

Senate File 2321

S-5082

1 Amend Senate File 2321 as follows:

2 1. Page 1, before line 1 by inserting:

3

<DIVISION I

4

ADULT AND MINOR GUARDIANSHIPS AND CONSERVATORSHIPS>

5

2. Page 1, after line 26 by inserting:

6

<Sec. _____. Section 232D.305, subsection 1, Code 2020, is
7 amended to read as follows:

8

1. The court may appoint any qualified person as a court
9 visitor for the minor who has demonstrated sufficient knowledge
10 to appropriately perform the duties that the court directs.

11

Sec. _____. Section 232D.305, Code 2020, is amended by adding
12 the following new subsection:

13

NEW SUBSECTION. 6. A court visitor shall be discharged
14 from all further duties upon the appointment of a guardian or
15 conservator, unless further ordered by the court. The court
16 may order a court visitor to continue to serve if the court
17 determines continued service would be in the best interest of
18 the protected person. If the court continues the service of
19 the court visitor, the court may limit the direct duties of the
20 court visitor as the court deems necessary. The court visitor
21 shall thereafter continue to serve until discharged by the
22 court.

23

Sec. _____. Section 232D.306, Code 2020, is amended by adding
24 the following new subsection:

25

NEW SUBSECTION. 4. A hearing on the petition may be
26 recorded if a court reporter is not used.

27

Sec. _____. Section 232.309, Code 2020, is amended by adding
28 the following new subsection:

29

NEW SUBSECTION. 8. The court may order an extension of
30 the temporary guardianship for thirty days for good cause
31 shown, including a showing that a hearing on a petition for a
32 guardianship under section 232D.301 cannot be scheduled within
33 thirty days after the order for a temporary guardianship is
34 ordered. Prior to or contemporaneously with the filing for an
35 application for the extension of time, the guardian shall file

1 a report with the court setting forth all of the following:

2 a. All actions conducted by the guardian on behalf of the
3 protected person from the time of the initial appointment of
4 the guardian up to the time of the report.

5 b. All actions that the guardian plans to conduct on behalf
6 of the protected person during the thirty day extension period.

7 Sec. _____. Section 232D.401, subsection 1, Code 2020, is
8 amended to read as follows:

9 1. The order by the court appointing a guardian for a minor
10 shall state the basis for the order and the date on which the
11 first reporting period for the guardianship shall end.>

12 3. Page 2, after line 3 by inserting:

13 <Sec. _____. Section 232D.501, subsection 1, paragraph b,
14 Code 2020, is amended by adding the following new subparagraph:

15 NEW SUBPARAGRAPH. (11) The results of the guardian's
16 efforts to apply for funds or benefits on behalf of the
17 protected person.

18 Sec. _____. Section 232D.501, Code 2020, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 5. The failure of a guardian to timely
21 make a report required under subsection 1 shall be reported by
22 the clerk of the court to the court for an order to enforce
23 compliance with the filing requirements.

24 Sec. _____. NEW SECTION. **232D.506 Confidentiality.**

25 1. Official juvenile court records in guardianship
26 proceedings shall be confidential and are not public records.

27 2. Confidential records may be inspected and their contents
28 shall be disclosed to the following without a court order,
29 provided that a person or entity who inspects or receives a
30 confidential record under this subsection shall not disclose
31 the confidential record or its contents unless required by law:

32 a. The judge and professional court staff.

33 b. The protected person and the protected person's attorney.

34 c. The protected person's parent, guardian, custodian, court
35 visitor, and any attorney representing such person.

1 3. Confidential records may be inspected and their contents
2 shall be disclosed to the following with a court order,
3 provided that a person or entity who inspects or receives a
4 confidential record under this subsection shall not disclose
5 the confidential record or its contents unless required by law:

6 a. A person or entity conducting bona fide research on minor
7 guardianships.

