;

34 [(7)] **(8)** "Guardian ad litem", one appointed by a court, in which particular litigation is  
35 pending, to represent a minor, an incapacitated person, a disabled person, or an unborn person  
36 in that particular proceeding or as otherwise specified in this code;

37 [(8)] **(9)** "Habilitation", instruction, training, guidance or treatment designed to enable  
38 and encourage a mentally retarded or developmentally disabled person as defined in chapter 630,  
39 RSMo, to acquire and maintain those life skills needed to cope more effectively with the  
40 demands of his **or her** own person and of his **or her** environment;

41 [(9)] **(10)** "Incapacitated person", one who is unable by reason of any physical or mental  
42 condition to receive and evaluate information or to communicate decisions to such an extent that  
43 he **or she** lacks capacity to meet essential requirements for food, clothing, shelter, safety or other  
44 care such that serious physical injury, illness, or disease is likely to occur. The term  
45 "incapacitated person" as used in this chapter includes the term "partially incapacitated person"  
46 unless otherwise specified or apparent from the context;

47 [(10)] **(11)** "Least restrictive environment", that there shall be imposed on the personal  
48 liberty of the ward only such restraint as is necessary to prevent [him] **the ward** from injuring  
49 himself **or herself** and others and to provide [him] **the ward** with such care, habilitation and  
50 treatment as are appropriate for [him] **the ward** considering his **or her** physical and mental  
51 condition and financial means;

52 [(11)] **(12)** "Manage financial resources", either those actions necessary to obtain,  
53 administer, and dispose of real and personal property, intangible property, business property,  
54 benefits, income or any assets, or those actions necessary to prevent waste, loss or dissipation  
55 of property, or those actions necessary to provide for the care and support of such person or  
56 anyone legally dependent upon [him] **such person** by a person of ordinary skills and intelligence  
57 commensurate with his **or her** training and education;

58 [(12)] **(13)** "Minor", any person who is under the age of eighteen years;

59 **(14) "Parent", the biological or adoptive mother or father of a child whose parental**  
60 **rights have not been terminated under chapter 211, RSMo, including:**

61 **(a) A person registered as the father of the child by reason of an unrevoked notice**  
62 **of intent to claim paternity under section 192.016, RSMo;**

63 **(b) A person who has acknowledged paternity of the child and has not rescinded**  
64 **that acknowledgment under section 193.215, RSMo; and**

65 **(c) A person presumed to be the natural father of the child under section 210.822,**  
66 **RSMo;**

67 [(13)] **(15)** "Partially disabled person", one who is unable by reason of any physical or  
68 mental condition to receive and evaluate information or to communicate decisions to such an  
69 extent that [he] **such person** lacks capacity to manage, in part, his **or her** financial resources;

70 [(14)] **(16)** "Partially incapacitated person", one who is unable by reason of any physical  
71 or mental condition to receive and evaluate information or to communicate decisions to the  
72 extent that [he] **such person** lacks capacity to meet, in part, essential requirements for food,  
73 clothing, shelter, safety, or other care without court-ordered assistance;

74 [(15)] **(17)** "Protectee", a person for whose estate a conservator or limited conservator  
75 has been appointed or with respect to whose estate a transaction has been authorized by the court  
76 under section 475.092 without appointment of a conservator or limited conservator;

77 **(18) "Seriously ill", a significant likelihood that a person will become incapacitated**  
78 **or die within twelve months;**

79 [(16)] **(19)** "Social service agency", a charitable organization organized and incorporated  
80 as a not-for-profit corporation under the laws of this state and which qualifies as an exempt  
81 organization within the meaning of section 501(c)(3), or any successor provision thereto of the  
82 federal Internal Revenue Code;

83 **(20) "Standby guardian", one who is authorized to have the temporary care and**  
84 **custody of the person of a minor or of an incapacitated person under the provisions of**  
85 **section 475.046;**

86 [(17)] **(21)** "Treatment", the prevention, amelioration or cure of a person's physical and  
87 mental illnesses or incapacities;

88 [(18)] **(22)** "Ward" [is] , a minor or an incapacitated person for whom a guardian [or] ,  
89 limited guardian, **or standby guardian** has been appointed.

