

SECOND REGULAR SESSION

# HOUSE BILL NO. 1553

99TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE NEELY.

4096H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 473.730, 473.770, 473.771, 475.010, 475.016, 475.050, 475.060, 475.061, 475.062, 475.075, 475.078, 475.079, 475.080, 475.082, 475.083, 475.094, 475.120, 475.123, 475.125, 475.130, 475.145, 475.230, 475.270, 475.276, 475.290, 475.322, and 475.355, RSMo, and to enact in lieu thereof thirty-four new sections relating to guardianship proceedings.

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

Section A. Sections 473.730, 473.770, 473.771, 475.010, 475.016, 475.050, 475.060, 2 475.061, 475.062, 475.075, 475.078, 475.079, 475.080, 475.082, 475.083, 475.094, 475.120, 3 475.123, 475.125, 475.130, 475.145, 475.230, 475.270, 475.276, 475.290, 475.322, and 475.355, 4 RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 5 473.730, 473.770, 473.771, 475.010, 475.016, 475.050, 475.060, 475.061, 475.062, 475.075, 6 475.078, 475.079, 475.080, 475.082, 475.083, 475.094, 475.120, 475.123, 475.125, 475.130, 7 475.145, 475.230, 475.270, 475.276, 475.290, 475.322, 475.341, 475.342, 475.343, 475.344, 8 475.355, 475.357, 475.359, and 475.361, to read as follows:

473.730. 1. Every county in this state, except the City of St. Louis, shall elect a public 2 administrator at the general election in the year 1880, and every four years thereafter, who shall 3 be ex officio public guardian and conservator in and for the public administrator's county. A 4 candidate for public administrator shall be at least twenty-one years of age and a resident of the 5 state of Missouri and the county in which he or she is a candidate for at least one year prior to 6 the date of the general election for such office. The candidate shall also be a registered voter and 7 shall be current in the payment of all personal and business taxes. Each candidate for public 8 administrator shall provide to the election authority a copy of a signed affidavit from a surety

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.

9 company, indicating that the candidate meets the bond requirements for the office of public  
10 administrator under this section. The secretary of state shall notify each election authority of the  
11 requirements of this section. The secretary of state will provide the necessary forms to assure  
12 compliance of the requirements of this section.

13 2. Before entering on the duties of the public administrator's office, the public  
14 administrator shall take the oath required by the constitution, and enter into bond to the state of  
15 Missouri in a sum not less than ten thousand dollars, with one or more securities, approved by  
16 the court and conditioned that the public administrator will faithfully discharge all the duties of  
17 the public administrator's office, which bond shall be given and oath of office taken on or before  
18 the first day of January following the public administrator's election, and it shall be the duty of  
19 the judge of the court to require the public administrator to make a statement annually, under  
20 oath, of the amount of property in the public administrator's hands or under the public  
21 administrator's control as such administrator, for the purpose of ascertaining the amount of bond  
22 necessary to secure such property; and such court may from time to time, as occasion shall  
23 require, demand additional security of such administrator, and, in default of giving the same  
24 within twenty days after such demand, may remove the administrator and appoint another.

25 3. The public administrator in all counties, in the performance of the duties required by  
26 chapters 473, 474, and 475, is a public officer. The duties specified by ~~[section]~~ **sections**  
27 **475.120, 475.343, and 475.359** are discretionary. The county shall defend and indemnify the  
28 public administrator against any alleged breach of duty, provided that any such alleged breach  
29 of duty arose out of an act or omission occurring within the scope of duty or employment.

30 4. After January 1, 2001, all salaried public administrators shall be considered county  
31 officials for purposes of section 50.333, subject to the minimum salary requirements set forth in  
32 section 473.742.

33 5. The public administrator for the City of St. Louis shall be appointed by a majority of  
34 the circuit judges and associate circuit judges of the twenty-second judicial circuit, en banc.  
35 Such public administrator shall meet the same qualifications and requirements specified in  
36 subsection 1 of this section for elected public administrators. The elected public administrator  
37 holding office on August 28, 2013, shall continue to hold such office for the remainder of his or  
38 her term.

473.770. 1. Whenever, in the judgment of any public administrator in any county of the  
2 first class, it is necessary for the proper and efficient conduct of the business of the public  
3 administrator's office that the public administrator appoint any deputies to assist the public  
4 administrator in the performance of his or her official duties as public administrator or as  
5 executor, administrator, personal representative, guardian, or conservator in any estates wherein  
6 the public administrator has been specially appointed, the public administrator may appoint one

7 or more deputies to assist him or her in the performance of his or her duties as public  
8 administrator and as executor, administrator, personal representative, guardian, or conservator  
9 in the estates wherein the public administrator has been specially appointed. The appointment  
10 shall be in writing and shall be filed with the court, and, upon the filing, the court shall issue  
11 under its seal a certificate of the appointment for each deputy, stating that the appointee is vested  
12 with the powers and duties conferred by this section. The certificate shall be valid for one year  
13 from date, unless terminated prior thereto, and shall be renewed from year to year as long as the  
14 appointment remains in force, and may be taken as evidence of the authority of the deputy. The  
15 appointment and authority of any deputy may at any time be terminated by the public  
16 administrator by notice of the termination filed in the court, and upon termination the deputy  
17 shall surrender the public administrator's certificate of appointment.

18         2. In all counties of the first classification not having a charter form of government and  
19 containing a portion of a city having a population of three hundred thousand or more inhabitants,  
20 the compensation of each such deputy shall be set by the public administrator, with the approval  
21 of the governing body of the county, and shall be paid in equal monthly installments out of the  
22 county treasury. In all other counties of the first classification the compensation of each such  
23 deputy shall be prescribed and paid by the public administrator out of the fees to which he or she  
24 is legally entitled, and no part of such compensation shall be paid out of any public funds or  
25 assessed as costs or allowed in any estate.

26         3. Each deputy so appointed shall be authorized to perform such ministerial and  
27 nondiscretionary duties as may be delegated to him or her by the public administrator, including:

28             (1) Assembling, taking into possession, and listing moneys, checks, notes, stocks, bonds  
29 and other securities, and all other personal property of any and all estates in the charge of the  
30 public administrator;

31             (2) Depositing all moneys, checks, and other instruments for the payment of money in  
32 the bank accounts maintained by the public administrator for the deposit of such funds;

33             (3) Signing or countersigning any and all checks and other instruments for the payment  
34 of moneys out of such bank accounts, in pursuance of general authorization by the public  
35 administrator to the bank in which the same are deposited, as long as such authorization remains  
36 in effect;

37             (4) Entering the safe deposit box of any person or decedent whose estate is in the charge  
38 of the public administrator and any safe deposit box maintained by the public administrator for  
39 the safekeeping of assets in his or her charge, as a deputy of the public administrator, pursuant  
40 to general authorization given by the public administrator to the bank or safe deposit company  
41 in charge of any such safe deposit box, as long as such deputy-authorization remains in effect,  
42 and withdrawing therefrom and depositing therein such assets as may be determined by the

43 public administrator. The bank or safe deposit company shall not be charged with notice or  
44 knowledge or any limitation of authority of the authorized deputy, unless specially notified in  
45 writing thereof by the public administrator, and may allow the deputy access to the safe deposit  
46 box, in the absence of notice, to the full extent allowable to the public administrator in person.

47 4. The enumeration of the foregoing powers shall not operate as an exclusion of any  
48 powers not specifically conferred. No authorized deputy shall exercise any power, other than as  
49 prescribed in this section, which shall require the exercise of a discretion enjoined by law to be  
50 exercised personally by the executor, administrator, personal representative, guardian, or  
51 conservator in charge of the estate to which the discretionary power refers.

52 5. Notwithstanding the provisions of subsections 3 and 4 of this section to the contrary,  
53 a public administrator in a county of the first classification having a charter form of government  
54 and containing all or part of a city with a population of at least three hundred thousand  
55 inhabitants, and a public administrator in any county of the first classification may delegate to  
56 any deputy appointed by the public administrator any of the duties of the public administrator  
57 enumerated in section 473.743, and sections 475.120 [~~and~~] , 475.130, **475.343, and 475.359**.  
58 Such public administrator may also delegate to a deputy who is a licensed attorney the authority  
59 to execute inventories, settlements, surety bonds, pleadings and other documents filed in any  
60 court in the name of the public administrator, and the same shall have the force and effect as if  
61 executed by the public administrator.

473.771. 1. Whenever, in the judgment of any public administrator in any county which  
2 is not a county of the first classification, it is necessary for the proper and efficient conduct of  
3 the business of his or her office that the public administrator appoint a deputy to assist the public  
4 administrator in the performance of his or her official duties as public administrator or as  
5 executor, administrator, personal representative, guardian, or conservator in any estates wherein  
6 the public administrator has been specially appointed, the public administrator may appoint a  
7 deputy to assist him or her in the performance of his or her duties as public administrator and as  
8 executor, administrator, personal representative, guardian, or conservator in the estates wherein  
9 the public administrator has been specially appointed. The appointment shall be in writing and  
10 shall be filed with the court, and, upon the filing, the court shall issue under its seal a certificate  
11 of the appointment for the deputy, stating that the appointee is vested with the powers and duties  
12 conferred by this section. The certificate shall be valid for one year from the date, unless  
13 terminated prior thereto, and shall be renewed from year to year as long as the appointment  
14 remains in force, and may be taken as evidence of the authority of the deputy. The appointment  
15 and authority of a deputy may at any time be terminated by the public administrator by notice of  
16 the termination filed in the court, and upon termination the deputy shall surrender his or her  
17 certificate of appointment.

18           2. The compensation of a deputy appointed pursuant to the provisions of this section  
19 shall be prescribed and paid by the public administrator out of the fees to which he or she is  
20 legally entitled.

21           3. A deputy appointed pursuant to the provisions of this section shall be authorized to  
22 perform such ministerial and nondiscretionary duties as may be delegated to him or her by the  
23 public administrator, including:

24           (1) Assembling, taking into possession, and listing moneys, checks, notes, stocks, bonds  
25 and other securities, and all other personal property of any and all estates in the charge of the  
26 public administrator;

27           (2) Depositing all moneys, checks, and other instruments for the payment of money in  
28 the bank accounts maintained by the public administrator for the deposit of such funds;

29           (3) Signing or countersigning any and all checks and other instruments for the payment  
30 of moneys out of such bank accounts, in pursuance of general authorization by the public  
31 administrator to the bank in which the same are deposited, as long as such authorization remains  
32 in effect;

33           (4) Entering the safe deposit box of any person or decedent whose estate is in the charge  
34 of the public administrator and any safe deposit box maintained by the public administrator for  
35 the safekeeping of assets in his or her charge, as a deputy of the public administrator, pursuant  
36 to general authorization given by the public administrator to the bank or safe deposit company  
37 in charge of any such safe deposit box, as long as such authorization as a deputy remains in  
38 effect, and withdrawing therefrom and depositing therein such assets as may be determined by  
39 the public administrator. The bank or safe deposit company shall not be charged with notice or  
40 knowledge or any limitation of authority of the authorized deputy, unless specially notified in  
41 writing thereof by the public administrator, and may allow the deputy access to the safe deposit  
42 box, in the absence of notice, to the full extent allowable to the public administrator in person.

43           4. The enumeration of the foregoing powers shall not operate as an exclusion of any  
44 powers not specifically conferred. No authorized deputy shall exercise any power, other than as  
45 prescribed in this section, which shall require the exercise of a discretion enjoined by law to be  
46 exercised personally by the executor, administrator, personal representative, guardian, or  
47 conservator in charge of the estate to which the discretionary power refers.