8 b. A person or entity for good cause shown.>

9 4. Page 3, after line 9 by inserting:

10 <Sec. _____. Section 633.560, subsection 3, Code 2020, is
11 amended to read as follows:

12 3. The court shall require the proposed guardian or
13 conservator to attend the hearing on the petition but the court
14 may excuse the proposed guardian's or conservator's attendance
15 for good cause shown.>

16 5. Page 3, after line 24 by inserting:

17 <Sec. _____. Section 633.561, subsection 6, Code 2020, is
18 amended to read as follows:

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

27 Sec. _____. Section 633.562, subsection 1, Code 2020, is
28 amended to read as follows:

29 1. If the court determines that the appointment of a court
30 visitor would be in the best interest of the respondent, the
31 court shall appoint a court visitor at the expense of the
32 respondent or the respondent's estate, or, if the respondent
33 is indigent, the cost of the court visitor shall be assessed
34 against the county in which the proceedings are pending. The
35 court may appoint any qualified person as a court visitor,

1 who has demonstrated sufficient knowledge to appropriately
2 perform the duties that the court directs, in a guardianship or
3 conservatorship proceeding.>

4 6. Page 4, after line 15 by inserting:

5 <Sec. _____. Section 633.564, subsection 1, Code 2020, is
6 amended to read as follows:

7 1. The court shall request criminal record checks and
8 checks of the child abuse, dependent adult abuse, and sexual
9 offender registries in this state for all proposed guardians
10 and conservators, other than financial institutions with Iowa
11 trust powers, unless a proposed guardian or conservator has
12 undergone the required background checks under this section
13 within the twelve months prior to the filing of a petition.>

14 7. Page 4, after line 27 by inserting:

15 d. The names and addresses, to the extent known, of any
16 other person who must be named in the petition for appointment
17 of a guardian or conservator under section 633.556 or 633.557.

18 8. Page 4, line 28, by striking <d.> and inserting <e.>

19 9. Page 5, after line 7 by inserting:

20 <Sec. _____. Section 633.569, Code 2020, is amended by adding
21 the following new subsections:

22 NEW SUBSECTION. 8. The court may order an extension of
23 the temporary guardianship or conservatorship for thirty days
24 for good cause shown, including a showing that a hearing on a
25 petition for a guardianship or conservatorship under section
26 633.556 or 633.557 cannot be scheduled within thirty days after
27 the order for a temporary guardianship or conservatorship is
28 ordered. Prior to or contemporaneously with the filing for
29 an application for the extension of time, the guardian or
30 conservator shall file a report with the court setting forth
31 all of the following:

32 a. All actions conducted by the guardian or conservator on
33 behalf of the protected person from the time of the initial
34 appointment of the guardian up to the time of the report.

35 b. All actions that the guardian or conservator plans to

1 conduct on behalf of the protected person during the thirty-day
2 extension period.

3 NEW SUBSECTION. 9. The temporary guardian or conservator
4 shall submit any report the court requires.>

5 10. Page 5, after line 23 by inserting:

6 <Sec. _____. Section 633.635, subsection 1, Code 2020, is
7 amended to read as follows:

8 1. The order by the court appointing a guardian shall state
9 the basis for the guardianship pursuant to section 633.552
10 and the date on which the first reporting period for the
11 guardianship shall end.>

12 11. Page 5, after line 34 by inserting:

13 <Sec. _____. Section 633.641, subsection 3, Code 2020, is
14 amended to read as follows:

15 3. ~~If a protected person has executed a valid power of~~
16 ~~attorney under [chapter 633B](#), the conservator shall act in~~
17 ~~accordance with the applicable provisions of chapter 633B~~
18 If the court appoints a conservator for a protected person
19 who has previously executed a valid power of attorney under
20 chapter 633B, the power of attorney is suspended unless the
21 power of attorney provides otherwise or the court appointing
22 the conservator orders that the power of attorney should
23 continue. If the power of attorney continues, the agent is
24 accountable to the conservator as well as to the principal.
25 The power of attorney shall be reinstated upon termination of
26 the conservatorship as a result of the principal regaining
27 capacity.>

28 12. By striking page 6, line 12, through page 8, line 21,
29 and inserting:

30 <Sec. _____. Section 633.669, Code 2020, is amended to read
31 as follows:

32 **633.669 Reporting requirements — assistance by clerk Reports**
33 **by guardians.**

34 1. A guardian appointed by the court under [this chapter](#)
35 shall file with the court the following written verified

1 reports which shall not be waived by the court:

2 a. An initial care plan filed within sixty days of
3 appointment. The information in the initial care plan shall
4 include but not be limited to the following information:

5 (1) The current residence of the protected person and the
6 guardian's plan for the protected person's living arrangements.

