

CHAPTER 29
GUARDIANSHIPS AND CONSERVATORSHIPS
S.F. 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 ~~lacks 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.

Approved April 12, 1985

CHAPTER 30
RESIDENCE OF TOWNSHIP OFFICERS
S.F. 261

AN ACT relating to the residence of township officers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 39.22, Code 1985, is amended to read as follows:

39.22 TOWNSHIP OFFICERS.

Township trustees and the township clerk ~~shall~~, in townships which ~~embrace no do not~~ include a city, shall be elected by the voters of the entire township. In townships which ~~embrace include~~ include a city, ~~said~~ the officers shall be elected by the voters of the township who reside outside the corporate limits of ~~such the city; but any such officer may be a resident and the~~ such the city; but any such officer may be a resident and the officers shall reside in the township outside the corporate limits of said the city.

Approved April 12, 1985