48           5. Notwithstanding the provisions of subsections 3 and 4 of this section to the contrary,  
49 a public administrator in a county which is not a county of the first classification may delegate  
50 to any deputy appointed by the public administrator any of the duties of the public administrator  
51 enumerated in section 473.743, and sections 475.120 ~~[and]~~ , 475.130, **475.343**, and **475.359**.  
52 Such public administrator may also delegate to a deputy who is a licensed attorney the authority  
53 to execute inventories, settlements, surety bonds, pleadings, and other documents filed in any

54 court in the name of the public administrator, and the same shall have the force and effect as if  
55 executed by the public administrator.

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) **"Conservator ad litem", one appointed by the court in which particular**  
14 **litigation is pending regarding the management of financial resources on behalf of a minor,**  
15 **a disabled person, or an unborn person in that particular proceeding or as otherwise**  
16 **specified in this code;**

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

22 ~~[(5)]~~ (6) "Disabled" or "disabled person", one who is:

23 (a) Unable by reason of any physical ~~[or]~~, mental, **or cognitive** condition to receive and  
24 evaluate information or to communicate decisions to such an extent that the person lacks ability  
25 to manage ~~[his]~~ **the person's** financial resources; or

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

29 ~~[(6)]~~ (7) "Eligible person" or "qualified person", a natural person, social service agency,  
30 corporation or national or state banking organization qualified to act as guardian of the person  
31 or conservator of the estate pursuant to the provisions of section 475.055;

32 ~~[(7)]~~ (8) "Guardian", one appointed by a court to have the care and custody of the person  
33 of a minor or of an incapacitated person. A "limited guardian" is one whose duties or powers  
34 are limited. A "standby guardian" is one approved by the court to temporarily assume the duties

35 of guardian of a minor or of an incapacitated person under section 475.046. The term  
36 "guardian", as used in this chapter, includes limited guardian and standby guardian unless  
37 otherwise specified or apparent from the context;

38 ~~[(8)]~~ **(9)** "Guardian ad litem", one appointed by a court, in which particular litigation is  
39 pending~~[, to represent]~~ **on behalf of** a minor, an incapacitated person, a disabled person, or an  
40 unborn person in that particular proceeding or as otherwise specified in this code;

41 ~~[(9)]~~ **(10)** "Habilitation", ~~[instruction, training, guidance or treatment designed to enable~~  
42 ~~and encourage a intellectually disabled or developmentally disabled person as defined in chapter~~  
43 ~~630 to acquire and maintain those life skills needed to cope more effectively with the demands~~  
44 ~~of his or her own person and of his or her environment]~~ **a process of treatment, training, care,**  
45 **or specialized attention that seeks to enhance and maximize the ability of a person with an**  
46 **intellectual disability or a developmental disability to cope with the environment and to live**  
47 **as determined by the person as much as possible;**

48 ~~[(10)]~~ **(11)** "Incapacitated person", one who is unable by reason of any physical ~~[or]~~ ,  
49 mental, **or cognitive** condition to receive and evaluate information or to communicate decisions  
50 to such an extent that ~~[he or she]~~ **the person, even with appropriate services and assistive**  
51 **technology**, lacks capacity to ~~[meet]~~ **manage the person's** essential requirements for food,  
52 clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely  
53 to occur. The term "incapacitated person" as used in this chapter includes the term partially  
54 incapacitated person unless otherwise specified or apparent from the context;

55 **(12)** "Interested persons", **spouses, children, parents, adult members of a ward's**  
56 **or protectee's family, any persons interested in the welfare of the ward or protectee,**  
57 **creditors or any others having a property right or claim against the estate of a protectee**  
58 **being administered, trustees of a trust of which the ward or protectee is a beneficiary,**  
59 **agents of a durable power of attorney for a ward or protectee, and children of a protectee**  
60 **who may have a property right or claim against or an interest in the estate of a protectee.**  
61 **This meaning may vary at different stages and different parts of a proceeding and shall be**  
62 **determined according to the particular purpose and matter involved;**

63 ~~[(11)]~~ **(13)** "Least restrictive ~~[environment]~~ **alternative**", ~~[that there shall be imposed~~  
64 ~~on the personal liberty of the ward only such restraint as is necessary to prevent the ward from~~  
65 ~~injuring himself or herself and others and to provide the ward with such care, habilitation and~~  
66 ~~treatment as are appropriate for the ward considering his or her physical and mental condition~~  
67 ~~and financial means]~~ **with respect to the guardianship order and the exercise of power by**  
68 **the guardian, a course of action or an alternative that allows the incapacitated person to**  
69 **live, learn, and work with minimum restrictions on the person. "Least restrictive**  
70 **alternative" also means choosing the decision or approach that:**

71           **(a) Places the least possible restriction on the person's personal liberty and exercise**  
72 **or rights and that promotes the greatest possible inclusion of the person into his or her**  
73 **community; and**

74           **(b) Is consistent with meeting the person's essential requirements for health, safety,**  
75 **habilitation, treatment, and recovery and protecting the person from abuse, neglect, and**  
76 **financial exploitation;**

77           ~~[(12)]~~ **(14)** "Manage financial resources", either those actions necessary to obtain,  
78 administer, and dispose of real and personal property, intangible property, business property,  
79 benefits, income or any assets, or those actions necessary to prevent waste, loss or dissipation  
80 of property, or those actions necessary to provide for the care and support of such person or  
81 anyone legally dependent upon such person by a person of ordinary skills and intelligence  
82 commensurate with his or her training and education;

83           ~~[(13)]~~ **(15)** "Minor", any person who is under the age of eighteen years;

84           ~~[(14)]~~ **(16)** "Parent", the biological or adoptive mother or father of a child whose parental  
85 rights have not been terminated under chapter 211, including:

86           (a) A person registered as the father of the child by reason of an unrevoked notice of  
87 intent to claim paternity under section 192.016;

88           (b) A person who has acknowledged paternity of the child and has not rescinded that  
89 acknowledgment under section 193.215; and

90           (c) A person presumed to be the natural father of the child under section 210.822;

91           ~~[(15)]~~ **(17)** "Partially disabled person", one who is unable by reason of any physical ~~[or]~~  
92 , mental, **or cognitive** condition to receive and evaluate information or to communicate decisions  
93 to such an extent that such person lacks capacity to manage, in part, his or her financial  
94 resources;

95           ~~[(16)]~~ **(18)** "Partially incapacitated person", one who is unable by reason of any physical  
96 ~~[or]~~ , mental, **or cognitive** condition to receive and evaluate information or to communicate  
97 decisions to the extent that such person lacks capacity to meet, in part, essential requirements for  
98 food, clothing, shelter, safety, or other care without court-ordered assistance;

99           ~~[(17)]~~ **(19)** "Protectee", a person for whose estate a conservator or limited conservator  
100 has been appointed or with respect to whose estate a transaction has been authorized by the court  
101 under section 475.092 without appointment of a conservator or limited conservator;

102           ~~[(18)]~~ **(20)** "Seriously ill", a significant likelihood that a person will become  
103 incapacitated or die within twelve months;

104           ~~[(19)]~~ **(21)** "Social service agency", a charitable organization organized and incorporated  
105 as a not-for-profit corporation under the laws of this state and which qualifies as an exempt



106 organization within the meaning of Section 501(c)(3), or any successor provision thereto of the  
107 federal Internal Revenue Code;

108 ~~[(20)]~~ (22) "Standby guardian", one who is authorized to have the temporary care and  
109 custody of the person of a minor or of an incapacitated person under the provisions of section  
110 475.046;

111 ~~[(21)]~~ (23) "Treatment", the prevention, amelioration or cure of a person's physical and  
112 mental illnesses or incapacities;

113 ~~[(22)]~~ (24) "Ward", a minor or an incapacitated person for whom a guardian, limited  
114 guardian, or standby guardian has been appointed.

475.016. 1. If there has been an adjudication of incompetency before September 28,  
2 1983, any person so adjudicated shall be deemed totally incapacitated and totally disabled as  
3 defined in section 475.010, until such time as the probate division of the circuit court of the  
4 county of proper venue, upon the annual review proceeding prescribed by section 475.082 or  
5 otherwise, may review the nature of the incapacity or disability of the person so adjudicated and  
6 alter the nature of the adjudication if, as a consequence of the review, it appears to the court that  
7 the person is not both totally incapacitated and totally disabled as defined in section 475.010.  
8 A guardian of the person appointed before September 28, 1983, shall be deemed a guardian as  
9 defined in section 475.010. A guardian of the estate appointed before September 28, 1983, shall  
10 be deemed a conservator as defined in section 475.010.

11 **2. Existing guardians and conservators shall have one year after August 28, 2018,**  
12 **to meet any annual and other reporting requirements that are different from the former**  
13 **requirements of chapter 475 prior to August 28, 2018.**

475.050. 1. Before appointing any other eligible person as guardian of an incapacitated  
2 person, or conservator of a disabled person, the court shall consider the suitability of appointing  
3 any of the following persons who appear to be willing to serve:

4 (1) If the incapacitated or disabled person is, at the time of the hearing, able to make and  
5 communicate a reasonable choice, any eligible person nominated by the person;

6 (2) Any eligible person nominated in a durable power of attorney executed by the  
7 incapacitated or disabled person, or in an instrument in writing signed by the incapacitated or  
8 disabled person and by two witnesses who signed at the incapacitated or disabled person's  
9 request, before the inception of the person's incapacity or disability, at a time within five years  
10 before the hearing when the person was able to make and communicate a reasonable choice;

11 (3) The spouse, parents, adult children, adult brothers and sisters and other close adult  
12 relatives of the incapacitated or disabled person;

13 (4) Any other eligible person or, with respect to the estate only, any eligible organization  
14 or corporation, nominated in a duly probated will of such a spouse or relative [~~executed within~~  
15 ~~five years before the hearing~~].

16 2. Except for good cause shown, the court shall make its appointment in accordance with  
17 the incapacitated or disabled person's most recent valid nomination of an eligible person  
18 qualified to serve as guardian of the person or conservator of the estate. [~~In the event there is not~~  
19 ~~brought to the attention of the court any such valid nomination executed within five years before~~  
20 ~~the hearing, then the court shall give consideration to the most recent valid nomination brought~~  
21 ~~to its attention, but the court shall not be required to follow such nomination.~~]

475.060. 1. Any person may file a petition for the appointment of himself or herself or  
2 some other qualified person as guardian of a minor. Such petition shall state:

3 (1) The name, age, domicile, actual place of residence and post office address of the  
4 minor if known and if any of these facts is unknown, the efforts made to ascertain that fact;

5 (2) The estimated value of the minor's real and personal property, and the location and  
6 value of any real property owned by the minor outside of this state;

7 (3) If the minor has no domicile or place of residence in this state, the county in which  
8 the property or major part thereof of the minor is located;

9 (4) The name and address of the parents of the minor and whether they are living or  
10 dead;

11 (5) The name and address of the spouse, and the names, ages and addresses of all living  
12 children of the minor;

13 (6) The name and address of the person having custody of the person of the minor **or**  
14 **who claims to have custody of the person of the minor;**

15 (7) The name and address of any guardian of the person or conservator of the estate of  
16 the minor appointed in this or any other state;

17 (8) If appointment is sought for a natural person, other than the public administrator, the  
18 names and addresses of wards and disabled persons for whom such person is already guardian  
19 or conservator;

20 (9) The name and address of the trustees and the purpose of any trust of which the minor  
21 is a qualified beneficiary;

22 (10) The reasons why the appointment of a guardian is sought;

23 (11) A petition for the appointment of a guardian of a minor may be filed for the sole and  
24 specific purpose of school registration or medical insurance coverage. Such a petition shall  
25 clearly set out this limited request and shall not be combined with a petition for conservatorship;

26 **(12) If the petitioner suggests the appointment of co-guardians or co-conservators,**  
27 **or both, a statement of the reasons why such appointment is sought and whether the**

28 **petitioner suggests that the co-guardians or co-conservators, if appointed, may act**  
29 **independently or whether they may act only together or only together with regard to**  
30 **specified matters; and**

31 **(13) Whether the petitioner knows of any other court having jurisdiction over the**  
32 **minor and the name of the court, if known.**