7 (2) The current sources of payment for the protected
8 person's living expenses and other expenses, and the guardian's
9 plan for payment of the protected person's living expenses and
10 other expenses.

11 (3) The protected person's health status and health care
12 needs, and the guardian's plan for meeting the protected
13 ~~person's needs for medical, dental, and other~~ health care
14 needs.

15 (3A) Whether the protected person has a living will or
16 health care power of attorney.

17 (4) If applicable, the protected person's need for other
18 professional services for mental, behavioral, or emotional
19 health, and the guardian's plan for other professional services
20 needed by the protected person.

21 (5) If applicable, the protected person's employment
22 status, the protected person's need for educational, training,
23 or vocational services, and the guardian's plan for meeting the
24 educational, training, and vocational needs of the protected
25 person.

26 (6) If applicable, the guardian's plan for facilitating the
27 participation of the protected person in social activities.

28 (7) The guardian's plan for facilitating contacts between
29 the protected person and the protected person's family members
30 and other ~~significant~~ persons significant in the life of the
31 protected person.

32 (8) The guardian's plan for contact with, and activities on
33 behalf of, the protected person.

34 (9) The powers that the guardian requests to carry out the
35 initial care plan.

1 (10) The guardian shall file an amended plan when there
2 has been a significant change in the circumstances or the
3 guardian seeks to deviate significantly from the plan. The
4 guardian must obtain court approval of the amended plan before
5 implementing any of its provisions.

6 *b.* An annual report, filed within sixty days of the close
7 of the reporting period, ~~unless the court otherwise orders on~~
8 ~~good cause shown.~~ The information in the annual report shall
9 include but not be limited to the following information:

10 (1) The current living arrangements of the protected
11 person.

12 (2) The sources of payment for the protected person's living
13 expenses and other expenses.

14 (3) A description, if applicable, of the following:

15 (a) The protected person's ~~physical and mental health~~
16 status and the ~~medical, dental, and other professional health~~
17 services provided to the protected person.

18 (b) If applicable, the protected person's employment status
19 and the educational, training, and vocational services provided
20 to the protected person.

21 (0c) The guardian's facilitation of the participation of
22 the protected person in social activities.

23 (c) The contact of the protected person with family members
24 and other significant persons.

25 (d) The nature and extent of the guardian's visits with, and
26 activities on behalf of, the protected person.

27 (04) The guardian's changes to the care plan for the
28 protected person for the next annual reporting period.

29 (004) The powers that the guardian requests to carry out
30 the care plan for the protected person for the next annual
31 reporting period.

32 (4) The guardian's recommendation as to the need for
33 continuation of the guardianship.

34 (5) The ability of the guardian to continue as guardian.

35 (6) The need of the guardian for assistance in providing or

1 arranging for the provision of the care and protection of the
2 protected person.

3 c. A final report within thirty days of the termination
4 of the guardianship under [section 633.675](#) unless that time is
5 extended by the court.

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

8 3. The clerk of the court shall notify the guardian in
9 writing of the reporting requirements and shall provide
10 information and assistance to the guardian in filing the
11 reports.

