

SENATE FILE 531

BY COMMITTEE ON JUDICIARY

S.B. 255

*Approved 3/22 (p. 711)*

*Substituted for H.F. 743 4/1*

FILED MAR 22 1985

Passed Senate, Date 3-28-85 (p. 1108)

Passed House, Date 4-1-85 (p. 1220)

Yeas: Ayes 42 Nays 0

Vote: Ayes 94 Nays 0

Approved April 12, 1985 (p. 1351)

## A BILL FOR

1 An Act relating to guardianships and conservatorships.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 633.552, subsection 2, paragraph a,  
2 Code 1985, is amended to read as follows:

3 a. By reason of mental, physical or other incapacity lacks  
4 ~~sufficient-capacity~~ is unable to make or carry out important  
5 decisions concerning the proposed ward's person or affairs,  
6 other than financial affairs, ~~and, as a result, is in danger~~  
7 ~~of substantially endangering the proposed ward's health or of~~  
8 ~~becoming subject to abuse by other persons.~~

9 Sec. 2. Section 633.554, Code 1985, is amended by striking  
10 the section and inserting in lieu thereof the following:

11 633.554 NOTICE TO PROPOSED WARD.

12 If the proposed ward is an adult, notice of the filing of  
13 the petition shall be served upon the proposed ward in the  
14 manner of an original notice and the content of the notice is  
15 governed by the rules of civil procedure governing original  
16 notice. If the proposed ward is a minor or if the proposed  
17 ward is an adult under a standby order and the court  
18 determines, pursuant to section 633.561, subsection 1, that  
19 the proposed ward is entitled to representation, notice in the  
20 manner of original notice, or another form of notice ordered  
21 by the court, given to the attorney appointed to represent the  
22 ward is notice to the proposed ward.

23 Sec. 3. Section 633.561, Code 1985, is amended by striking  
24 the section and inserting in lieu thereof the following:

25 633.561 REPRESENTATION.

26 1. In a proceeding for the appointment of a guardian, if  
27 the proposed ward is an adult and is not the petitioner, the  
28 proposed ward is entitled to representation. In a proceeding  
29 for the appointment of a guardian, if the proposed ward is a  
30 minor or if the proposed ward is an adult under a standby  
31 order, the court shall determine whether, under the  
32 circumstances of the case, the proposed ward is entitled to  
33 representation. The determination regarding representation  
34 shall be made only after notice to the proposed ward is made  
35 as the court deems necessary.

1 2. The court shall ensure that all proposed wards entitled  
2 to representation have been provided with notice of the right  
3 to representation and shall make findings of fact in any order  
4 of disposition setting out the manner in which notification  
5 was provided.

6 3. If the proposed ward is entitled to representation and  
7 is indigent or incapable of requesting counsel, the court  
8 shall appoint an attorney to represent the proposed ward. The  
9 cost of court appointed counsel for indigents shall be  
10 assessed against the county in which the proceedings are  
11 pending. For the purposes of this subsection, the court shall  
12 find a person is indigent if the person's income and resources  
13 do not exceed one hundred fifty percent of the federal poverty  
14 level or the person would be unable to pay such costs without  
15 prejudicing the person's financial ability to provide economic  
16 necessities for the person or the person's dependents.

17 4. An attorney appointed pursuant to this section shall:

18 a. Ensure that the proposed ward has been properly advised  
19 of the nature and purpose of the proceeding.

20 b. Ensure that the proposed ward has been properly advised  
21 of the ward's rights in a guardianship proceeding.

22 c. Personally interview the proposed ward.

23 d. File a written report stating whether there is a return  
24 on file showing that proper service on the proposed ward has  
25 been made and also stating that specific compliance with  
26 paragraphs "a" through "c" has been made or stating the  
27 inability to comply by reason of the proposed ward's  
28 condition.

29 e. Represent the proposed ward.

30 f. Ensure that the guardianship procedures conform to the  
31 statutory and due process requirements of Iowa law.