33 2. Any person may file a petition for the appointment of himself or herself or some other  
34 qualified person as guardian **or limited guardian** of an incapacitated person. Such petition shall  
35 state:

36 (1) If known, the name, age, domicile, actual place of residence, and post office address  
37 of the alleged incapacitated person, and for the period of three years before the filing of the  
38 petition, the most recent addresses, up to three, at which the alleged incapacitated person lived  
39 prior to the most recent address, and if any of these facts is unknown, the efforts made to  
40 ascertain that fact. In the case of a petition filed by a public official in his or her official capacity,  
41 the information required by this subdivision need only be supplied to the extent it is reasonably  
42 available to the petitioner;

43 (2) The estimated value of the alleged incapacitated person's real and personal property,  
44 and the location and value of any real property owned by the alleged incapacitated person outside  
45 of this state;

46 (3) If the alleged incapacitated person has no domicile or place of residence in this state,  
47 the county in which the property or major part thereof of the alleged incapacitated person is  
48 located;

49 (4) The name and address of the parents of the alleged incapacitated person and whether  
50 they are living or dead;

51 (5) The name and address of the spouse, the names, ages, and addresses of all living  
52 children of the alleged incapacitated person, the names and addresses of the alleged incapacitated  
53 person's closest known relatives, and the names and relationship, if known, of any adults living  
54 with the alleged incapacitated person; if no spouse, adult child, or parent is listed, the names and  
55 addresses of the siblings and children of deceased siblings of the alleged incapacitated person;  
56 the name and address of any agent appointed by the alleged incapacitated person in any durable  
57 power of attorney, and of the presently acting trustees of any trust of which the alleged  
58 incapacitated person is the grantor or is a qualified beneficiary or is or was the trustee or  
59 cotrustee and the purpose of the power of attorney or trust;

60 (6) The name and address of the person having custody of the person of the alleged  
61 incapacitated person;

62 (7) The name and address of any guardian of the person or conservator of the estate of  
63 the alleged incapacitated person appointed in this or any other state;

64 (8) If appointment is sought for a natural person, other than the public administrator, the  
65 names and addresses of wards and ~~[disabled persons]~~ **protectees** for whom such person is  
66 already guardian or conservator;

67 (9) The ~~[fact]~~ **factual basis for the petitioner's conclusion** that the person for whom  
68 guardianship is sought is unable **or partially unable** by reason of some specified physical ~~[or]~~  
69 , mental, **or cognitive** condition to receive and evaluate information or to communicate decisions  
70 to such an extent that the person lacks capacity to meet essential requirements for food, clothing,  
71 shelter, safety, or other care such that serious physical injury, illness, or disease is likely to occur;

72 (10) The reasons, **incidents, and specific behaviors demonstrating** why the  
73 appointment of a guardian **or limited guardian** is sought; and

74 **(11) If the petitioner suggests the appointment of co-guardians or co-conservators,**  
75 **or both, a statement of the reasons why such appointment is sought and whether the**  
76 **petitioner suggests that the co-guardians or co-conservators, if appointed, may act**  
77 **independently or whether they may act only together or only together with regard to**  
78 **specified matters.**

79 **3. If the person filing the petition seeks the appointment of an emergency guardian,**  
80 **the petition shall include the same requirements as provided in subsection 1 of this section**  
81 **or shall have a separate count and shall request the appointment per the requirements**  
82 **provided in subsection 11 of section 475.075.**

475.061. 1. Any person may file a petition in the probate division of the circuit court of  
2 the county of proper venue for the appointment of himself **or herself** or some other qualified  
3 person as conservator of the estate of a minor or disabled person. The petition shall contain the  
4 same allegations as are set forth in subdivisions (1), (8), and (10) of subsection 2 of section  
5 475.060 with respect to the appointment of a guardian for an incapacitated person and, in  
6 addition thereto, an allegation that the respondent is unable by reason of some specific physical  
7 or ~~[mental]~~ **cognitive** condition to receive and evaluate information or to communicate decisions  
8 to such an extent that the respondent lacks ability to manage his financial resources or that the  
9 respondent is under the age of eighteen years.

10 2. A petition for appointment of a conservator or limited conservator of the estate may  
11 be combined with a petition for appointment of a guardian or limited guardian of the person. In  
12 such a combined petition allegations need not be repeated.

475.062. 1. ~~[When a petition for appointment of a conservator of the estate of an alleged~~  
2 ~~disabled person is made by said person, or said person's consent to the appointment sought is~~  
3 ~~endorsed on the petition or filed with it, the court, after appointment of counsel for the alleged~~  
4 ~~disabled person, if satisfied, by interview with the alleged disabled person or otherwise, that the~~  
5 ~~alleged disability does exist, that the disabled person wishes the appointment and has capacity~~

6 to understand the need for it and make a reasonable choice of conservator and that the person  
 7 nominated as conservator is suitable, qualified and has or will accept the appointment, may,  
 8 without notice or hearing, appoint as conservator of the estate, the person, organization or  
 9 corporation designated by the disabled person. If it appears that the alleged disabled person is  
 10 a codepositor or cotenant, the other codepositors and cotenants shall, in any event, be given  
 11 notice before the court acts.

12 ~~2.]~~ When a petition for appointment of a conservator of the estate of an alleged disabled  
 13 person is not made or consented to by said alleged disabled person, the procedures as to notice,  
 14 appointment of counsel, hearing and adjudication of disability as prescribed by section 475.075  
 15 shall be followed.

16 **2. If a petition for appointment of a conservator is made by a person on account of**  
 17 **that person's alleged disability or is made by another on behalf of that person with that**  
 18 **person's consent endorsed on the petition or filed therewith, the court shall first appoint**  
 19 **counsel for that person. The court-appointed attorney shall advise the respondent of the**  
 20 **respondent's rights and of the consequences of the appointment of the conservator.**

21 **3. If the court determines that the disability exists and the respondent desires the**  
 22 **appointment, understands its purpose, and makes a reasonable choice of conservator, the**  
 23 **court may, without notice or hearing, appoint the person, organization, or corporation**  
 24 **designated by the respondent as conservator of the respondent's estate, provided that the**  
 25 **conservator is suitable and qualified and has accepted or will accept the appointment.**

26 **4. If it appears that the respondent is a codepositor or cotenant, the other**  
 27 **codepositors and cotenants shall, in any event, be given notice before the court acts.**

28 ~~3.]~~ **5.** If the whereabouts of a person alleged to be disappeared or detained pursuant to  
 29 section 475.081 is unknown or the place or nature of his confinement or detention prevents  
 30 personal service, service shall be made on him by publication in accordance with the rules of  
 31 civil procedure.

475.075. 1. Except as otherwise provided in section 475.062, when a petition for the  
 2 appointment of a guardian ad litem, guardian, or conservator ~~against~~ **for** any person,  
 3 ~~hereinafter~~ **who is then** referred to as the respondent, **for the approval on behalf of the**  
 4 **respondent of a transaction under section 475.092, or for the rendition of emergency**  
 5 **medical treatment under the provisions of section 475.123 is filed under this chapter on**  
 6 grounds other than minority, the court, if satisfied that there is good cause for the exercise of its  
 7 ~~jurisdiction~~ **authority**, shall promptly set the petition for hearing.

8 2. The respondent shall be served in person with the following: A copy of the petition;  
 9 a written notice stating the time and place the proceeding will be heard by the court, the name  
 10 and address of appointed counsel, and the names and addresses of the witnesses who may be

11 called to testify in support of the petition; and with a copy of the respondent's rights as set forth  
12 in subsections 7 and 8 of this section. The notice shall be signed by the judge or clerk of the  
13 court and served in person on the respondent a reasonable time before the date set for the  
14 hearing. ~~[The petition shall state the names and addresses of the]~~ **A copy of the petition, a**  
15 **written notice stating the time and place for the petition to be heard by the court, and the**  
16 **name and address of counsel appointed to represent the respondent shall be served upon**  
17 **the spouse, parents, children who have reached the age of eighteen, any person serving as [his]**  
18 **the respondent's guardian, conservator, limited guardian, or limited conservator, any person**  
19 **proposed to serve as guardian or conservator, any person having power to act in a fiduciary**  
20 **capacity with respect to any of the respondent's financial resources, [and] any person having [his]**  
21 **the respondent's care and custody known to the petitioner, and any cotenants or codepositors**  
22 **with the respondent.** Each person so listed shall be served ~~[with like notice]~~ in any manner  
23 permitted by section 472.100. If no such spouse, parent, or child is known, notice shall be given  
24 to at least one of ~~[his]~~ **the respondent's** closest relatives who ~~[has]~~ **have reached the age of**  
25 **eighteen.**

26 3. Upon the filing of a petition under the provisions of subsection 1 of this section or for  
27 the approval on behalf of the respondent of a transaction pursuant to section 475.092 or for the  
28 rendition of emergency medical treatment under the provisions of section 475.123, the court shall  
29 immediately appoint an attorney to represent the respondent in the proceeding. The attorney  
30 shall visit ~~[his client]~~ **the respondent at least twenty-four hours** prior to the hearing **unless the**  
31 **court finds good cause for waiving this requirement.** If the ~~[client]~~ **attorney finds that the**  
32 **respondent** is capable of understanding the matter in question or of contributing to the  
33 advancement of the ~~[client's]~~ **respondent's** interest, the attorney shall obtain from the ~~[client]~~  
34 **respondent** all possible aid. If the ~~[disability of a client compels the attorney to make decisions~~  
35 ~~for the client,]~~ **attorney finds that the respondent is so impaired that the respondent cannot**  
36 **communicate or participate in the proceedings,** the attorney shall consider all circumstances  
37 then prevailing and act with care to safeguard and advance the interests of the ~~[client]~~  
38 **respondent.**

39 4. **If the court enters an order appointing an attorney for the respondent, it shall**  
40 **specify that the attorney shall have the right to obtain all medical and financial information**  
41 **of the respondent from medical care providers and financial institutions, and no medical**  
42 **care provider or financial institution shall be liable for damages or otherwise for the**  
43 **release of this information to the attorney appointed for the respondent.** The court shall  
44 allow a reasonable attorney's fee for the services rendered, to be taxed as costs of the proceeding.  
45 **Upon entry of appearance by private counsel on behalf of the respondent, the court may**  
46 **permit the court-appointed attorney [may be permitted] to withdraw [if the respondent employs**

47 ~~private counsel who enters an appearance on behalf of said person]~~ **only if after a hearing the**  
48 **court finds cause to permit the withdrawal. The private counsel shall meet the**  
49 **requirements of the court-appointed attorney in representing the respondent as provided**  
50 **in subsections 2 and 3 of this section. The respondent's attorney shall not also serve as**  
51 **guardian ad litem or conservator ad litem for the respondent unless and until a judgment**  
52 **granting guardianship, conservatorship, limited guardianship, or limited conservatorship**  
53 **has been entered by the court. If the attorney for the respondent has filed or intends to file**  
54 **an appeal of such judgment, the attorney for the respondent shall not serve as guardian**  
55 **ad litem or conservator ad litem for the respondent until all proceedings in connection with**  
56 **such appeal have been finally resolved. The petitioner shall not nominate an attorney for**  
57 **the respondent.**

58 ~~[4-]~~ **5.** The court may direct that the respondent be examined by a physician [ø] ,  
59 licensed psychologist, or other appropriate professional ~~[designated by the court, and may allow~~  
60 ~~a reasonable fee for the services rendered, to be taxed as costs in the proceeding]~~ **if the other**  
61 **professional has experience or training in the alleged mental, physical, or cognitive**  
62 **impairment.** The court-appointed physician, licensed psychologist or other professional shall,  
63 prior to examination, explain to the respondent in simple language, the following:

64 (1) ~~[Incapacity or disability as defined in section 475.010;~~  
65 ~~—(2)]~~ **(2)** That the purpose of the examination is to produce evidence which may be used to  
66 determine whether the respondent is incapacitated, disabled [ø] , partially incapacitated, or  
67 **partially disabled;**

68 ~~[(3)]~~ **(2)** That respondent has the right to remain silent;

69 ~~[(4)]~~ **(3)** That anything respondent says may be used at the court hearing, and in making  
70 the determination of incapacity or disability.