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

14 5. Reports required by this section shall be served on the
15 protected person, the protected person's attorney, if any, and
16 the court visitor, if any.>

17 13. Page 10, line 31, by striking <guardian> and inserting
18 <conservator>

19 14. Page 11, by striking lines 1 through 8 and inserting:

20 ~~<b. h. Within two days after filing the initial plan,~~
21 ~~the~~ The conservator shall ~~give~~ provide notice of the filing
22 of the initial plan with a copy of the plan to the protected
23 person, the protected person's attorney, if any, and court
24 ~~advisor~~ visitor, if any, and others as directed by the court.
25 The notice must state that any person entitled to a copy of
26 the plan must file any objections to the plan not later than
27 ~~fifteen days after it is filed~~ twenty days from the date of
28 mailing notice of filing the initial plan.>

29 15. Page 14, line 18, after <if any,> by inserting <the
30 court visitor, if any,>

31 16. Page 14, by striking lines 22 through 29 and inserting:

32 <2. The court shall terminate a guardianship if it the
33 court finds by clear and convincing evidence that the basis
34 for appointing a guardian pursuant to [section 633.552](#) is not
35 satisfied.

1 3. The court shall terminate a conservatorship if the court
2 finds ~~by clear and convincing evidence~~ that the basis for
3 appointing a conservator pursuant to [section 633.553](#) or [633.554](#)
4 is not satisfied.>

5 17. Page 16, line 12, before <Act> by inserting <division
6 of this>

7 18. Page 16, line 16, before <Act> by inserting <division
8 of this>

9 19. Page 16, after line 17 by inserting:

10 <DIVISION ____
11 CONFORMING CHANGES
12 Sec. _____. Section 633.3, subsections 9, 17, 22, and 23, Code
13 2020, are amended to read as follows:

14 9. *Conservator* — a person appointed by the court to have
15 the custody and control of the property of a ~~ward~~ protected
16 person under the provisions of this probate code.

17 17. *Estate* — the real and personal property of either a
18 decedent or a ~~ward~~ protected person, and may also refer to the
19 real and personal property of a trust described in section
20 633.10.

21 22. *Guardian* — the person appointed by the court to have
22 the custody of the person of the ~~ward~~ protected person under
23 the provisions of this probate code.

24 23. *Guardian of the property* — at the election of the
25 person appointed by the court to have the custody and care of
26 the property of a ~~ward~~ protected person, the term "*guardian of*
27 *the property*" may be used, which term shall be synonymous with
28 the term "*conservator*".

29 Sec. _____. Section 633.78, subsection 1, unnumbered
30 paragraph 1, Code 2020, is amended to read as follows:

31 A fiduciary under [this chapter](#) may present a written request
32 to any person for the purpose of obtaining property owned by
33 a decedent or by a ~~ward~~ protected person of a conservatorship
34 for which the fiduciary has been appointed, or property to
35 which a decedent or ~~ward~~ protected person is entitled, or

1 for information about such property needed to perform the
2 fiduciary's duties. The request must contain statements
3 confirming all of the following:

4 Sec. _____. Section 633.78, subsection 1, paragraph b, Code
5 2020, is amended to read as follows:

6 b. The request has been signed by all fiduciaries acting on
7 behalf of the decedent or ward protected person.

8 Sec. _____. Section 633.78, subsection 4, paragraph a, Code
9 2020, is amended to read as follows:

10 a. Damages sustained by the decedent's or ward's protected
11 person's estate.

12 Sec. _____. Section 633.80, Code 2020, is amended to read as
13 follows:

14 **633.80 Fiduciary of a fiduciary.**

15 A fiduciary has no authority to act in a matter wherein the
16 fiduciary's decedent or ward protected person was merely a
17 fiduciary, except that the fiduciary shall file a report and
18 accounting on behalf of the decedent or ward protected person
19 in said matter.

20 Sec. _____. Section 633.93, Code 2020, is amended to read as
21 follows:

22 **633.93 Limitation on actions affecting deeds.**

23 No action for recovery of any real estate sold by any
24 fiduciary can be maintained by any person claiming under the
25 deceased, the ward protected person, or a beneficiary, unless
26 brought within five years after the date of the recording of
27 the conveyance.