32 5. In the event that an order of appointment is entered,  
33 the attorney appointed pursuant to this section, to the extent  
34 possible, shall:

35 a. Inform the proposed ward of the effects of the order

1 entered for appointment of guardian.

2 b. Advise the ward of the ward's rights to petition for  
3 modification or termination of the guardianship.

4 c. Advise the ward of the rights retained by the ward.

5 6. If the court determines that it would be in the ward's  
6 best interest to have legal representation with respect to any  
7 proceedings in a guardianship, the court may appoint an  
8 attorney to represent the ward at the expense of the ward or  
9 the ward's estate, or if the ward is indigent the cost of the  
10 court-appointed attorney shall be assessed against the county  
11 in which the proceedings are pending.

12 Sec. 4. Section 633.566, subsection 2, paragraph a, Code  
13 1985, is amended to read as follows:

14 a. By reason of mental, physical or other incapacity ~~lacks~~  
15 ~~sufficient-capacity~~ is unable to make or carry out important  
16 decisions concerning the proposed ward's financial affairs  
17 ~~and,-as-a-result,-is-in-danger-of-substantially-endangering~~  
18 ~~the-proposed-ward's-health-or-of-becoming-subject-to-abuse-by~~  
19 ~~other-persons.~~

20 Sec. 5. Section 633.568, Code 1985, is amended by striking  
21 the section and inserting in lieu thereof the following:

22 633.568 NOTICE ON PROPOSED WARD.

23 If the proposed ward is an adult, notice of the filing of  
24 the petition shall be served upon the proposed ward in the  
25 manner of an original notice and the content of the notice is  
26 governed by the rules of civil procedure governing original  
27 notice. If the proposed ward is a minor and the court  
28 determines, pursuant to section 633.561, subsection 1, that  
29 the proposed ward is entitled to representation, notice in the  
30 manner of original notice, or another form of notice ordered  
31 by the court, given to the attorney appointed to represent the  
32 ward is notice to the proposed ward.

33 Sec. 6. Section 633.575, Code 1985, is amended by striking  
34 the section and inserting in lieu thereof the following:

35 633.575 REPRESENTATION.

1 1. In a proceeding for the appointment of a conservator,  
2 if the proposed ward is an adult and is not the petitioner,  
3 the proposed ward is entitled to representation. In a  
4 proceeding for the appointment of a conservator, if the  
5 proposed ward is a minor or where the proposed ward is an  
6 adult under a standby petition, the court shall determine  
7 whether, under the circumstances of the case, the proposed  
8 ward is entitled to representation. The determination  
9 regarding representation shall be made only after notice to  
10 the proposed ward is made as the court deems necessary.

11 2. The court shall ensure that all proposed wards entitled  
12 to representation have been provided with notice of the right  
13 to representation and shall make findings of fact in any order  
14 of disposition setting out the manner in which notification  
15 was provided.

16 3. If the proposed ward is entitled to representation and  
17 is indigent or incapable of requesting counsel, the court  
18 shall appoint an attorney to represent the proposed ward. The  
19 cost of court appointed counsel for indigents shall be  
20 assessed against the county in which the proceedings are  
21 pending. For the purposes of this subsection, the court may  
22 find a person is indigent if the person's income and resources  
23 do not exceed one hundred fifty percent of the federal poverty  
24 level.

25 4. An attorney appointed pursuant to this section, to the  
26 extent possible, shall:

27 a. Ensure that the proposed ward has been properly advised  
28 of the nature of the proceeding and its purpose.

29 b. Ensure that the proposed ward has been properly advised  
30 of the ward's rights in a conservatorship proceeding.

31 c. Personally interview the proposed ward.

32 d. Represent the proposed ward.

33 e. Ensure that the conservatorship procedures conform to  
34 the statutory and due process requirements of Iowa law.

35 f. Inform the proposed ward of the effects of any order

1 entered by the court, including the effects of an order  
2 entered for appointment of conservator.

3 g. Advise the ward, if an order for appointment of  
4 conservator is entered, of the ward's rights to petition for  
5 modification or termination of conservatorship.

6 h. Advise the ward, if a conservator is appointed, of the  
7 rights retained by the ward.