71 ~~[5-]~~ **6.** The court-appointed physician, licensed psychologist, or other professional shall  
72 submit ~~[his]~~ a report in writing to the court and to counsel for all parties. **It shall not be a valid**  
73 **objection to the review of the report by the court or the attorneys for the parties that the**  
74 **court will be responsible for the ultimate determination of incapacity or partial incapacity.**  
75 **If other objections to the report are made by any party, the court may order a hearing for**  
76 **the limited purpose of determining whether the court shall admit the report. The court**  
77 **may allow a reasonable fee for the services rendered by the physician, licensed**  
78 **psychologist, or other professional to be taxed as costs in the proceeding.**

79 ~~[6-]~~ **7.** If prima facie proof of partial or complete incapacity or disability, **with or**  
80 **without the court ordered evaluation as provided in subsections 4 and 5 of this section, is**  
81 **made upon motion by any party or the court on its own motion, a physician [ø] , licensed**  
82 **psychologist, or other appropriate professional is competent and may be compelled by the**

83 **court** to testify as to information acquired from the respondent, despite otherwise applicable  
 84 testimonial privileges. Evidence received under this subsection which would otherwise be  
 85 privileged **and confidential** may not be used in any other civil action or criminal proceeding  
 86 without the consent of the holder of the privilege. **Any resulting report shall be shared with**  
 87 **the respondent and counsel for all parties but shall not be used in any other civil action or**  
 88 **criminal proceeding without the consent of the holder of the privilege.**

89 ~~[7-]~~ **8.** The petitioner has the burden of proving incapacity, partial incapacity, disability,  
 90 or partial disability by clear and convincing evidence.

91 ~~[8-]~~ **9.** The respondent shall have the following rights in addition to those elsewhere  
 92 specified **and shall be advised of these rights by the attorney for the respondent:**

93 (1) The right to be represented by an attorney;

94 (2) The right to have a jury trial;

95 (3) The right to present evidence in ~~[his]~~ **the respondent's** behalf;

96 (4) The right to cross-examine witnesses who testify against ~~[him]~~ **the respondent;**

97 (5) The right to remain silent;

98 (6) The right to have the hearing opened or closed to the public as ~~[he]~~ **the respondent**  
 99 elects;

100 (7) The right to a hearing conducted in accordance with the rules of evidence in civil  
 101 proceedings, except as modified by this chapter;

102 (8) The right to be present at the hearing;

103 **(9) The right to appeal the court's decision.**

104 ~~[9-]~~ **10.** If the court finds that the respondent **with such assistance** possesses capacity  
 105 to ~~[meet his]~~ **manage the respondent's** essential requirements for food, clothing, shelter, safety  
 106 and other care or that ~~[he]~~ **the respondent** possesses the ability to manage ~~[his]~~ **the**  
 107 **respondent's** financial resources, ~~[it]~~ **the court** shall deny the petition. On the other hand, if the  
 108 court finds that the capacity of the respondent to receive and evaluate information or to  
 109 communicate decisions is impaired to such an extent as to render ~~[him]~~ **the respondent**  
 110 incapable of ~~[meeting]~~ **managing** some or all of ~~[his]~~ **the respondent's** essential requirements  
 111 for food, clothing, shelter, safety or other care so that serious physical injury, illness, or disease  
 112 is likely to occur, or that the ~~[ability]~~ **capacity** of the respondent to receive and evaluate  
 113 information or to communicate decisions is impaired to such an extent so as to render ~~[him]~~ **the**  
 114 **respondent** unable to manage some or all of ~~[his]~~ **the respondent's** financial resources, ~~[it shall~~  
 115 ~~make and recite in its order detailed findings of fact stating:~~

116 ~~———(1) The extent of his physical and mental incapacity to care for his person;~~

117 ~~———(2) The extent of his physical and mental disability to manage his financial resources;~~



118 ~~—— (3) Whether or not he requires placement in a supervised living situation and, if so, the~~  
 119 ~~degree of supervision needed;~~

120 ~~—— (4) Whether or not his financial resources require supervision and, if so, the nature and~~  
 121 ~~extent of supervision needed] **the court shall appoint a guardian or limited guardian, a**~~  
 122 **conservator or limited conservator, or both in combination.**

123 ~~[10.]~~ **11.** If the court finds the respondent to be in some degree incapacitated or disabled,  
 124 or both, the court, in determining the degree of supervision necessary, shall apply the least  
 125 restrictive ~~[environment]~~ **alternative** principle as defined in this chapter and shall not restrict  
 126 ~~[his] the respondent's~~ personal liberty or ~~[his] the respondent's~~ freedom to manage ~~[his] the~~  
 127 **respondent's** financial resources to any greater extent than is necessary to protect ~~[his] the~~  
 128 **respondent's** person and ~~[his] the respondent's~~ financial resources. ~~[The court shall consider~~  
 129 ~~whether or not the respondent may be fully protected by the rendition of temporary protective~~  
 130 ~~services provided by a private or public agency or agencies; or by the appointment of a guardian~~  
 131 ~~or conservator ad litem; or by the appointment of a limited guardian or conservator; or, as a last~~  
 132 ~~resort, by the appointment of a guardian or conservator.]~~ The limitations imposed upon the  
 133 authority of the guardian or conservator as set forth in the findings of the court shall be stated in  
 134 the letters of the guardian or conservator and shall be set forth in the notice of first publication  
 135 of letters of conservatorship granted.

136 **12. Before appointing a guardian or conservator, the court shall consider whether**  
 137 **the respondent's needs may be met without the necessity of the appointment of a guardian**  
 138 **or conservator, or both, by a less restrictive alternative including, but not limited to, the**  
 139 **following:**

140 **(1) Evidence that the respondent has appointed an attorney-in-fact in a durable**  
 141 **power of attorney executed by the respondent before the petition was filed;**

142 **(2) The management of the beneficial interests of the respondent in a trust by a**  
 143 **trustee;**

144 **(3) Evidence that a representative payee has been appointed to manage the**  
 145 **respondent's public benefits;**

146 **(4) Supported decision-making agreements or the provision of protective or**  
 147 **supportive services or arrangements provided by individuals or public or private services**  
 148 **or agencies;**

149 **(5) The use of appropriate services or assistive technology;**

150 **(6) The appointment of a temporary emergency guardian ad litem or conservator**  
 151 **ad litem under subsection 14 of this section; or**

152 **(7) The appointment of a limited guardian or conservator.**

153 **13. The court shall make and recite in its order detailed findings of fact stating:**

154 (1) The extent of the respondent's physical, mental, and cognitive incapacity to  
 155 manage essential requirements for food, clothing, shelter, safety, or other care;

156 (2) The extent of the respondent's physical, mental, and cognitive incapacity to  
 157 manage the respondent's financial resources;

158 (3) Whether the respondent requires placement in a supervised living situation and,  
 159 if so, the degree of supervision needed;

160 (4) Whether the respondent's financial resources require supervision and, if so, the  
 161 nature and extent of supervision needed; and

162 (5) Whether the respondent retains the right to vote.

163 ~~[+-]~~ 14. If it is alleged in a petition that an alleged incapacitated or disabled ~~[person]~~  
 164 **respondent** has no guardian or conservator and an emergency exists ~~[which]~~ **that** presents a  
 165 substantial risk that serious physical harm will occur to ~~[his]~~ **the respondent's** person or  
 166 irreparable damage will occur to ~~[his]~~ **the respondent's** property because of ~~[his]~~ **the**  
 167 **respondent's** failure or inability to provide for ~~[his]~~ **the respondent's** essential human needs or  
 168 to protect ~~[his]~~ **the respondent's** property, the court may, with notice to such person's attorney,  
 169 as provided in subsection 3 of this section, and service of notice upon such person as provided  
 170 in subsection 2 of this section, and, with or without notice to other persons interested in the  
 171 proceeding, after hearing, appoint ~~[a]~~ **an emergency guardian ad litem** or conservator ad litem  
 172 for a specified period not to exceed ~~[thirty]~~ **ninety** days and for specified purposes. **Except for**  
 173 **good cause shown, the court shall hold a hearing on petitions filed under this section within**  
 174 **five business days of the filing of the petition.** Orders appointing the guardian or conservator  
 175 ad litem may be modified upon motion and hearing. **Only** after a hearing and a showing of  
 176 continuing emergency need, ~~[orders appointing the]~~ **the court may order the extension of the**  
 177 **appointment of an emergency guardian ad litem** or conservator ad litem ~~[may be extended]~~  
 178 from time to time, not to exceed ~~[thirty]~~ **ninety** days each. A guardian **ad litem** or conservator  
 179 ad litem may be removed at any time and shall make any report the court requires. Proceedings  
 180 under this subsection shall not be employed as alternative to proceedings for the involuntary  
 181 detention and treatment of a mentally ill person under the provisions of chapter 632. **If no**  
 182 **petition for guardianship, conservatorship, limited guardianship, or limited**  
 183 **conservatorship has been filed within the first thirty days following the granting of**  
 184 **emergency authority under this section, the court shall terminate the authority granted**  
 185 **under the emergency letters upon motion of the attorney for the respondent and a finding**  
 186 **that doing so would not be manifestly contrary to the respondent's interest.**

475.078. 1. An adjudication of partial incapacity or partial disability does not operate  
 2 to impose upon the ward or protectee any legal disability provided by law except to the extent  
 3 specified in the order of adjudication, provided that the court shall not impose upon the ward or

4 protectee any legal disability other than those which are consistent with the condition of the ward  
5 or protectee.

6 2. An adjudication of incapacity or disability does operate to impose upon the ward or  
7 protectee all legal disabilities provided by law, except to the extent specified in the order of  
8 adjudication **or otherwise in this chapter**, and provided further that the court is without  
9 ~~jurisdiction~~ **authority** to impose any legal disability upon a disabled person for whom a  
10 conservator has been appointed by reason of ~~his~~ **the person's** disappearance, detention, or  
11 confinement.

12 3. A person who has been adjudicated incapacitated or disabled or both shall be  
13 presumed to be incompetent, **except as otherwise specified in this chapter**. A person who has  
14 been adjudicated partially incapacitated or partially disabled or both shall be presumed to be  
15 competent. The court at any time after a hearing on the question may determine that an  
16 incapacitated, disabled, or partially incapacitated or partially disabled person is incompetent for  
17 some purposes and competent for other purposes.

18 **4. The court may expressly enter an order that the right of the ward to vote shall**  
19 **be retained even though the ward is otherwise totally incapacitated.**

20475.079. 1. If it appears to the court ~~[that a guardian should be appointed for a minor~~  
21 ~~who is not incapacitated]~~ or if it is found by the jury or the court upon proof by clear and  
22 convincing evidence that the person for whom a guardian is sought is incapacitated as defined  
23 in this law **and that the respondent's identified needs cannot be met by a less restrictive**  
24 **alternative**, the court may appoint a guardian of the person. ~~[The appointment of guardians of~~  
25 ~~minors shall be made in accordance with section 475.045, except that if a person entitled to~~  
26 ~~appointment as a guardian or entitled to select a guardian fails to appear after notice or to apply~~  
27 ~~for such appointment or make selection in accordance with the order of the court the court may~~  
28 ~~appoint any suitable person as guardian.]~~

29 2. If it is found that the person for whom a conservator of the estate is sought is a minor  
30 or is disabled as defined in section 475.010 by a disability other than or in addition to minority  
31 **and that the respondent's identified needs cannot be met by a less restrictive alternative**,  
32 the court may appoint a conservator of the estate, who may be the same person appointed  
33 guardian of the person.