475.045. 1. Except in cases where they fail or refuse to give required security or are  
2 adjudged unfit for the duties of guardianship or conservatorship, or waive their rights to be  
3 appointed, the following persons, if otherwise qualified, shall be appointed as guardians or  
4 conservators of minors:

5 (1) The parent or parents of the minor, except as provided in section 475.030;

6 (2) If any minor over the age of fourteen years has no qualified parent living, a person  
7 nominated by the minor, unless the court finds appointment contrary to the best interests of the  
8 minor;

9 (3) Where both parents of a minor are dead, any person appointed **under this section**  
10 **or section 475.046** by the will of the last surviving parent, who has not been adjudged unfit or  
11 incompetent for the duties of guardian or conservator.

12 2. Unfitness of any of the persons mentioned in subsection 1 for the duties of  
13 guardianship or conservatorship may be adjudged by the court after due notice and hearing.

14 3. If no appointment is made under subsection 1 **of this section**, the court shall appoint  
15 as guardian or conservator of a minor the most suitable person who is willing to serve **and**  
16 **whose appointment serves the best interests of the child to a stable and permanent**  
17 **placement.**

**475.046. 1. A custodial parent may designate a person to act as standby guardian of a minor or incapacitated person by a will that complies with the requirements of section 474.320, RSMo, or by a separate written instrument which is dated and is either duly executed and acknowledged by the custodial parent or is signed by the custodial parent in the presence of at least two disinterested witnesses and subscribed by the witnesses. If the custodial parent executes more than one document designating a standby guardian and there is a conflict between the documents as to the person designated, the document bearing the latest date shall control.**

**2. If a custodial parent who has designated a standby guardian is or becomes seriously ill, the custodial parent or the person designated as standby guardian may file a petition in the probate division of the circuit court of the county which would be of proper venue for the appointment of a guardian of the minor or incapacitated person seeking appointment of the designated person as standby guardian. A copy of the will or separate written instrument designating the standby guardian and a consent to act as standby guardian signed by the person designated shall be filed with the petition, which petition shall state:**

**(1) The name, age, domicile, actual place of residence, and mailing address of the minor or incapacitated person;**

**(2) The name and address of the custodial parent and of the designated standby guardian;**

**(3) The name and address of each parent of the minor or incapacitated person and whether that parent is living or dead;**

**(4) The name and address of the spouse, if applicable, and the names, ages, and addresses of all living children of the minor or incapacitated person;**

**(5) If the person for whom appointment of a standby guardian is sought has been adjudicated incapacitated, the date of adjudication and the name and address of the court which entered the judgment; and**

**(6) The reasons why the appointment of a standby guardian is sought.**

**Proceedings on the petition shall be conducted in the same manner as would be applicable in a case for appointment of a successor guardian under section 475.115.**

**3. The court shall determine appointment of a standby guardian in accordance with the best interests of the minor or incapacitated person after considering all relevant factors, including:**

**(1) Whether there is a parent other than the custodial parent and, if so, whether the other parent is willing, able, and fit to assume the duties of a parent;**

**(2) The suitability of a person nominated by the minor or incapacitated person if he or she is, at the time of hearing, able to communicate a reasonable choice; and**

39           **(3) The desirability of providing arrangements for the care, custody, and control**  
40 **of the minor or incapacitated person which shall minimize stress and disruption and avoid**  
41 **his or her placement in foster or similar care pending appointment of a guardian if the**  
42 **custodial parent is adjudicated incapacitated or dies.**

43           **4. If it appears to the court that a standby guardian should be appointed for a**  
44 **minor or incapacitated person, the court may appoint a standby guardian.**

45           **5. The authority of a person to act as standby guardian for a minor or**  
46 **incapacitated person shall only take effect as follows:**

47           **(1) If the person has previously been appointed by the court as standby guardian,**  
48 **upon the granting of letters of standby guardianship to the person previously appointed**  
49 **as provided in the order appointing the standby guardian; or**

50           **(2) If the person has not previously been appointed by the court as standby**  
51 **guardian, either because a petition for appointment has not been filed or because a petition**  
52 **has been filed but the proceedings are still pending, upon the first to occur of the following:**

53           **(a) The consent of the custodial parent in a writing duly executed and**  
54 **acknowledged by the custodial parent;**

55           **(b) Entry of an order adjudicating the custodial parent to be incapacitated; or**