8 5. An attorney appointed pursuant to this section shall  
9 file an answer stating whether there is a return on file  
10 showing that proper service on the proposed ward has been  
11 made. The answer shall also state that specific compliance  
12 with subsection 4 has been made by the attorney or stating the  
13 inability to comply with subsection 4 by reason of the  
14 proposed ward's condition.

15 6. If the court determines that it would be in the ward's  
16 best interest to have legal representation with respect to any  
17 proceedings in a conservatorship, the court may appoint an  
18 attorney to represent the ward at the expense of the ward or  
19 the ward's estate, or if the ward is indigent the cost of the  
20 court-appointed attorney shall be assessed against the county  
21 in which the proceedings are pending.

22 Sec. 7. Section 633.635, subsection 2, paragraph b, Code  
23 1985, is amended to read as follows:

24 b. Arranging the provision of major elective surgery or  
25 any other nonemergency major medical procedure.

26 ~~If the court determines that it would be in the ward's best~~  
27 ~~interest to have legal representation with respect to~~  
28 ~~proceedings under this subsection, the court may appoint an~~  
29 ~~attorney to represent the ward at the expense of the ward or~~  
30 ~~the ward's estate.~~

31 Sec. 8. Section 633.668, Code 1985, is amended to read as  
32 follows:

33 633.668 CONSERVATOR MAY MAKE GIFTS.

34 For good cause shown and under order of court, a  
35 conservator may make gifts on behalf of the ward out of the

1 assets under a conservatorship to persons or religious,  
2 educational, scientific, charitable, or other nonprofit  
3 organizations to whom or to which such gifts were regularly  
4 made prior to the commencement of the conservatorship, or on a  
5 showing to the court that such gifts would benefit the ward or  
6 the ward's estate from the standpoint of income, gift, estate  
7 or inheritance taxes. The making of gifts out of ~~such the~~  
8 assets must not foreseeably impair the ability to provide  
9 adequately for the best interests of the ward.

10 Sec. 9. Section 633.669, Code 1985, is amended to read as  
11 follows:

12 633.669 REPORTING REQUIREMENTS -- ASSISTANCE BY CLERK.

13 1. A guardian appointed under this chapter shall file with  
14 the court the following written verified reports:

15 a. An initial report within sixty days of the guardian's  
16 appointment.

17 b. An annual report ~~which shall be filed within thirty~~  
18 ~~days of the anniversary of the granting of the guardianship~~  
19 unless the court otherwise orders on good cause shown.

20 c. A final report within thirty days of the termination of  
21 the guardianship under section 633.675 unless that time is  
22 extended by the court.

23 2. Reports required by this section must include:

24 a. The current mental, and physical ~~and social~~ condition  
25 of the ward.

26 b. The present living arrangement of the ward, including a  
27 description of each residence where the ward has resided  
28 during the reporting period.

29 c. A summary of the medical, educational, vocational and  
30 other professional services provided for the ward.

31 d. A description of the guardian's visits with and  
32 activities on behalf of the ward.

33 e. A recommendation as to the need for continued  
34 guardianship.

35 f. Other information requested by the court or useful in

1 the opinion of the guardian.

2 3. The court shall develop a simplified uniform reporting  
3 form for use in filing the required reports.

4 4. The clerk of the court shall notify the guardian in  
5 writing of the reporting requirements and shall provide  
6 information and assistance to the guardian in filing the  
7 reports ~~and with respect to other responsibilities, powers and~~  
8 ~~duties of the guardian.~~

9 5. Reports of guardians shall be reviewed and approved by  
10 a district court judge or referee.

11 6. Reports required by this section shall, if requested,  
12 be served on the attorney appointed to represent the ward in  
13 the guardianship proceeding and all other parties appearing in  
14 the proceeding.

15 Sec. 10. Section 633.670, Code 1985, is amended by  
16 striking the section and inserting in lieu thereof the  
17 following:

18 633.670 REPORTING REQUIREMENTS.