34 **3. The court shall not appoint the public administrator to serve as guardian, limited**  
35 **guardian, conservator, limited conservator, emergency guardian, emergency conservator,**  
36 **guardian ad litem, or conservator ad litem unless notice is first given to the public**  
37 **administrator as provided in this section and the public administrator has an opportunity**  
38 **to participate in any hearing on such matter, including the right to cross-examine witnesses**  
39

20 **and to offer witnesses and evidence. The public administrator may waive notice and the**  
21 **opportunity to participate.**

475.080. 1. If the court, after hearing, finds that a person is partially incapacitated **and**  
2 **that the respondent's identified needs cannot be met by a less restrictive alternative**, the  
3 court shall appoint a limited guardian of the person of the ward. The order of appointment shall  
4 specify the powers and duties of the limited guardian so as to permit the partially incapacitated  
5 ward to [~~care for himself~~] **provide for self-care** commensurate with [~~his~~] **the ward's** ability to  
6 do so and shall also specify the legal disabilities to which the ward is subject. In establishing a  
7 limited guardianship, the court shall impose only such legal disabilities and restraints on personal  
8 liberty as are necessary to promote and protect the well-being of the individual and shall design  
9 the guardianship so as to encourage the development of maximum self-reliance and  
10 independence in the individual.

11 2. If the court, after hearing, finds that a person is partially disabled **and that the**  
12 **respondent's identified needs cannot be met by a less restrictive alternative**, the court shall  
13 appoint a limited conservator of the estate. The order of appointment shall specify the powers  
14 and duties of the limited conservator so as to permit the partially disabled person to manage [~~his~~]  
15 **the person's** financial resources commensurate with [~~his~~] **the person's** ability to do so.

475.082. 1. At least annually, the court shall inquire into the status of every **adult** ward  
2 and protectee under its jurisdiction for the purpose of determining whether the incapacity or  
3 disability may have ceased **or changed** and to insure that the guardian or conservator is  
4 discharging [~~his~~] **the guardian's or conservator's** responsibilities and duties in accordance with  
5 this chapter.

6 2. In order to implement the court review prescribed by this section, the guardian or  
7 limited guardian shall file annually on the anniversary date of [~~his~~] **the guardian's or limited**  
8 **guardian's** letters[~~]~~ a report concerning the personal status of the **adult ward and plans for**  
9 **future care**. Such report may be combined with the settlement of accounts if the guardian is also  
10 conservator of the estate of the ward. The report shall be in the form prescribed by the court and  
11 shall include the following information:

- 12 (1) The present address of the ward;
- 13 (2) The present address of the guardian;
- 14 (3) **Unless the report specifies that the ward is living with the guardian**, the number  
15 of times the guardian has had contact with the ward, and the nature of such contacts including  
16 the date the ward was last seen by the guardian;
- 17 (4) **A summary of the guardian's visits with the ward and activities on the ward's**  
18 **behalf and the extent to which the ward has participated in decision-making;**

19 (5) If the ward is institutionalized, whether the guardian has received a copy of the  
20 treatment or habilitation plan and whether the guardian agrees with its provision;

21 ~~[(5)]~~ (6) The date the ward was last seen by a physician **or other professional** and the  
22 purpose;

23 ~~[(6) Any major changes in the physical or mental condition of the ward observed by the~~  
24 ~~guardian]~~ (7) **The current mental, physical, and social condition of the ward and any major**  
25 **changes in the ward's condition since the last report;**

26 ~~[(7)]~~ (8) The opinion of the guardian as to the need for the continuation of the  
27 guardianship and whether it is necessary to increase or decrease the powers of the guardian;

28 ~~[(8) The opinion of the guardian as to the adequacy of the present care of the ward]~~ (9)  
29 **The medical, educational, vocational, and other services provided to the ward and the**  
30 **guardian's opinion as to the adequacy of the ward's care; and**

31 (10) **A plan for the coming year, including short-term and long-term goals, and the**  
32 **extent to which the ward has participated in the development of the plan.**

33 3. The court may as part of its review, in its discretion, order the performance of a mental  
34 status evaluation of ~~[an incapacitated]~~ **the ward** and may require any hospital, physician, or  
35 custodial facility to submit copies of their records relating to the treatment, habilitation, or care  
36 of the ward. **The court, as part of its review and in its discretion, may also contact the**  
37 **department of health and senior services or other appropriate agencies to investigate the**  
38 **conduct of the guardian and report its findings to the court.**

39 4. If there is an indication that the incapacity or disability of the ward or protectee has  
40 ceased, the court shall appoint an attorney to file on behalf of the ward or protectee a petition for  
41 termination of the guardianship or conservatorship or for restoration.

42 5. If it appears to the court as part of its review or at any time upon motion of any  
43 interested person **interested in the welfare of the ward**, including the ward or protectee or some  
44 person on ~~[his]~~ **the ward's** behalf, that the guardian or conservator is not discharging ~~[his]~~ **the**  
45 **guardian's or conservator's** responsibilities and duties as required by this chapter or has not  
46 acted in the best interests of ~~[his]~~ **the ward or protectee**, the court may order that a hearing be  
47 held and direct that the guardian or conservator appear before the court. In the event that such  
48 a hearing is ordered and the ward or protectee is not represented by an attorney, the court shall  
49 appoint an attorney to represent the ward or protectee in the proceedings. At the conclusion of  
50 the hearing, if the court finds that the guardian ~~[or conservator]~~ is not discharging ~~[his]~~ **the**  
51 **guardian's** duties and responsibilities as required by this code~~[-]~~ or is not acting in the best  
52 interests of the ward or protectee, the court shall enter such orders as it deems appropriate under  
53 the circumstances. Such orders may include the removal of the guardian ~~[or conservator]~~ and  
54 the appointment of a successor guardian or conservator or termination of the guardianship or

55 conservatorship on finding that the ward has recovered [~~his~~] capacity or the protectee is no longer  
56 disabled. The court, in framing its orders and findings, shall give due consideration to the  
57 exercise by the guardian or conservator of any discretion vested in [~~him~~] **the guardian or**  
58 **conservator** by law.

475.083. 1. The authority of a guardian or conservator terminates:

- 2 (1) When a minor ward becomes eighteen years of age;
- 3 (2) Upon an adjudication that an incapacitated or disabled person has been restored to  
4 [~~his~~] capacity or ability;
- 5 (3) Upon revocation of the letters of the guardian or conservator;
- 6 (4) Upon the acceptance by the court of the resignation of the guardian or conservator;
- 7 (5) Upon the death of the ward or protectee except that if there is no person other than  
8 the estate of the ward or protectee liable for the funeral and burial expenses of the ward or  
9 protectee the guardian or conservator may, with the approval of the court, contract for the funeral  
10 and burial of the deceased ward or protectee;
- 11 (6) Upon the expiration of an order appointing a guardian or conservator ad litem unless  
12 the court orders extension of the appointment;
- 13 (7) Upon an order of court terminating the guardianship or conservatorship.

14 2. A guardianship or conservatorship may be terminated by court order after such notice  
15 as the court may require:

- 16 (1) If the conservatorship estate is exhausted;
- 17 (2) If the conservatorship is no longer necessary for any other reason;
- 18 (3) If the court finds that a parent is fit, suitable and able to assume the duties of  
19 guardianship and it is in the best interest of the minor that the guardianship be terminated; **or**  
20 **(4) If the court determines that the guardian is unable to provide the services of a**  
21 **guardian due to the ward's absence from the state or other particular circumstances of the**  
22 **ward.**

23 3. Notwithstanding the termination of the authority of a conservator, [~~he~~] **the**  
24 **conservator** shall continue to have such authority as may be necessary to wind up [~~his~~]  
25 administration.

26 4. At any time the guardian, conservator, or any person on behalf of the ward or protectee  
27 may, individually or jointly with the ward or protectee, or the ward or protectee individually may  
28 petition the court to restore the ward or protectee, [~~or~~] to decrease the powers of the guardian or  
29 conservator, **or to return rights to the ward;** except that, if the court determines that the  
30 petition is frivolous, the court may summarily dismiss the petition without hearing. **The petition**  
31 **from the ward or protectee or on behalf of the ward or protectee may be an informal letter**  
32 **to the court. Anyone who interferes with the transmission of the ward's or protectee's**

33 **letter or petition may be cited by the court for contempt after notice and hearing. If at any**  
34 **time the court, on its own motion, has reason to believe that the guardian's or conservator's**  
35 **powers should be increased or decreased or additional rights should be returned to the**  
36 **ward, the court shall set the matter for a hearing.**

37 5. Upon the filing of a joint petition by the guardian or conservator and the ward or  
38 protectee, the court, if it finds restoration or modification to be in the best interests of the ward  
39 or protectee, may summarily order restoration [~~or modification of the~~] **or a decrease in** powers  
40 of the guardian or conservator **or return rights to the ward** without the necessity of notice and  
41 hearing.

42 6. Upon the filing of a petition without the joinder of the guardian or conservator **or if**  
43 **the court requires a hearing for a petition filed with the joinder of a guardian or**  
44 **conservator**, the court shall cause the petition to be set for hearing with notice to the guardian  
45 or conservator **and to such other persons as the court directs. The hearing shall be**  
46 **conducted in accordance with the provisions of section 475.075.** If the ward or protectee is  
47 not represented by an attorney, the court shall appoint an attorney to represent the ward or  
48 protectee in such proceeding. The burden of proof by a preponderance of the evidence shall be  
49 upon the petitioner. Such a petition may not be filed more than once every one hundred eighty  
50 days.

51 7. At any time the guardian [~~or~~], **limited guardian**, conservator, **or limited conservator**  
52 may petition the court to increase [~~his~~] **the guardian's or conservator's powers or to remove**  
53 **rights from the ward.** Proceedings on the petition shall be in accordance with the provisions  
54 of section 475.075.

55 **8. In deciding whether to terminate or modify a guardianship or conservatorship,**  
56 **the court may require a report by and consider the recommendations in the report of a**  
57 **physician, licensed psychologist, or other appropriate qualified professional who has**  
58 **experience or training in the alleged mental, physical, or cognitive impairment of the ward**  
59 **or protectee.**

475.094. [~~If the court determines and enters a finding that a permanently totally mentally~~  
2 ~~disabled protectee's estate would be substantially depleted upon his death by the payment of~~  
3 ~~federal estate taxes, the court is hereby empowered: to exercise or release powers of~~  
4 ~~appointment, to change the beneficiaries and elect options under insurance and annuity policies;~~  
5 ~~to make gifts to the natural objects of the protectee's bounty, to convey or release his contingent~~  
6 ~~and expectant interests in property including marital property rights and any right of survivorship~~  
7 ~~incident to joint tenancy or tenancy by the entirety, to surrender insurance or annuity policies for~~  
8 ~~their cash values, to exercise his right to an elective share in the estate of his deceased spouse,~~  
9 ~~and to renounce any interest by testate or intestate succession or by inter vivos transfer, if such~~

10 ~~act or acts will not deplete the protectee's estate so as to impair the ability to provide for the~~  
11 ~~protectee's foreseeable lifetime needs, and if such act will cause financial benefits to inure solely~~  
12 ~~to the natural objects of the protectee's bounty. Such act shall be undertaken by the court only~~  
13 ~~to the extent that it will result in a substantial saving of federal estate tax for the estate of the~~  
14 ~~disabled protectee upon his death.]~~

15 **1. After notice to interested persons and upon express**  
16 **authorization of the court, a conservator may:**

17 **(1) Make gifts that the protectee might have been expected to make including, but**  
18 **not limited to, gifts to qualify for government benefits or to reduce federal estate taxes;**

19 **(2) Make a division of assets as provided under the Medicaid spousal**  
20 **impoverishment provisions;**

21 **(3) Convey, release, or disclaim contingent and expectant interests in property,**  
22 **including marital property rights and any right of survivorship incident to joint tenancy**  
23 **or tenancy by the entireties;**

