

# Comment Report

SF 295

A bill for an act concerning the creation, administration, and termination of adult and minor guardianships and conservatorships. (Formerly SSB 1146.) Effective date: 07/01/2024.

Subcommittee Members: Gustoff-CH, Scheetz, Thomson, C.

Date: 03/27/2023

Time: 11:30 AM

Location: RM 102, Sup. Ct. Consult

**Name:** Tim Ruth

**Comment:** Please review the changes and adopt them it is very time consuming and requires too much cost to file these reports each year. Our daughter often does not have enough money to buy food and we supplement her money. I think the reporting process is too Diana time consuming.

**Name:**

Len Sandler

**Comment:**

March 27, 2023 Representatives Bill Gustoff, Sami Scheetz, and Charley Thomson House Judiciary Committee Subcommittee on SF 295 RE: Proposed Amendments to SF295 and Comments from Parents, Guardians, Conservators, and Providers

I am writing to provide you with a few redacted email messages from families who are guardians, conservators, and payees, about the realworld burdens they endure now, and the negative consequences of enacting SF295 in its current form. Parents of children with disabilities describe the difficulty they have completing and filing the paperwork and finding or paying lawyers to represent them and or their vulnerable child. Providers have the same problem trying to find a guardian or conservator. The comments underscore the need for simplified financial reporting for lowasset estates, and for allowing lawyers for protected persons to withdraw when a judge appoints a guardian or conservator and approves initial plans and reports. I have also attached a revised amendment that no longer includes having a government payee as a sole basis for simplified reporting. Social Security regulations require every conservator for a person who receives SSA benefits to become a representative payee whether or not the individual has limited income and assets. I am the parent of a special needs young adult. My husband and I were appointed coguardians and coconservators for our son, (age 25), in 2016 when he reached the age of majority. Many of my welleducated, intelligent friends avoid the entire guardianship/conservatorship process for their adult children because the entire process is expensive (at the outset), and burdensome (throughout the process). I find the annual reporting requirements to be incredible timeconsuming, with ponderous and duplicative forms, and I have a juris doctorate. I respectfully request to learn more about how/why you introduced this legislation in the first place. Kindly explain Thank you very much for caring for specialneeds population and brokenhearted families. My son currently in group home. MYEP is his SSA designated payee. They spend my son's SSI according to the law and regulation. They also filed annual report to SSA. I am his guardian and conservator. I don't control his spending for SSI. I feel anxious and frustrated for the due date each January for court reports. They are so complex for me although I completed college education in USA. I have to hire an attorney to handle it. The court reports filed by lawyers are easy and simple compared to Iowa Court Electronic Filing reports which are complex and time cost for most guardians/conservators, even more difficult than Tax return. I strongly support the appeal for simplifying reporting for guardians and conservators. We are just overwhelmed with just trying to get our 25yearold with Down syndrome to sleep at night, wear CPAP, not guzzle caffeine drinks, and eat regularly. And my wife is a doctor, and we have Ivy League undergrad degrees. Upon review of the proposed legislation, it is readily apparent to me that the members of the committee do not understand the real world needs and burdens of parents and other conservators and guardians with limited means, education, technology, etc. The current, required annual paperwork for our 39yearold son with autism is already daunting and burdensome. In the past, the judge was able to allow us to file every 35 years and the forms were easier to complete. The annual requirement and necessary paperwork is extremely challenging and near impossible for lay persons without accounting experience to complete. Is this new, additional level of detail necessary, beneficial, and does it serve its intended purpose? I think not! It is already painful enough to confront the cold, harsh reality of our son's condition and lack of independence on a regular basis. Additional, onerous, unnecessary requirements acutely sharpen the pain that we already feel. Please consider this when discussing the bill(s). I got your information from the Arc. My son is turning 18 next month. He has Cerebral Palsy and is considered severe and profound. I went to the courthouse to file a petition for guardianship, but no one was able to help me. Can you give me some guidance on how I can file this petition? SOS to Parent and Special Education Advocacy Network: I am writing to you and other members of the Transition Services Center Community Group, Community Inclusion Group, Ask Resources, and advocacy groups to ask for your help. Jane Doe of Iowa