19 1. A conservator appointed under this chapter shall file  
20 with the court:

21 a. An inventory within sixty days of the conservator's  
22 appointment. This inventory shall include all property of the  
23 ward that has come into the conservator's possession or of  
24 which the conservator has knowledge. When additional property  
25 comes into the possession of the conservator or to the  
26 knowledge of the conservator, a supplemental inventory shall  
27 be filed within thirty days.

28 b. Written verified reports and accountings as follows:

29 (1) Annually unless the court otherwise orders on good  
30 cause shown.

31 (2) Within thirty days following the date of removal.

32 (3) Upon filing resignation and before the resignation is  
33 accepted by the court.

34 (4) Within sixty days following the date of termination.

35 (5) At other times as the court may order.



SSB 255

Judiciary

SSB 255

JUDICIARY: Small, Chair; Gentleman and Ritsema

New SF 531

SENATE HOUSE FILE 531

BY (PROPOSED COMMITTEE ON JUDICIARY AND COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to guardianships and conservatorships.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2 Code 1985, is amended to read as follows:

3 a. By reason of mental, physical or other incapacity ~~lacks~~  
4 ~~sufficient-capacity~~ is unable to make or carry out important  
5 decisions concerning the proposed ward's person or affairs,  
6 other than financial affairs, ~~and, as a result, is in danger~~  
7 ~~of substantially endangering the proposed ward's health or of~~  
8 ~~becoming subject to abuse by other persons.~~

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13 the petition shall be served upon the proposed ward in the  
14 manner of an original notice and the content of the notice is  
15 governed by the rules of civil procedure governing original  
16 notice. If the proposed ward is a minor and the court  
17 determines, pursuant to section 633.561, subsection 1, that  
18 the proposed ward is entitled to representation, notice in the  
19 manner of original notice, or another form of notice ordered  
20 by the court, given to the attorney appointed to represent the  
21 ward is notice to the proposed ward.

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25 1. In a proceeding for the appointment of a guardian, if  
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30 order, the court shall determine whether, under the  
31 circumstances of the case, the proposed ward is entitled to  
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1 to representation have been provided with notice of the right  
2 to representation and shall make findings of fact in any order  
3 of disposition setting out the manner in which notification  
4 was provided.

5 3. If the proposed ward is entitled to representation and  
6 is indigent or incapable of requesting counsel, the court  
7 shall appoint an attorney to represent the proposed ward. The  
8 cost of court appointed counsel for indigents shall be  
9 assessed against the county in which the proceedings are  
10 pending. For the purposes of this subsection, the court may  
11 find a person is indigent if the person's income and resources  
12 do not exceed one hundred fifty percent of the federal poverty  
13 level.

14 4. An attorney appointed pursuant to this section, to the  
15 extent possible, shall:

16 a. Ensure that the proposed ward has been properly advised  
17 of the nature of the proceeding and its purpose.

18 b. Ensure that the proposed ward has been properly advised  
19 of the ward's rights in a guardianship proceeding.

20 c. Personally interview the proposed ward.

21 d. Represent the proposed ward.

22 e. Ensure that the guardianship procedures conform to the  
23 statutory and due process requirements of Iowa law.

24 f. Inform the proposed ward of the effects of any order  
25 entered by the court, including the effects of an order  
26 entered for appointment of guardian.

27 g. Advise the ward, if an order for appointment of  
28 guardian is entered, of the ward's rights to petition for  
29 modification or termination of the guardianship.

30 h. Advise the ward, if a guardian is appointed, of the  
31 rights retained by the ward.

32 5. An attorney appointed pursuant to this section shall  
33 file an answer stating whether there is a return on file  
34 showing that proper service on the proposed ward has been  
35 made. The answer shall also state that specific compliance

1 with subsection 4 has been made by the attorney or stating the  
2 inability to comply with subsection 4 by reason of the  
3 proposed ward's condition.

4 6. If the court determines that it would be in the ward's  
5 best interest to have legal representation with respect to any  
6 proceedings in a guardianship, the court may appoint an  
7 attorney to represent the ward at the expense of the ward or  
8 the ward's estate, or if the ward is indigent the cost of the  
9 court-appointed attorney shall be assessed against the county  
10 in which the proceedings are pending.