24 **(4) Exercise or release a power of appointment;**

25 **(5) Create a revocable or irrevocable trust of property of the estate, whether the**  
26 **trust extends beyond the duration of the conservatorship, or revoke or amend a trust**  
27 **revocable by the protected person;**

28 **(6) Exercise rights to elect options and change beneficiaries under insurance**  
29 **policies and annuities or surrender the policies and annuities for cash value;**

30 **(7) Exercise any right to an elective share in the estate of the protectee's deceased**  
31 **spouse and to renounce or disclaim any interest by testate or intestate succession or by**  
32 **transfer during lifetime.**

33 **2. The court, in exercising or in approving a conservator's exercise of the powers**  
34 **listed under subsection 1 of this section, shall consider primarily the decision that the**  
35 **protectee would have made, to the extent that the decision can be ascertained. The court**  
36 **shall also consider:**

37 **(1) The financial needs of the protected person and the needs of individuals who**  
38 **are in fact dependent on the protectee for support and the interest of creditors;**

39 **(2) Possible reduction of income, estate, inheritance, or other tax liabilities;**

40 **(3) Eligibility for government assistance;**

41 **(4) The protectee's previous pattern of giving or level of support;**

42 **(5) The existing estate plan;**

43 **(6) The protectee's life expectancy and the probability that the conservatorship will**  
44 **terminate before the protectee's death; and**

**(7) Any other factors the court considers relevant.**



45           **3. Without authorization of the court, a conservator shall not revoke or amend a**  
46 **durable power of attorney of which the protectee is the principal. If a durable power of**  
47 **attorney is in effect, absent a court order to the contrary, a decision of the agent takes**  
48 **precedence over that of a conservator.**

          475.120. [1-] The guardian of the person of a minor shall be entitled to the custody and  
2 control of the ward and shall provide for the ward's education, support, and maintenance.

3           ~~[2. A guardian or limited guardian of an incapacitated person shall act in the best interest~~  
4 ~~of the ward. A limited guardian of an incapacitated person shall have the powers and duties~~  
5 ~~enumerated by the court in the adjudication order or any later modifying order.~~

6           ~~3. The general powers and duties of a guardian of an incapacitated person shall be to take~~  
7 ~~charge of the person of the ward and to provide for the ward's care, treatment, habilitation,~~  
8 ~~education, support and maintenance; and the powers and duties shall include, but not be limited~~  
9 ~~to, the following:~~

10           ~~(1) Assure that the ward resides in the best and least restrictive setting reasonably~~  
11 ~~available;~~

12           ~~(2) Assure that the ward receives medical care and other services that are needed;~~

13           ~~(3) Promote and protect the care, comfort, safety, health, and welfare of the ward;~~

14           ~~(4) Provide required consents on behalf of the ward;~~

15           ~~(5) To exercise all powers and discharge all duties necessary or proper to implement the~~  
16 ~~provisions of this section.~~

17           ~~4. A guardian of an adult or minor ward is not obligated by virtue of such guardian's~~  
18 ~~appointment to use the guardian's own financial resources for the support of the ward. If the~~  
19 ~~ward's estate and available public benefits are inadequate for the proper care of the ward, the~~  
20 ~~guardian or conservator may apply to the county commission pursuant to section 475.370.~~

21           ~~5. No guardian of the person shall have authority to seek admission of the guardian's~~  
22 ~~ward to a mental health or intellectual disability facility for more than thirty days for any purpose~~  
23 ~~without court order except as otherwise provided by law.~~

24           ~~6. Only the director or chief administrative officer of a social service agency serving as~~  
25 ~~guardian of an incapacitated person, or such person's designee, is legally authorized to act on~~  
26 ~~behalf of the ward.~~

27           ~~7. A social service agency serving as guardian of an incapacitated person shall notify the~~  
28 ~~court within fifteen days after any change in the identity of the professional individual who has~~  
29 ~~primary responsibility for providing guardianship services to the incapacitated person.~~

30           ~~8. Any social service agency serving as guardian may not provide other services to the~~  
31 ~~ward.~~

32 ~~9. In the absence of any written direction from the ward to the contrary, a guardian may~~  
 33 ~~execute a preneed contract for the ward(s) funeral services, including cremation, or an irrevocable~~  
 34 ~~life insurance policy to pay for the ward(s) funeral services, including cremation, and authorize~~  
 35 ~~the payment of such services from the ward(s) resources. Nothing in this section shall interfere~~  
 36 ~~with the rights of next-of-kin to direct the disposition of the body of the ward upon death under~~  
 37 ~~section 194.119. If a preneed arrangement such as that authorized by this subsection is in place~~  
 38 ~~and no next-of-kin exercises the right of sepulcher within ten days of the death of the ward, the~~  
 39 ~~guardian may sign consents for the disposition of the body, including cremation, without any~~  
 40 ~~liability therefor. A guardian who exercises the authority granted in this subsection shall not be~~  
 41 ~~personally financially responsible for the payment of services.]~~

475.123. 1. ~~[No]~~ **Consent of the guardian shall be obtained as authorized in section**  
 2 **431.061 before a** medical or surgical procedure ~~[shall]~~ **may** be performed on any ward unless  
 3 ~~[consent is obtained from the guardian of his person except as provided in subsections 2 and 3~~  
 4 ~~hereof]~~ **emergency treatment is required and consent is excused as provided under section**  
 5 **431.063.**

6 2. If the life of the ward is threatened and there is not time to obtain consent, a medical  
 7 or surgical procedure may be performed without consent after the medical necessity for the  
 8 procedure has been documented in the medical record of the ward.

9 3. If the life of a person is threatened and ~~[his]~~ **the person's** consent to a necessary  
 10 medical or surgical procedure cannot be obtained, a court, on petition filed pursuant to section  
 11 475.060, after hearing, may authorize consent on behalf of such person.

12 4. Any hearing conducted pursuant to subsection 3 of this section, involving a life  
 13 threatening medical emergency, may be conducted within or without the county at the medical  
 14 facility where the person has been admitted with such notice and in such form as is practicable  
 15 considering the time limitations imposed due to the condition of person. The fact of attempted  
 16 oral notice to persons interested in the welfare of the person shall be made a part of the record  
 17 of the hearing.

18 **5. The guardian, in making health care decisions for the adult ward or in seeking**  
 19 **court approval for such decisions, shall maximize the participation of the ward.**

20 **6. The guardian, in making health care decisions for the adult ward or in seeking**  
 21 **court approval for such decisions, shall:**

22 **(1) Consider the medical facts;**

23 **(2) Consider the health care options and risks and benefits of each; and**

24 **(3) Encourage and support the individual in understanding the facts and directing**  
 25 **a decision.**

26           **7. (1) To the extent the adult ward cannot currently direct the health care decision,**  
27 **the guardian shall act in accordance with the ward's prior directions, directives, expressed**  
28 **desires, and opinions about health care to the extent actually known or ascertainable by**  
29 **the guardian. However, if the ward's prior directions, directives, expressed desires, and**  
30 **opinions about health care are unknown and unascertainable, the guardian shall act in**  
31 **accordance with reasonable information received from professionals and persons who**  
32 **demonstrate sufficient interest in the adult ward's welfare to determine the ward's best**  
33 **interests. Such determination shall include consideration of consequences for others that**  
34 **an individual in the ward's circumstances would consider.**

35           **(2) In the event of an emergency, the guardian shall grant or deny authorization**  
36 **of emergency health care treatment based on a reasonable assessment of the criteria listed**  
37 **in section 475.359.**

38           **8. The guardian shall monitor, promote, and maintain the person's health and**  
39 **well-being and shall seek to ensure that the person receives appropriate health care.**

475.125. 1. The court may make orders for the management of the estate of the protectee  
2 for the care, education, treatment, habilitation, respite, support and maintenance of the protectee  
3 and for the **support and** maintenance of ~~his or her~~ **the protectee's** family and education of ~~his~~  
4 ~~or her~~ **the protectee's spouse and** children, according to ~~his or her~~ **the protectee's** means and  
5 obligation, if any, out of the proceeds of ~~his or her~~ **the protectee's** estate, and may direct that  
6 payments for such purposes shall be made weekly, monthly, quarterly, semiannually or annually.  
7 The payments ordered under this section may be decreased or increased from time to time as  
8 ordered by the court.

9           **2. In setting the amount of the support allowance for the protectee or any other**  
10 **persons entitled to such support, the court shall consider the previous standard of living**  
11 **of the spouse or other family members, the composition of the estate, the income and other**  
12 **assets available to the protectee and the other persons, and the expenses of the protectee**  
13 **or the other persons entitled to support.**

14           **3. Appropriations for any such purposes, expenses of administration and allowed claims**  
15 **shall be paid from the property or income of the estate. The court may authorize the conservator**  
16 **to borrow money and obligate the estate for the payment thereof if the court finds that funds of**  
17 **the estate for the payment of such obligation will be available within a reasonable time and that**  
18 **the loan is necessary. If payments are made to another under the order of the court, the**  
19 **conservator of the estate is not bound to see to the application thereof.**

20           ~~[3-]~~ **4. In acting under this section the court shall take into account any duty imposed by**  
21 **law or contract upon a parent or spouse of the protectee, a government agency, a trustee, or other**  
22 **person or corporation, to make payments for the benefit of or provide support, education, care,**

23 treatment, habilitation, respite, maintenance or safekeeping of the protectee and ~~his or her~~ **the**  
24 **protectee's** dependents. The guardian of the person and the conservator of the estate shall  
25 endeavor to enforce any such duty.

475.130. 1. The conservator of the estate of a minor or disabled person shall, under  
2 supervision of the court, protect, preserve, and manage the estate, apply it as provided in this  
3 code, account for it faithfully, perform all other duties required of the conservator by law, and  
4 at the termination of the conservatorship deliver the assets of the protectee to the persons entitled  
5 thereto. In protecting, preserving, and managing the estate, the conservator of the estate is under  
6 a duty to use the degree of care, skill, and prudence ~~which~~ **that** an ordinarily prudent person  
7 uses in managing the property of, and conducting transactions on behalf of, others. If a  
8 conservator of the estate has special skills or is appointed on the basis of representations of  
9 special skills or expertise, the conservator is under a duty to use those skills in the conduct of the  
10 protectee's affairs. A conservator of the estate is under a duty to act in the interest of the  
11 protectee and to avoid conflicts of interest which impair the conservator's ability so to act.

12 2. The conservator of the estate shall take possession of all of the protectee's real and  
13 personal property, and of rents, income, issue, and profits therefrom, whether accruing before  
14 or after the conservator's appointment, and of the proceeds arising from the sale, mortgage, lease,  
15 or exchange thereof. Subject to such possession, the title to all such estate, and to the increment  
16 and proceeds thereof, is in the protectee and not in the conservator. Upon a showing that funds  
17 available or payable for the benefit of the protectee by any federal agency are being applied for  
18 the benefit of the protectee, or that such federal agency has refused to recognize the authority of  
19 the conservator to administer such funds, the court may waive, by order, the duty of the  
20 conservator to account therefor.

21 3. **In managing, investing, and distributing the estate of a protectee, the conservator**  
22 **shall use reasonable efforts to:**

- 23 (1) **Ascertain the income, assets, and liabilities of the protectee;**  
24 (2) **Ascertain the needs and preferences of the protectee;**  
25 (3) **Coordinate with the guardian and consult with others close to the protectee;**  
26 (4) **Prepare a plan for the management of the protectee's income and assets; and**  
27 (5) **Provide oversight to any income and assets of the protectee under the control**  
28 **of the protectee.**

29 4. The court has full authority under the rules of civil procedure to enjoin any person  
30 from interfering with the right of the conservator to possession of the assets of the protectee,  
31 including benefits payable from any source.