28 Sec. _____. Section 633.112, Code 2020, is amended to read as
29 follows:

30 **633.112 Discovery of property.**

31 The court may require any person suspected of having
32 possession of any property, including records and documents,
33 of the decedent, ward protected person, or the estate, or of
34 having had such property under the person's control, to appear
35 and submit to an examination under oath touching such matters,

1 and if on such examination it appears that the person has the
2 wrongful possession of any such property, the court may order
3 the delivery thereof to the fiduciary. Such a person shall be
4 liable to the estate for all damages caused by the person's
5 acts.

6 Sec. _____. Section 633.123, subsection 1, paragraph b,
7 subparagraph (3), Code 2020, is amended to read as follows:

8 (3) The needs and rights of the beneficiaries or the ~~ward~~
9 protected person.

10 Sec. _____. Section 633.558, subsection 3, Code 2020, is
11 amended to read as follows:

12 3. Notice of the filing of a petition given to persons under
13 subsections subsection 2 and 3 shall include a statement that
14 such persons may register to receive notice of the hearing
15 on the petition and other proceedings and the manner of such
16 registration.

17 Sec. _____. Section 633.560, subsection 3, Code 2020, is
18 amended to read as follows:

19 3. The court shall require the proposed guardian or
20 conservator to attend the hearing on the petition but the court
21 may excuse the proposed guardian's or conservator's attendance
22 for good cause shown.

23 Sec. _____. Section 633.561, subsection 4, paragraphs c and f,
24 Code 2020, are amended to read as follows:

25 c. Ensure that the respondent has been properly advised of
26 the respondent's rights in a guardianship or conservatorship
27 proceeding.

28 f. Ensure that the guardianship or conservatorship
29 procedures conform to the statutory and due process
30 requirements of Iowa law.

31 Sec. _____. Section 633.561, subsection 5, paragraphs a and b,
32 Code 2020, are amended to read as follows:

33 a. Inform the respondent of the effects of the order entered
34 for appointment of guardian or conservator.

35 b. Advise the respondent of the respondent's rights to

1 petition for modification or termination of the guardianship
2 or conservatorship.

3 Sec. _____. Section 633.562, subsection 5, paragraphs a and b,
4 Code 2020, are amended to read as follows:

5 a. A recommendation regarding the appropriateness of a
6 limited guardianship or conservatorship for the respondent,
7 including whether less restrictive alternatives are available.

8 b. A statement of the qualifications of the guardian or
9 conservator together with a statement of whether the respondent
10 has expressed agreement with the appointment of the proposed
11 guardian or conservator.

12 Sec. _____. Section 633.580, subsections 1 and 4, Code 2020,
13 are amended to read as follows:

14 1. The name, age, and last known post office address of the
15 proposed ~~ward~~ protected person.

16 4. A general description of the property of the proposed
17 ~~ward~~ protected person within this state and of the proposed
18 ~~ward's~~ protected person's right to receive property; also, the
19 estimated present value of the real estate, the estimated value
20 of the personal property, and the estimated gross annual income
21 of the estate. If any money is payable, or to become payable,
22 to the proposed ~~ward~~ protected person by the United States
23 through the United States department of veterans affairs, the
24 petition shall so state.

25 Sec. _____. Section 633.591A, Code 2020, is amended to read
26 as follows:

27 **633.591A Voluntary petition for appointment of conservator**
28 **for a minor — standby basis.**

29 A person having physical and legal custody of a minor
30 may execute a verified petition for the appointment of a
31 standby conservator of the proposed ~~ward's~~ protected person's
32 property, upon the express condition that the petition shall
33 be acted upon by the court only upon the occurrence of an event
34 specified or the existence of a described condition of the
35 mental or physical health of the petitioner, the occurrence

1 of which event, or the existence of which condition, shall be
2 established in the manner directed in the petition.

3 Sec. _____. Section 633.603, Code 2020, is amended to read as
4 follows:

5 **633.603 Appointment of foreign conservators.**

6 When there is no conservatorship, nor any application
7 therefor pending, in this state, the duly qualified foreign
8 conservator or guardian of a nonresident ~~ward~~ protected
9 person may, upon application, be appointed conservator of the
10 property of such person in this state; provided that a resident
11 conservator is appointed to serve with the foreign conservator;
12 and provided further, that for good cause shown, the court
13 may appoint the foreign conservator to act alone without the
14 appointment of a resident conservator.