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12 1985, is amended to read as follows:

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14 sufficient-capacity is unable to make or carry out important  
15 decisions concerning the proposed ward's financial affairs  
16 ~~and, as a result, is in danger of substantially endangering~~  
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18 ~~other persons.~~

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35 1. In a proceeding for the appointment of a conservator,

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6 whether, under the circumstances of the case, the proposed  
7 ward is entitled to representation. The determination  
8 regarding representation shall be made only after notice to  
9 the proposed ward is made as the court deems necessary.

10 2. The court shall ensure that all proposed wards entitled  
11 to representation have been provided with notice of the right  
12 to representation and shall make findings of fact in any order  
13 of disposition setting out the manner in which notification  
14 was provided.

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16 is indigent or incapable of requesting counsel, the court  
17 shall appoint an attorney to represent the proposed ward. The  
18 cost of court appointed counsel for indigents shall be  
19 assessed against the county in which the proceedings are  
20 pending. For the purposes of this subsection, the court may  
21 find a person is indigent if the person's income and resources  
22 do not exceed one hundred fifty percent of the federal poverty  
23 level.

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25 extent possible, shall:

26 a. Ensure that the proposed ward has been properly advised  
27 of the nature of the proceeding and its purpose.

28 b. Ensure that the proposed ward has been properly advised  
29 of the ward's rights in a conservatorship proceeding.

30 c. Personally interview the proposed ward.

31 d. Represent the proposed ward.

32 e. Ensure that the conservatorship procedures conform to  
33 the statutory and due process requirements of Iowa law.

34 f. Inform the proposed ward of the effects of any order  
35 entered by the court, including the effects of an order

1 entered for appointment of conservator.

2 g. Advise the ward, if an order for appointment of  
3 conservator is entered, of the ward's rights to petition for  
4 modification or termination of conservatorship.

5 h. Advise the ward, if a conservator is appointed, of the  
6 rights retained by the ward.

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8 file an answer stating whether there is a return on file  
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11 with subsection 4 has been made by the attorney or stating the  
12 inability to comply with subsection 4 by reason of the  
13 proposed ward's condition.

14 6. If the court determines that it would be in the ward's  
15 best interest to have legal representation with respect to any  
16 proceedings in a conservatorship, the court may appoint an  
17 attorney to represent the ward at the expense of the ward or  
18 the ward's estate, or if the ward is indigent the cost of the  
19 court-appointed attorney shall be assessed against the county  
20 in which the proceedings are pending.

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22 1985, is amended to read as follows:

23 b. Arranging the provision of major elective surgery or  
24 any other nonemergency major medical procedure.

25 ~~If the court determines that it would be in the ward's best~~  
26 ~~interest to have legal representation with respect to~~  
27 ~~proceedings under this subsection, the court may appoint an~~  
28 ~~attorney to represent the ward at the expense of the ward or~~  
29 ~~the ward's estate.~~

30 Sec. 8. Section 633.668, Code 1985, is amended to read as  
31 follows:

32 633.668 CONSERVATOR MAY MAKE GIFTS.

33 For good cause shown and under order of court, a  
34 conservator may make gifts on behalf of the ward out of the  
35 assets under a conservatorship to persons or religious,

1 educational, scientific, charitable, or other nonprofit  
2 organizations to whom or to which such gifts were regularly  
3 made prior to the commencement of the conservatorship, or on a  
4 showing to the court that such gifts would benefit the ward or  
5 the ward's estate from the standpoint of income, gift, estate  
6 or inheritance taxes. The making of gifts out of such the  
7 assets must not foreseeably impair the ability to provide  
8 adequately for the best interests of the ward.

9 Sec. 9. Section 633.669, Code 1985, is amended to read as  
10 follows:

11 633.669 REPORTING REQUIREMENTS --ASSISTANCE BY CLERK.

12 1. A guardian appointed under this chapter shall file with  
13 the court the following written verified reports:

14 a. An initial report within sixty days of the guardian's  
15 appointment.