32 ~~[4-]~~ 5. The conservator of the estate shall prosecute and defend all actions instituted in  
33 behalf of or against the protectee~~;~~, collect all debts due or becoming due to the protectee, and

34 give acquittances and discharges therefor, and adjust, settle, and pay all claims due or becoming  
35 due from the protectee so far as ~~his or her~~ **the protectee's** estate and effects will extend, except  
36 as provided in sections 507.150 and 507.188.

37 ~~[5-]~~ **6.** A conservator of the estate has power, without authorization or approval of the  
38 court, to:

39 (1) Settle or compromise a claim against the protectee or the estate agreeing to pay or  
40 paying not more than ~~[one]~~ **five** thousand dollars;

41 (2) Settle, abandon, or compromise a claim in favor of the estate ~~[which]~~ **that** does not  
42 exceed ~~[one]~~ **five** thousand dollars;

43 (3) **Receive additions to the estate;**

44 (4) Sell, or agree to sell, chattels and choses in action reasonably worth not more than  
45 ~~[one]~~ **five** thousand dollars for cash or upon terms involving a reasonable extension of credit;

46 ~~[(4)]~~ **(5)** Exchange, or agree to exchange, chattels and choses in action for other such  
47 property of equivalent value, not in excess of ~~[one]~~ **five** thousand dollars;

48 ~~[(5)]~~ **(6)** Insure or contract for insurance of property of the estate against fire, theft and  
49 other hazards;

50 ~~[(6)]~~ **(7)** Insure or contract for insurance protecting the protectee against any liability  
51 likely to be incurred, including medical and hospital expenses, and protecting the conservator  
52 against liability to third parties arising from acts or omissions connected with possession or  
53 management of the estate;

54 ~~[(7)]~~ **(8)** Contract for needed repairs and maintenance of property of the estate;

55 ~~[(8)]~~ **(9)** Lease land and buildings for terms not exceeding one year, reserving reasonable  
56 rent, and renew any such lease for a like term;

57 ~~[(9)]~~ **(10)** Vote corporate stock in person or by general or limited proxy;

58 ~~[(10)]~~ **(11)** Contract for the provision of board, lodging, education, medical care, or  
59 necessities of the protectee for periods not exceeding one year, and renew any such contract for  
60 a like period;

61 **(12) Commence a proceeding, including an administrative proceeding, or take other**  
62 **appropriate action to compel a person to support the protectee or to pay moneys for the**  
63 **benefit of the protectee;**

64 **(13) Deposit funds in a bank, including a bank operated by the conservator;**

65 **(14) Hold a security in the name of a nominee or in other form without disclosure**  
66 **of the conservatorship so title to the security may pass by delivery, but the conservator is**  
67 **liable for any act of the nominee in connection with the stock so held;**

68 **(15) Pay taxes, assessments, and other expenses incurred in the collection, care,**  
69 **administration, and protection of the estate;**

70           **(16) Pay any sum distributable to a protectee or the protectee's dependent without**  
 71 **liability to the conservator, by paying the sum to the distributee or by paying the sum for**  
 72 **the use of the distributee either to the distributee's guardian or, if none, to a relative or**  
 73 **other person with custody of the distributee;**

74           **(17) Prosecute or defend actions, claims, or proceedings in any jurisdiction for the**  
 75 **protection of estate assets and of the conservator in the performance of the conservator's**  
 76 **duties;**

77           **(18) Execute and deliver all instruments that will accomplish or facilitate the**  
 78 **exercise of the powers vested in the conservator; and**

79           ~~[(11)]~~ **(19)** On or after August 28, 2009, invest the estate in accordance with the  
 80 provisions of section 475.190.

81           ~~[6:]~~ **7.** If, in exercising any power conferred by subsection ~~[5]~~ **6** of this section, a  
 82 conservator breaches any of the duties enumerated in subsection 1 of this section, the conservator  
 83 may be surcharged for losses to the estate caused by the breach but persons who dealt with the  
 84 conservator in good faith, without knowledge of or reason to suspect the breach of duty, may  
 85 enforce and retain the benefits of any transaction with the conservator which the conservator has  
 86 power under subsection ~~[5]~~ **6** of this section to conduct.

          475.145. When a conservator of the estate has been appointed, an inventory and  
 2 appraisement of the estate of the protectee shall be made in the same manner and within the same  
 3 time and subject to the same requirements as are provided in sections 473.233 to 473.243 for the  
 4 inventory and appraisement of a decedent's estate. The inventory shall include property as to  
 5 which the protectee is a joint tenant or tenant by the entirety and all policies of life insurance  
 6 owned by the protectee, whether or not payable to a named beneficiary, together with a statement  
 7 of all income and benefits to which the protectee is or will be entitled to receive. **The inventory**  
 8 **shall also disclose any nonprobate transferees designated to receive nonprobate transfers**  
 9 **after the protectee's death.**

10           475.230. **1.** Sales of real estate of protectees shall be conducted in the same manner and  
 11 the same proceedings shall be had with reference thereto as in cases of sale of real estate of  
 12 decedents for payment of claims~~[-, except that there shall be no notice to parties in interest before~~  
 13 ~~the making of the order].~~

14           **2. Unless waived by the court for cause, the protectee is entitled to ten days' prior**  
 15 **notice of a required court hearing on the petition for the sale of the protectee's real or**  
 16 **tangible personal property. The protectee is not entitled to notice of a hearing on the**  
 17 **petition for the sale of the protectee's intangible personal property.**

          475.270. **1.** Every conservator shall file with the court **annually, or more often if**  
 2 **required by the court,** a settlement of ~~[his]~~ **the conservator's** accounts ~~[once a year or oftener]~~

3 if required by the court **detailing the current status of the estate under conservatorship**. The  
4 annual settlement shall be made at a time fixed by the court within ~~[thirty]~~ **sixty** days after the  
5 anniversary of the appointment of such conservator ~~[and on the corresponding date of each year~~  
6 ~~thereafter until the final settlement]~~.

7           2. Each settlement of a conservator shall conform to the requirements of section 473.543  
8 as to settlements in decedents' estates.

9           3. If the conservatorship estate meets the indigency standards prescribed by chapter 208,  
10 **is under the control of another fiduciary, including a Social Security representative payee**  
11 **or Veterans Affairs fiduciary**, or if the assets of a protectee have been placed in restricted  
12 custody, the court may waive the requirements ~~[of subsection 2 of this]~~ **that the settlement**  
13 **comply with the requirements of section 473.543** and require the conservator to report, in a  
14 form prescribed by the court, the following information:

15           (1) A statement of any money or property received during the preceding year including  
16 the date, source and amount or value;

17           (2) A statement of disbursements made and the purpose thereof;

18           (3) The total amount of money or property on hand;

19           (4) The name and address of any depository where estate funds are deposited and the  
20 amounts thereof.

21           **4. In addition to the information required under subsection 3 of this section, the**  
22 **settlement shall include:**

23           **(1) The present address of the protectee;**

24           **(2) The present address of the conservator;**

25           **(3) The services being provided to the protected person;**

26           **(4) The significant actions taken by the conservator during the reporting period;**

27           **(5) An opinion of the conservator as to the continued need for conservatorship and**  
28 **any recommended changes in the scope of the conservatorship;**

29           **(6) The compensation requested and the reasonable and necessary expenses**  
30 **incurred by the conservator;**

31           **(7) A plan for the coming year, including short-term or long-term goals, and the**  
32 **extent to which the protectee has participated in the development of the plan; and**

33           **(8) Any other information requested by the court or useful in the opinion of the**  
34 **conservator.**

475.276. 1. If the **assets of the protectee are under the control of another fiduciary,**  
2 **including a Social Security representative payee or Veterans Affairs fiduciary, or if the**  
3 value of the assets of the estate of a protectee does not exceed the value prescribed by chapter  
4 208 for ~~[welfare]~~ **public benefit** eligibility and whether or not such protectee receives other ~~[old~~

5 ~~age, disability or dependency]~~ **public** benefits from the federal government or the state of  
6 Missouri, the court may, upon satisfactory proof that adequate provision has been made for the  
7 care and maintenance of the protectee, waive or modify the requirements of sections 475.270 and  
8 475.275.

9         2. If the estate of a protectee consists solely of cash or its equivalent which has been  
10 placed in restricted custody so that no withdrawals may be made except on order of the court as  
11 prescribed by section 473.160, the court may waive or modify the requirements of sections  
12 475.270 and 475.275.

13         3. Any order entered pursuant to subsection 1 or 2 of this section shall specify the events  
14 or circumstances which shall cause the same to terminate. The order may also provide that the  
15 estate shall not be liable for court costs or other expenses of administration so long as the order  
16 remains in effect and may direct any state agency or require the conservator of the estate to  
17 request a federal agency to pay benefits directly to the custodial facility in which the protectee  
18 resides.

475.290. 1. Conservators shall make final settlement of their conservatorship at a time  
2 fixed by the court, either by rule or otherwise, within ~~[sixty]~~ **ninety** days after termination of  
3 their authority. For the purpose of settlement, the conservator shall make a just and true exhibit  
4 of the account between himself **or herself** and ~~[his]~~ **the** protectee, and file the same in the court  
5 having jurisdiction thereof, and cause a copy of the account, together with a written notice stating  
6 the day on which and the court in which ~~[he]~~ **the conservator** will make settlement, to be  
7 delivered to ~~[his]~~ **the** protectee or, in case of revocation or resignation, to the succeeding  
8 conservator or in case of death of ~~[his]~~ **the** protectee to ~~[his]~~ **the** executor or administrator **of the**  
9 **protectee's estate** or other person designated by the court, at least twenty days before the date  
10 set for settlement.

11         2. If, for any cause, a copy of the account and written notice cannot be delivered to the  
12 protectee or other person entitled thereto, the court may order notice of the filing of the account,  
13 and of the time and place at which final settlement is to be made, to be given by publication once  
14 a week for four weeks next before the date set for settlement in accordance with section 472.100.

15         3. At the time specified in the notice, the court, upon satisfactory proof of the delivery  
16 of a copy of the account and written notice of the settlement to the protectee or person entitled  
17 thereto, or ~~[his]~~ **the protectee's** written waiver thereof, or in case the court has ordered notice  
18 to be given by publication, then upon proof of compliance with such order, shall proceed to  
19 examine the accounts of the conservator, correct all errors therein, if any there be, and make a  
20 final settlement with the conservator; or the court may, for good cause, continue the settlement  
21 and proceed therein at any time agreed upon by the parties or fixed by the court.