15 Sec. _____. Section 633.604, Code 2020, is amended to read as
16 follows:

17 **633.604 Application.**

18 The application for appointment of a foreign conservator
19 or guardian as conservator in this state shall include the
20 name and address of the nonresident ~~ward~~ protected person, and
21 of the nonresident conservator or guardian, and the name and
22 address of the resident conservator to be appointed. It shall
23 be accompanied by a certified copy of the original letters
24 or other authority conferring the power upon the foreign
25 conservator or guardian to act as such. The application
26 shall also state the cause for the appointment of the foreign
27 conservator to act as sole conservator, if such be the case.

28 Sec. _____. Section 633.605, Code 2020, is amended to read as
29 follows:

30 **633.605 Personal property.**

31 A foreign conservator or guardian of a nonresident may
32 be authorized by the court of the county wherein such ~~ward~~
33 protected person has personal property to receive the same upon
34 compliance with the provisions of [sections 633.606](#), [633.607](#) and
35 [633.608](#).

1 Sec. _____. Section 633.607, Code 2020, is amended to read as
2 follows:

3 **633.607 Order for delivery.**

4 Upon the filing of the bond as above provided, and the court
5 being satisfied with the amount thereof, it shall order the
6 personal property of the ~~ward~~ protected person delivered to
7 such conservator or guardian.

8 Sec. _____. Section 633.633, Code 2020, is amended to read as
9 follows:

10 **633.633 Provisions applicable to all fiduciaries shall**
11 **govern.**

12 The provisions of this probate code applicable to all
13 fiduciaries shall govern the appointment, qualification, oath
14 and bond of guardians and conservators, except that a guardian
15 shall not be required to give bond unless the court, for good
16 cause, finds that the best interests of the ~~ward~~ protected
17 person require a bond. The court shall then fix the terms and
18 conditions of such bond.

19 Sec. _____. Section 633.633B, Code 2020, is amended to read
20 as follows:

21 **633.633B Tort liability of guardians and conservators.**

22 The fact that a person is a guardian or conservator shall not
23 in itself make the person personally liable for damages for the
24 acts of the ~~ward~~ protected person.

25 Sec. _____. Section 633.636, Code 2020, is amended to read as
26 follows:

27 **633.636 Effect of appointment of guardian or conservator.**

28 The appointment of a guardian or conservator shall not
29 constitute an adjudication that the ~~ward~~ protected person is of
30 unsound mind.

31 Sec. _____. Section 633.637, Code 2020, is amended to read as
32 follows:

33 **633.637 Powers of ~~ward~~ protected person.**

34 1. A ~~ward~~ protected person for whom a conservator has been
35 appointed shall not have the power to convey, encumber, or

1 dispose of property in any manner, other than by will if the
2 ward protected person possesses the requisite testamentary
3 capacity, unless the court determines that the ward protected
4 person has a limited ability to handle the ward's protected
5 person's own funds. If the court makes such a finding, the
6 court shall specify to what extent the ward protected person
7 may possess and use the ward's protected person's own funds.

8 2. Any modification of the powers of the ward protected
9 person that would be more restrictive of the ward's protected
10 person's control over the ward's protected person's financial
11 affairs shall be based upon clear and convincing evidence
12 and the burden of persuasion is on the conservator. Any
13 modification that would be less restrictive of the ward's
14 protected person's control over the ward's protected person's
15 financial affairs shall be based upon proof in accordance with
16 the requirements of [section 633.675](#).

17 Sec. _____. Section 633.637A, Code 2020, is amended to read
18 as follows:

19 **633.637A Rights of ward protected person under guardianship.**

20 An adult ward protected person under a guardianship has the
21 right of communication, visitation, or interaction with other
22 persons upon the consent of the adult ward protected person,
23 subject to [section 633.635, subsection 2](#), paragraph "i", and
24 [section 633.635, subsection 3](#), paragraph "c". If an adult ward
25 protected person is unable to give express consent to such
26 communication, visitation, or interaction with a person due
27 to a physical or mental condition, consent of an adult ward
28 protected person may be presumed by a guardian or a court based
29 on an adult ward's protected person's prior relationship with
30 such person.