16 b. An annual report ~~which shall be filed within thirty~~  
17 ~~days of the anniversary of the granting of the guardianship~~  
18 unless the court otherwise orders on good cause shown.

19 c. A final report within thirty days of the termination of  
20 the guardianship under section 633.675 unless that time is  
21 extended by the court.

22 2. Reports required by this section must include:

23 a. The current mental, and physical ~~and social~~ condition  
24 of the ward.

25 b. The present living arrangement of the ward, including a  
26 description of each residence where the ward has resided  
27 during the reporting period.

28 c. A summary of the medical, educational, vocational and  
29 other professional services provided for the ward.

30 d. A description of the guardian's visits with and  
31 activities on behalf of the ward.

32 e. A recommendation as to the need for continued  
33 guardianship.

34 f. Other information requested by the court or useful in  
35 the opinion of the guardian.

1 ~~3.--The court shall develop a simplified uniform reporting~~  
2 ~~form for use in filing the required reports.~~

3 4 3. The clerk of the court shall notify the guardian in  
4 writing of the reporting requirements and shall provide  
5 information and assistance to the guardian in filing the  
6 reports and with respect to other responsibilities, powers and  
7 duties of the guardian.

8 5 4. Reports of guardians shall be reviewed and approved  
9 by a district court judge or referee.

10 ~~6.--Reports required by this section shall, if requested,~~  
11 ~~be served on the attorney appointed to represent the ward in~~  
12 ~~the guardianship proceeding and all other parties appearing in~~  
13 ~~the proceeding.~~

14 Sec. 10. Section 633.670, Code 1985, is amended by  
15 striking the section and inserting in lieu thereof the  
16 following:

17 633.670 REPORTING REQUIREMENTS.

18 1. A conservator appointed under this chapter shall file  
19 with the court:

20 a. An inventory within sixty days of the conservator's  
21 appointment. This inventory shall include all property of the  
22 ward that has come into the conservator's possession or of  
23 which the conservator has knowledge. When additional property  
24 comes into the possession of the conservator or to the  
25 knowledge of the conservator, a supplemental inventory shall  
26 be filed within thirty days.

27 b. Written verified reports and accountings as follows:

28 (1) Annually unless the court otherwise orders on good  
29 cause shown.

30 (2) Within thirty days following the date of removal.

31 (3) Upon filing resignation and before the resignation is  
32 accepted by the court.

33 (4) Within sixty days following the date of termination.

34 (5) At other times as the court may order.

35 2. The clerk of court shall notify the conservator in

1 writing of the reporting requirements.

2 3. Reports of conservators shall be reviewed and approved  
3 by a district court judge or referee.

4 Sec. 11. Section 633.642, Code 1985, is repealed.

5 EXPLANATION

6 This bill modifies the present statutes relating to  
7 guardianships and conservatorships by, among other things:

8 1. Modifying the language to be contained in petitions for  
9 guardianships and conservatorships.

10 2. Expanding the requirements for notice to proposed  
11 wards.

12 3. Repealing an existing section relating to inventory  
13 reports and combining the concept with the general reporting  
14 requirements of conservators.

15 4. Modifying the reporting requirements for guardians and  
16 conservators.

17 5. Extending the rights and requirements of representation  
18 for wards.

19 6. Expanding the reasons for which the court may allow the  
20 gift of conservatorship assets.

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SENATE FILE 531

AN ACT

RELATING TO GUARDIANSHIPS AND CONSERVATORSHIPS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 633.552, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. By reason of mental, physical or other incapacity lacks sufficient capacity is unable to make or carry out important decisions concerning the proposed ward's person or affairs, other than financial affairs; ~~and, as a result, is in danger of substantially endangering the proposed ward's health or of becoming subject to abuse by other persons.~~

Sec. 2. Section 633.554, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

633.554 NOTICE TO PROPOSED WARD.

If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice. If the proposed ward is a minor or if the proposed ward is an adult under a standby order and the court determines, pursuant to section 633.561, subsection 1, that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

Sec. 3. Section 633.561, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

633.561 REPRESENTATION.

1. In a proceeding for the appointment of a guardian, if the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. In a proceeding

for the appointment of a guardian, if the proposed ward is a minor or if the proposed ward is an adult under a standby order, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation. The determination regarding representation shall be made only after notice to the proposed ward is made as the court deems necessary.