475.322. ~~[When a protectee:-~~



2 ~~———(1) Purchased United States bonds in co-ownership form, payable to himself and another~~  
3 ~~or the survivor, or in beneficiary form, payable to himself during his lifetime and to another upon~~  
4 ~~his death;~~

5 ~~———(2) Deposited funds in a joint account in the name of himself and any one or more other~~  
6 ~~persons, and in form to be paid to any one or more of them, or the survivor or survivors of them,~~  
7 ~~or in an account payable to himself during his lifetime and upon his death to another, or in an~~  
8 ~~account in his own name upon revocable trust for another; or~~

9 ~~———(3) Owns real or personal property in joint tenancy or tenancy by the entirety;~~

10

11 ~~the conservator may, with the authorization or approval of the court, redeem such bonds,~~  
12 ~~withdraw funds from such account, and sell, exchange or mortgage the protectee's estate or~~  
13 ~~interest in such joint or entirety property, to the extent that funds are needed to pay expenses~~  
14 ~~under section 475.125 or claims under section 475.211. With respect to property held in joint~~  
15 ~~tenancy, the provisions of sections 362.470 and 369.174 shall be applicable and with respect to~~  
16 ~~any property held in tenancy by the entirety, the provisions of section 442.035 shall be applicable~~  
17 ~~and the conservator, with or without court approval, shall not have authority to redeem,~~  
18 ~~withdraw, sell, exchange or mortgage the protectee's estate or interest in such entirety property~~  
19 ~~without the approval of the other tenant by the entirety. The court shall not authorize or approve~~  
20 ~~such redemption, withdrawal, sale, exchange or mortgage as to the share contributed to the~~  
21 ~~purchase of such bonds, the making of deposits in such an account, or the acquisition of such~~  
22 ~~joint or entirety property by the co-owner or beneficiary of the bonds, a joint depositor, a person~~  
23 ~~to whom an account is payable on death, a beneficiary of a revocable trust of an account, or a~~  
24 ~~co-tenant of property.]~~

25 **1. Except as provided under section 475.094, the conservator shall**  
26 **administer a protectee's estate by maintaining the protectee's estate plan as evidenced by**  
27 **the protectee's will, trust, real and personal property assets held jointly with right of**  
28 **survivorship, and assets titled in the protectee's name with nonprobate transfers under**  
29 **sections 461.003 to 461.081 and other assets with beneficiary designations including, but**  
30 **not limited to, those in bank or credit union accounts, investment accounts, motor vehicles,**  
31 **insurance policies and annuities, individual retirement accounts, and deferred**  
32 **compensation accounts. A conservator may examine the will and any other donative,**

33 **2. To the extent that the conservator shall pay expenses of the protectee or the**  
34 **protectee's dependents under section 475.125 or claims under sections 475.205 to 475.213**  
35 **or section 475.260 because the protectee's estate does not have sufficient assets in the**  
36 **protectee's or estate's name solely, the conservator may apply for an order of the court**  
37 **authorizing the redemption or liquidation of the decedent's joint assets or assets titled with**

38 nonprobate transfers in the following order of priority only as necessary to pay expenses  
39 and claims of the protectee's estate at the time of application:

40 (1) Assets owned solely by the unmarried protectee or the protectee's estate with  
41 beneficiary designations under the nonprobate transfer law as provided under sections  
42 461.003 to 461.081, banking law, and other property with beneficiary designations,  
43 including insurance policies and annuities, individual retirement accounts, deferred  
44 compensation and other contributory pension accounts, and any other assets with  
45 beneficiary designations;

46 (2) The proportional interest in some or all of the jointly held assets upon notice  
47 and after opportunity to be heard by the other joint owners.

475.341. A sale, encumbrance, or other transaction involving the management of  
2 the conservatorship entered into by the conservator for the conservator's own personal  
3 gain or which is otherwise affected by a conflict between the conservator's fiduciary and  
4 personal interests is voidable unless the transaction:

5 (1) Was approved by the court;

6 (2) Involves a contract entered into or claim acquired by the conservator before the  
7 person became or contemplated becoming conservator;

8 (3) Involves a deposit of estate moneys to a bank operated by the conservator; or

9 (4) Involves an advance by the conservator of moneys for the protection of the  
10 estate.

475.342. The conservator shall:

2 (1) Keep estate property separate from the conservator's own property; and

3 (2) Cause the estate's property to be designated so that any ownership interest of  
4 the estate, to the extent feasible, appears in records maintained by a financial institution  
5 or party other than the conservator or protectee.

475.343. 1. A guardian of an adult or minor ward is not obligated by virtue of such  
2 guardian's appointment to use the guardian's own financial resources for the support of  
3 the ward. If the ward's estate and available public benefits are inadequate for the proper  
4 care of the ward, the guardian or conservator may apply to the county commission under  
5 section 475.370.

6 2. No guardian of the person shall have authority to seek admission of the  
7 guardian's ward to a mental health facility or an intellectual disability facility for more  
8 than thirty days for any purpose without court order except as otherwise provided by law.

9 3. Only the director or chief administrative officer of a social service agency serving  
10 as guardian of an incapacitated person, or such person's designee, is legally authorized to  
11 act on behalf of the ward.

12           **4. A social service agency serving as guardian of an incapacitated person shall**  
13 **notify the court within fifteen days after any change in the identity of the professional**  
14 **individual who has primary responsibility for providing guardianship services to the**  
15 **incapacitated person.**

16           **5. Any social service agency serving as guardian shall not provide other services to**  
17 **the ward.**

**475.344. 1. With the approval of the court, a conservator may delegate to an agent**  
2 **duties and powers that are prudent under the circumstances. The conservator shall**  
3 **exercise reasonable care, skill, and caution in:**

4           **(1) Selecting an agent;**

5           **(2) Establishing the scope and terms of the delegation, consistent with the purposes**  
6 **and terms of the conservatorship; and**

7           **(3) Periodically reviewing the agent's actions in order to monitor the agent's**  
8 **performance and compliance with the terms of the delegation.**

9           **2. In performing a delegated function, an agent owes a duty to the protectee to**  
10 **exercise reasonable care to comply with the terms of the delegation.**

11           **3. By accepting a delegation of powers or duties from the conservator of a**  
12 **conservatorship that is subject to the law of this state, an agent submits to the jurisdiction**  
13 **of the courts of this state.**

**475.355. 1. If, upon the filing of a petition for the adjudication of incapacity or disability**  
2 **it appears that the respondent, by reason of a mental disorder or intellectual disability or**  
3 **developmental disability, presents a likelihood of serious physical harm to [~~himself~~] the**  
4 **respondent or others, [~~he~~] the respondent may be detained in accordance with the provisions**  
5 **of chapter 632 if suffering from a mental disorder, or chapter 633 if the [~~person~~] respondent has**  
6 **an intellectual or developmental disability, pending a hearing on the petition for adjudication.**

7           **2. As used in this section, the terms "mental disorder" and "intellectual disability" or**  
8 **"developmental disability" shall be as defined in chapter 630 and the term "likelihood of**  
9 **serious physical harm to [~~himself~~] the respondent or others" shall be as the term "likelihood of**  
10 **serious harm" is defined in chapter 632.**

11           **3. The procedure for obtaining an order of temporary emergency detention shall be as**  
12 **prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.**

**475.357. The probate divisions of the courts of this state have jurisdiction over**  
2 **issues of the adjudication of incapacity, partial incapacity, disability, or partial disability**  
3 **and the appointment of a guardian, limited guardian, conservator, or limited conservator**  
4 **of an adult eighteen years of age or older whose parents have a pending matter under**  
5 **chapter 210 or chapter 452 for child custody or visitation of that child. The court that has**

6 jurisdiction under chapter 210 or chapter 452 shall have the authority to enter orders only  
7 as to child support after such adjudication and appointment of a guardian by the probate  
8 division.

475.359. 1. A guardian or limited guardian of an incapacitated person or partially  
2 incapacitated person shall act in the best interest of the ward, taking into consideration the  
3 ward's communications as to the ward's goals, needs, and preferences. A limited guardian  
4 of a partially incapacitated person shall have the powers and duties enumerated by the  
5 court in the adjudication order or any later modifying order.

6 2. Except as otherwise limited by the court, a guardian shall make decisions  
7 regarding the adult ward's support, care, education, health, and welfare. A guardian shall  
8 exercise authority only as necessitated by the adult ward's limitations and, to the extent  
9 possible, shall encourage the ward to participate in decisions, act on the ward's own behalf,  
10 and develop or regain the capacity to manage the ward's personal affairs.

11 3. Before making decisions on behalf of the adult ward, the guardian shall, to the  
12 extent possible, ascertain the ward's goals, needs, and preferences as follows:

13 (1) First, the guardian shall ask the ward what the ward wants;

14 (2) Second, if the ward has difficulty expressing what the ward wants, the guardian  
15 shall do everything possible to help the ward express his or her goals, needs, and  
16 preferences; and

17 (3) Third, if the ward, even with assistance, cannot express his or her goals and  
18 preferences, the guardian shall seek input from others familiar with the person to  
19 determine what the individual would have wanted.

20 4. In making decisions on behalf of the ward, the guardian shall consider the  
21 ascertained goals, needs, and preferences of the ward to the extent possible. The guardian  
22 shall make a decision in accordance with the ward's goals, needs, and preferences unless  
23 the guardian determines, after considering all of the options and their potential risks and  
24 benefits, that such a decision would not be in the ward's best interest. If the ward's goals,  
25 needs, and preferences cannot be ascertained, the guardian shall make a decision based  
26 solely on what a reasonable person would do after considering all of the options and their  
27 potential risks and benefits.

28 5. The general powers and duties of a guardian of an incapacitated person shall be  
29 to take charge of the person of the ward and to provide for the ward's care, treatment,  
30 habilitation, education, support, and maintenance, and the powers and duties shall include,  
31 but not be limited to, the following:

32           **(1) Maintain sufficient contact, including at least one in-person annual visit, with**  
33 **the ward to know of the ward's capacities, limitations, needs, opportunities, and physical**  
34 **and mental health;**

35           **(2) File a report with the court within ninety days of appointment indicating that**  
36 **the guardian has met with the ward and describing how the guardian will meet the needs**  
37 **of the ward and address the ward's preferences. Such report may include a plan from a**  
38 **service provider;**

39           **(3) Assure that the ward resides in the best and least restrictive setting reasonably**  
40 **available. The guardian shall give priority to home- or community-based settings if not**  
41 **inconsistent with the ward's goals and preferences;**

42           **(4) Assure that the ward receives medical care and other services that are needed;**

43           **(5) Promote and protect the care, comfort, safety, health, and welfare of the ward;**

44           **(6) Provide required consents on behalf of the ward;**

45           **(7) Exercise all powers and discharge all duties necessary or proper to implement**  
46 **the provisions of this section;**

47           **(8) Make a good faith effort to cooperate with other fiduciaries for the ward as**  
48 **applicable including, but not limited to, any other guardian, conservator, agent under a**  
49 **power of attorney, trustee, Veterans Affairs fiduciary, or representative payee; and**

50           **(9) Notify the court if, in the opinion of the guardian, the ward's condition has**  
51 **changed to the extent that the ward is capable of exercising rights previously removed.**

52           **6. A guardian of an adult or minor ward is not obligated by virtue of such**  
53 **guardian's appointment to use the guardian's own financial resources for the support of**  
54 **the ward. If the ward's estate and available public benefits are inadequate for the proper**  
55 **care of the ward, the guardian or conservator may apply to the county commissioner under**  
56 **section 475.370.**

**475.361. 1. The provisions of section 475.078 notwithstanding, in every**  
2 **guardianship, the incapacitated person has the right to:**

3           **(1) A guardian who acts in the best interests of the ward;**

4           **(2) A guardian who is reasonably accessible to the ward;**

5           **(3) Communicate freely and privately with family, friends, and other persons other**  
6 **than the guardian; except that, such right may be limited by the guardian for good cause**  
7 **but only as necessary to ensure the ward's condition, safety, habilitation, or sound**  
8 **therapeutic treatment;**

9           **(4) Individually or through the ward's representative or legal counsel, bring an**  
10 **action relating to the guardianship, including the right to file a petition alleging that the**  
11 **ward is being unjustly denied a right or privilege granted by this chapter, including the**

12 right to bring an action to modify or terminate the guardianship under the provisions of  
13 section 475.083;

14 (5) The least restrictive form of guardianship assistance, taking into consideration  
15 the ward's functional limitations, personal needs, and preferences;

16 (6) Be restored to capacity at the earliest possible time;

17 (7) Receive information from the court that describes the ward's rights, including  
18 rights the ward may seek by petitioning the court; and

19 (8) Participate in any health care decision-making process.

20 2. An adult ward may petition the court to grant the ward the right to:

21 (1) Contract to marry or to petition for dissolution of marriage;

22 (2) Make, modify, or terminate other contracts or ratify contracts made by the  
23 ward;

24 (3) Consent to medical treatment;

25 (4) Establish a residence or dwelling place;

26 (5) Change domicile;

27 (6) Bring or defend any action at law or equity, except an action relating to the  
28 guardianship; or

29 (7) Drive a motor vehicle if the ward can pass the required driving test.

30 3. The appointment of a guardian shall not revoke the powers of an agent who was  
31 previously appointed by the ward to act as an agent under a durable power of attorney for  
32 health care, unless the court so orders.

33 4. The appointment of a guardian is not a determination that the ward lacks  
34 testamentary capacity.

✓