56           **(c) The death of the custodial parent.**

57

58 **The person shall, within ten days after he or she begins to act as standby guardian, notify**  
59 **the court in writing of that fact and of the reasons therefor. The court may grant letters**  
60 **of standby guardianship to the person or, if the court deems it advisable, conduct a hearing**  
61 **to determine the propriety of the person having begun, and continuing, to act as standby**  
62 **guardian and the propriety of issuing letters of standby guardianship to the person.**

63           **6. A person acting as standby guardian of a minor or incapacitated person shall,**  
64 **within sixty days after he or she begins to act, petition the court for appointment of the**  
65 **standby guardian or some other qualified person as guardian of the minor or incapacitated**  
66 **person. Proceedings on the petition shall be conducted in the same manner as would be**  
67 **applicable in a case for appointment of a successor guardian under section 475.115.**

68           **7. Nothing in this section shall be construed to:**

69           **(1) Deprive a parent of his or her legal rights with respect to a minor or**  
70 **incapacitated person who is a child of that parent, including court ordered visitation with**  
71 **the child, nor to authorize a grant of authority to a standby guardian which would**  
72 **supersede any such rights; or**

73           **(2) Relieve a parent of his or her legal obligations or duties to a minor or**  
74 **incapacitated person who is a child of that parent, including a duty to support the child in**  
75 **accordance with a court or administrative order.**

76 **8. Except to the extent determined by the court to be inconsistent with the**  
77 **provisions of this section or as expressly provided in this section, the laws applicable to**  
78 **guardianship proceedings shall apply to all proceedings under this section.**

475.105. 1. When a duly appointed guardian or conservator has given bond, as required  
2 by law, and the bond has been approved, letters under the seal of the court shall be issued to  
3 [him] **the person appointed**. Such letters shall specify whether they are of guardianship [or] ,  
4 limited guardianship, **or standby guardianship** of the person, or conservatorship or limited  
5 conservatorship of the estate, or both, and the original or duly certified copies thereof shall be  
6 prima facie evidence of the facts therein stated.

7 2. Letters of guardianship and conservatorship for minors may be in the following form:

8 IN THE PROBATE DIVISION OF THE CIRCUIT COURT  
9 OF . . . . . COUNTY, MISSOURI  
10 LETTERS OF (STANDBY) GUARDIANSHIP (AND  
11 CONSERVATORSHIP) OF MINOR  
12 Estate No. . . . .

13 On . . . . ., . . . . . was appointed and has qualified as (standby)  
14 guardian of the person (and conservator of the estate) for the following minor(s):

- 15 . . . . . Born . . . . ., 20. . . . .
- 16 . . . . . Born . . . . ., 20. . . . .
- 17 . . . . . Born . . . . ., 20. . . . .
- 18 . . . . . Born . . . . ., 20. . . . .

19 By reason thereof, the above-named (standby) guardian (and conservator) is authorized  
20 and empowered to perform the duties of such (standby) guardian (and conservator) as provided  
21 by law under the supervision of the court having care and custody of the person (and of the  
22 estate) of the above-named minor(s).

23 IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and affixed  
24 the seal of this court on . . . . .

25 . . . . .  
26 Clerk

27 Recorded on . . . . ., in Book . . . . . at Page . . . . .  
28 . . . . .

29 Clerk

30 3. Letters of guardianship and conservatorship for incapacitated and disabled persons  
31 may be in the following form:

32 IN THE PROBATE DIVISION OF THE CIRCUIT COURT  
33 OF . . . . . COUNTY, MISSOURI  
34 LETTERS OF (STANDBY) GUARDIANSHIP OF INCAPACITATED  
35 PERSON (AND CONSERVATORSHIP OF DISABLED PERSON)

36

Estate No. ....

37

On ....., ..... was appointed and has qualified as (**standby**)

38

guardian of the person (and conservator of the estate) for ....., an

39

incapacitated (and disabled) person.

40

By reason thereof, the above-named (**standby**) guardian (and conservator) is authorized

41

and empowered to perform the duties of such (**standby**) guardian (and conservator) as provided

42

by law under the supervision of the court having care and custody of the person (and estate) of

43

the above-named incapacitated (and disabled) person.

44

IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and affixed

45

the seal of this court on . . . . ., 20 . . . . .

46

.....

47

Clerk

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