2. The court shall ensure that all proposed wards entitled to representation have been provided with notice of the right to representation and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

3. If the proposed ward is entitled to representation and is indigent or incapable of requesting counsel, the court shall appoint an attorney to represent the proposed ward. The cost of court appointed counsel for indigents shall be assessed against the county in which the proceedings are pending. For the purposes of this subsection, the court shall find a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level or the person would be unable to pay such costs without prejudicing the person's financial ability to provide economic necessities for the person or the person's dependents.

4. An attorney appointed pursuant to this section shall:

- a. Ensure that the proposed ward has been properly advised of the nature and purpose of the proceeding.
- b. Ensure that the proposed ward has been properly advised of the ward's rights in a guardianship proceeding.
- c. Personally interview the proposed ward.
- d. File a written report stating whether there is a return on file showing that proper service on the proposed ward has been made and also stating that specific compliance with paragraphs "a" through "c" has been made or stating the inability to comply by reason of the proposed ward's condition.
- e. Represent the proposed ward.

f. Ensure that the guardianship procedures conform to the statutory and due process requirements of Iowa law.

5. In the event that an order of appointment is entered, the attorney appointed pursuant to this section, to the extent possible, shall:

a. Inform the proposed ward of the effects of the order entered for appointment of guardian.

b. Advise the ward of the ward's rights to petition for modification or termination of the guardianship.

c. Advise the ward of the rights retained by the ward.

6. If the court determines that it would be in the ward's best interest to have legal representation with respect to any proceedings in a guardianship, the court may appoint an attorney to represent the ward at the expense of the ward or the ward's estate, or if the ward is indigent the cost of the court-appointed attorney shall be assessed against the county in which the proceedings are pending.

Sec. 4. Section 633.566, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. By reason of mental, physical or other incapacity ~~sufficient capacity is unable~~ to make or carry out important decisions concerning the proposed ward's financial affairs and, as a result, ~~is in danger of substantially endangering the proposed ward's health or of becoming subject to abuse by other persons.~~

Sec. 5. Section 633.568, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

633.568 NOTICE ON PROPOSED WARD.

If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice. If the proposed ward is a minor and the court determines, pursuant to section 633.561, subsection 1, that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered

by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

Sec. 6. Section 633.575, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

633.575 REPRESENTATION.

1. In a proceeding for the appointment of a conservator, if the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. In a proceeding for the appointment of a conservator, if the proposed ward is a minor or where the proposed ward is an adult under a standby petition, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation. The determination regarding representation shall be made only after notice to the proposed ward is made as the court deems necessary.

2. The court shall ensure that all proposed wards entitled to representation have been provided with notice of the right to representation and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

3. If the proposed ward is entitled to representation and is indigent or incapable of requesting counsel, the court shall appoint an attorney to represent the proposed ward. The cost of court appointed counsel for indigents shall be assessed against the county in which the proceedings are pending. For the purposes of this subsection, the court may find a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level.

4. An attorney appointed pursuant to this section, to the extent possible, shall:

a. Ensure that the proposed ward has been properly advised of the nature of the proceeding and its purpose.

b. Ensure that the proposed ward has been properly advised of the ward's rights in a conservatorship proceeding.

c. Personally interview the proposed ward.

- d. Represent the proposed ward.
  - e. Ensure that the conservatorship procedures conform to the statutory and due process requirements of Iowa law.
  - f. Inform the proposed ward of the effects of any order entered by the court, including the effects of an order entered for appointment of conservator.
  - g. Advise the ward, if an order for appointment of conservator is entered, of the ward's rights to petition for modification or termination of conservatorship.
  - h. Advise the ward, if a conservator is appointed, of the rights retained by the ward.
5. An attorney appointed pursuant to this section shall file an answer stating whether there is a return on file showing that proper service on the proposed ward has been made. The answer shall also state that specific compliance with subsection 4 has been made by the attorney or stating the inability to comply with subsection 4 by reason of the proposed ward's condition.