City has given me permission to contact you and share this personal, sensitive information because she wants to become the legal guardian of her 18yearold son. He attends City High School and needs someone to make decisions about his medical care, living arrangements, benefits, education, programs, and other matters. As you know, my Clinical Law Program does represent parents, children, or others in guardianship proceedings. We wont do so until Iowa law changes, which is the works, I hope. She would like more information and help about guardianship and how the process works. In my opinion, you know more than anyone about how things work because you serve as guardians and conservators or have assisted them or their children. I have included her on this email so you can contact her directly. I recommended that she talk with you and other parents, take a look at some of the chapters of the Iowa Guardianship and Conservatorship Guide at <https://www.iowaddcouncil.org/guardianshipandconservatorshipiniowa> and check out the Iowa Legal Aid website at <https://www.iowalegalaid.org/search?q=guardianship&contenttype=Resource&channel=legal%2Dinformation&topic=individual%2Drights&page=1> I have attached the table of contents to the DD Council materials and a fact sheet of resource about these issues. She might also be interested in knowing which local lawyers will represent her. Result of SOS to Network: Many people helped her, but she could not find a lawyer to represent her or her son. I wanted to see if you have any advice or guidance for a patient who is stuck on our inpatient unit. This is the second time we have had the same patient on the unit for very extended lengths of time (around 8 months). The patient doesnt have a guardian as his family is not involved in his life. We have contacted agencies who provide guardianship, but no one is accepting. We contacted Department for Aging, but they dont have funding to pick up new people until at least July 1. If they dont get state funding then they wont take any new people from the guardianship waitlist. Weve exhausted all our options and are working with HHS leadership. Do you have any suggestions about how to help someone get guardianship? He is severe ID, ASD, severe challenging behavior, and nonverbal. Is there anything you can think of?

SF295 Sec. 29. Section 633.670, Code 2023, is amended by striking the section and inserting in lieu thereof the following: 633.670 Reports by conservators.Amend 633.670 by adding new paragraphs 1.d and 3.b and renumbering other sections:d. Unless the court orders otherwise, a conservator is not obligated to file a financial management plan pursuant to this section if the protected person 1) is indigent as defined in 633.561.3.,or 2) receives Supplemental Security Income benefits, Medical Assistance benefits, or other meanstested benefits, or 3) the entire conservatorship estate is worth \$10,000 or less.b. Unless the court orders otherwise, a conservator is not obligated to file an annual report pursuant to this section if the protected person 1) is indigent as defined in 633.561.3., or 2) receives Supplemental Security Income benefits, Medical Assistance benefits, or other meanstested benefits, or 3) the entire conservatorship estate is worth \$10,000 or less.Amend 633.561.6. by adding subsection b. and renumbering using 6.a and new 6.b633.561 Appointment and role of attorney for respondent.b. When the court approves the initial care plan or initial financial management plan, the attorney for the respondent shall be permitted to withdraw from representation and be discharged from all duties. If the court determines that it would be in the respondents best interest to have legal representation with respect to any further proceedings in a guardianship or conservatorship, the court may appoint an attorney to represent the respondent at the expense of the respondent or the respondents estate, or if the respondent is indigent the cost of the court appointed attorney shall be assessed against the county in which the proceedings are pending.Thank you for your consideration and commitment to helping families across Iowa protect their loved ones and preserve access to our judicial system. Regards,Len SandlerClinical Professor of LawDirector, Estate Planning Clinic and Law and Policy In Action ClinicUniversity of Iowa College of LawClinical Law Programs380F Boyd Law BuildingIowa City, Iowa 5224211133193359030 (phone)3193535445 (fax)Pronouns: he, him, his

**Suggested Amendments to Iowa Code 633.670 Conservatorship Reports  
Submitted by Len Sandler March 27, 2023**

Sec. 29. Section 633.670, Code 2023, is amended by striking the section and inserting in lieu thereof the following:

**633.670 Reports by conservators.**

1. A conservator shall file a verified initial financial management plan for protecting, managing, investing, expending, and distributing the assets of the conservatorship estate within ninety days after appointment, which shall not be waived by the court.

a. The plan must be based on the needs of the protected person and take into account the best interest of the protected person as well as the protected person's preference, values, and prior directions to the extent known to, or reasonably ascertainable by, the conservator.

b. The plan must provide the protected person's age, residence, living arrangements, and sources of payment for living expenses.

c. When the conservator files the plan, the conservator shall file, if applicable, the protected person's will with the court clerk and the protected person's prepaid burial trust and powers of attorney shall be described.

**d. Unless the court orders otherwise, a conservator is not obligated to file a financial management plan pursuant to this section if the protected person 1) is indigent as defined in 633.561.3., or 2) receives Supplemental Security Income benefits, Medical Assistance benefits, or other means-tested benefits, or 3) the entire conservatorship estate is worth \$10,000 or less.**

ed. The plan must include a proposed budget for the protected person and budget-related information for the next annual reporting period including the following:

(1) The protected person's receipts and income and the projected sources of income including, if applicable, wages, social security income, pension and retirement plan distribution, veterans' benefits, rental income, interest earnings, and dividends, and the total estimated receipts and income.

(2) The protected person's liabilities and debts including, if applicable, mortgage, car loans, credit card debt, federal, state, and property taxes owed, and the total estimated liabilities and debts; a list and concise explanation of any liability or debt owed by the protected person to the conservator; and a list and concise explanation of the liability of any other person for a liability of the protected person.