6. If the court determines that it would be in the ward's best interest to have legal representation with respect to any proceedings in a conservatorship, the court may appoint an attorney to represent the ward at the expense of the ward or the ward's estate, or if the ward is indigent the cost of the court appointed attorney shall be assessed against the county in which the proceedings are pending.

Sec. 7. Section 633.635, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. Arranging the provision of major elective surgery or any other nonemergency major medical procedure.

~~If the court determines that it would be in the ward's best interest to have legal representation with respect to proceedings under this subsection, the court may appoint an attorney to represent the ward at the expense of the ward or the ward's estate:~~

Sec. 8. Section 633.668, Code 1985, is amended to read as follows:

633.668 CONSERVATOR MAY MAKE GIFTS.

For good cause shown and under order of court, a conservator may make gifts on behalf of the ward out of the assets under a conservatorship to persons or religious, educational, scientific, charitable, or other nonprofit organizations to whom or to which such gifts were regularly made prior to the commencement of the conservatorship, or on a showing to the court that such gifts would benefit the ward or the ward's estate from the standpoint of income, gift, estate or inheritance taxes. The making of gifts out of such the assets must not foreseeably impair the ability to provide adequately for the best interests of the ward.

Sec. 9. Section 633.669, Code 1985, is amended to read as follows:

633.669 REPORTING REQUIREMENTS - ASSISTANCE BY CLERK.

1. A guardian appointed under this chapter shall file with the court the following written verified reports:

- a. An initial report within sixty days of the guardian's appointment.
- b. ~~An annual report which shall be filed within thirty days of the anniversary of the granting of the guardianship unless the court otherwise orders on good cause shown.~~
- c. A final report within thirty days of the termination of the guardianship under section 633.675 unless that time is extended by the court.

2. Reports required by this section must include:

- a. The current mental and physical ~~and social~~ condition of the ward.
- b. The present living arrangement of the ward, including a description of each residence where the ward has resided during the reporting period.
- c. A summary of the medical, educational, vocational and other professional services provided for the ward.
- d. A description of the guardian's visits with and activities on behalf of the ward.
- e. A recommendation as to the need for continued guardianship.

f. Other information requested by the court or useful in the opinion of the guardian.

3. The court shall develop a simplified uniform reporting form for use in filing the required reports.

4. The clerk of the court shall notify the guardian in writing of the reporting requirements and shall provide information and assistance to the guardian in filing the reports ~~and with respect to other responsibilities, powers and duties of the guardian.~~

5. Reports of guardians shall be reviewed and approved by a district court judge or referee.

6. Reports required by this section shall, if requested, be served on the attorney appointed to represent the ward in the guardianship proceeding and all other parties appearing in the proceeding.

Sec. 10. Section 633.670, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

633.670 REPORTING REQUIREMENTS.

1. A conservator appointed under this chapter shall file with the court:

a. An inventory within sixty days of the conservator's appointment. This inventory shall include all property of the ward that has come into the conservator's possession or of which the conservator has knowledge. When additional property comes into the possession of the conservator or to the knowledge of the conservator, a supplemental inventory shall be filed within thirty days.

b. Written verified reports and accountings as follows:

- (1) Annually unless the court otherwise orders on good cause shown.
- (2) Within thirty days following the date of removal.
- (3) Upon filing resignation and before the resignation is accepted by the court.
- (4) Within sixty days following the date of termination.
- (5) At other times as the court may order.

2. The clerk of court shall notify the conservator in writing of the reporting requirements.

3. Reports of conservators shall be reviewed and approved by a district court judge or referee.

Sec. 11. Section 633.642, Code 1985, is repealed.

ROBERT T. ANDERSON  
President of the Senate

DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 531, Seventy First General Assembly.

K. MARIE THAYER  
Secretary of the Senate

Approved *April 12*, 1985

TERRY E. BRANSTAD  
Governor