(3) The protected person's estimated expenses on a monthly and annual basis including, if applicable, nursing home or facility charge, expenses for residence, food and household expenses, utilities, household help and caregiver expenses, health services and health insurance expenses, educational and vocational expenses, personal auto and other transportation expenses, clothing expenses, personal allowance and other personal expenses, liabilities and debts, attorney fees and other professional expenses, conservator fees, and other administrative expenses.

ef. The plan must include a list of the protected person's assets and the conservator's plan for management of these assets including, if applicable, financial accounts including checking and certificates of deposit and cash, investments including stocks, bonds, mutual funds, exchange-traded funds, individual retirement accounts and other investment accounts, pension, profit-sharing, annuities, and retirement funds, personal property including household goods and vehicles, receivables including mortgages and liens payable to the protected person's estate or trust, life insurance, and other property.

~~g.~~ The plan must include the authority that the conservator requests to

carry out the plan in accordance with the proposed budget for the protected person and the plan for the management of the property of the protected person for the next annual reporting period.

~~g~~h. The conservator shall provide notice of the filing of the plan and a copy of the plan to the protected person, the protected person's attorney, if any, and court visitor, if any, and others as directed by the court. The notice must state that any person entitled to a copy of the plan must file any objections to the plan not later than twenty days from the date of mailing notice of filing the initial plan.

~~h~~i. At least twenty days after the plan has been filed, the court shall review and determine whether the plan should be approved or revised, after considering objections filed and whether the plan is consistent with the conservator's powers and duties.

~~i~~j. After approval by the court, the conservator shall provide a copy of the approved plan and order approving the plan to the protected person, the protected person's attorney, if any, and court visitor, if any, and others as directed by the court.

2. A conservator shall attach to the initial financial management plan an inventory of the protected person's assets within ninety days after appointment which includes an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits. The conservator shall provide copies of the inventory to the protected person, the protected person's attorney, if any, and court visitor, if any, and others as directed by the court. Any objections to the inventory shall be filed in the same manner and according to the same schedule as objections to the initial financial management plan. The court shall review the inventory and determine whether the inventory should be approved at the same time as the court reviews the initial financial management plan. When the conservator receives an additional property of the protected person, or becomes aware of its existence, a description of the property shall be included in the conservator's next annual report.

3. A conservator shall file a verified report on an annual basis for the period since the end of the preceding report period, which shall not be waived by the court.

a. The annual report must provide the age, the residence, the living arrangements of the protected person, and sources of payment for the protected person's living expenses during the reporting period.

**b. Unless the court orders otherwise, a conservator is not obligated to file an annual report pursuant to this section if the protected person 1) is indigent as defined in 633.561.3., or 2) receives Supplemental Security Income benefits, Medical Assistance benefits, or other means-tested benefits, or 3) the entire conservatorship estate is worth \$10,000 or less.**

~~b~~c. The annual report must include the following income and expenditure information:

(1) If applicable, all income or funds received by the conservator on behalf of the protected person including the items specified in subsection 1, paragraph "d", subparagraph (1).

(2) If applicable, all expenditures made by the conservator on behalf of the protected person including the items, if applicable, specified in subsection 1, paragraph "d", subparagraph (3). If any of the expenditures were made to provide support for or pay the debts of another person, the annual report shall include an explanation of these expenditures. If any of the expenditures were made to pay any liability or debt owed by the protected person to the conservator, the annual report shall include an explanation of these expenditures. If any of the expenditures were made to pay any liability or debt that is also owed by another person or entity, the annual report shall include an explanation of these expenditures. If any of the

expenditures were paid with the use of cash or withdrawal of cash from an account of the protected person, the annual report shall include an explanation of the use of cash or withdrawal of cash.

~~e~~d. The annual report shall include a proposed budget and budget-related information for the next reporting period containing the information specified in subsection 1, paragraph "d", and a request for approval of the proposed budget and authority to make expenditures in accordance with the proposed budget.

~~e~~e. The annual report must include a proposed plan for management of the assets of the protected person for the next reporting period and a request for approval of the proposed plan for management of the assets of the protected person and the authority to carry out the plan.

~~e~~f. The conservator may request court approval of fees provided by an attorney on behalf of the conservatorship or the protected person during the preceding reporting period.

~~e~~g. The conservator may request court approval of fees provided to the conservator on behalf of the conservatorship or the protected person during the preceding reporting period.

4. The conservator shall file a verified final report with the court as follows:

a. Within thirty days following removal of the conservator.

b. Upon the conservator's filing of a resignation and before the resignation is accepted by the court.

c. Within sixty days following the termination of the conservatorship.

d. Any other time as ordered by the court.

5. Reports required by this section shall be provided to the veterans administration if the protected person is receiving veterans' benefits.

6. If the court finds that there are reasonable grounds to believe that the conservator has committed the offense of theft against an older individual under section 714.2A, consumer fraud against an older individual under section 714.16A, elder abuse under section 726.16A, financial exploitation of an older individual under section 726.25, or dependent adult abuse under section 726.26, the court shall refer the matter to the appropriate county attorney for consideration of the initiation of criminal charges.