31 Sec. _____. Section 633.638, Code 2020, is amended to read as
32 follows:

33 **633.638 Presumption of fraud.**

34 If a conservator be appointed, all contracts, transfers and
35 gifts made by the ward protected person after the filing of the

1 petition shall be presumed to be a fraud against the rights
2 and interest of the ~~ward~~ protected person except as otherwise
3 directed by the court pursuant to [section 633.637](#).

4 Sec. _____. Section 633.639, Code 2020, is amended to read as
5 follows:

6 **633.639 Title to ~~ward's~~ protected person's property.**

7 The title to all property of the ~~ward~~ protected person is
8 in the ~~ward~~ protected person and not the conservator subject,
9 however, to the possession of the conservator and to the
10 control of the court for the purposes of administration,
11 sale or other disposition, under the provisions of the
12 law. Any real property titled at any time in the name of a
13 conservatorship shall be deemed to be titled in the ~~ward's~~
14 protected person's name subject to the conservator's right of
15 possession.

16 Sec. _____. Section 633.640, Code 2020, is amended to read as
17 follows:

18 **633.640 Conservator's right to possession.**

19 Every conservator shall have a right to, and shall take,
20 possession of all of the real and personal property of the
21 ~~ward~~ protected person. The conservator shall pay the taxes
22 and collect the income therefrom until the conservatorship is
23 terminated. The conservator may maintain an action for the
24 possession of the property, and to determine the title to the
25 same.

26 Sec. _____. Section 633.643, Code 2020, is amended to read as
27 follows:

28 **633.643 Disposal of will by conservator.**

29 When an instrument purporting to be the will of the ~~ward~~
30 protected person comes into the hands of a conservator, the
31 conservator shall immediately deliver it to the court.

32 Sec. _____. Section 633.644, Code 2020, is amended to read as
33 follows:

34 **633.644 Court order to preserve testamentary intent of ~~ward~~**
35 **protected person.**

1 Upon receiving an instrument purporting to be the will of a
2 living ward protected person under the provisions of section
3 633.643, the court may open said will and read it. The court
4 with or without notice, as it may determine, may enter such
5 orders in the conservatorship as it deems advisable for the
6 proper administration of the conservatorship in light of the
7 expressed testamentary intent of the ward protected person.

8 Sec. _____. Section 633.645, Code 2020, is amended to read as
9 follows:

10 **633.645 Court to deliver will to clerk.**

11 An instrument purporting to be the will of a ward protected
12 person coming into the hands of the court under the provisions
13 of [section 633.643](#), shall thereafter be resealed by the court
14 and be deposited with the clerk to be held by said clerk as
15 provided in [sections 633.286 through 633.289](#).

16 Sec. _____. Section 633.653A, Code 2020, is amended to read
17 as follows:

18 **633.653A Claims for cost of medical care or services.**

19 The provision of medical care or services to a ward protected
20 person who is a recipient of medical assistance under chapter
21 249A creates a claim against the conservatorship for the amount
22 owed to the provider under the medical assistance program for
23 the care or services. The amount of the claim, after being
24 allowed or established as provided in this part, shall be paid
25 by the conservator from the assets of the conservatorship.

26 Sec. _____. Section 633.654, Code 2020, is amended to read as
27 follows:

28 **633.654 Form and verification of claims — general**
29 **requirements.**

30 No claim shall be allowed against the estate of a ward
31 protected person upon application of the claimant unless
32 it shall be in writing, filed in duplicate with the clerk,
33 stating the claimant's name and address, and describing the
34 nature and the amount thereof, if ascertainable. It shall be
35 accompanied by the affidavit of the claimant, or of someone for

1 the claimant, that the amount is justly due, or if not due,
2 when it will or may become due, that no payments have been
3 made thereon which are not credited, and that there are no
4 offsets to the same, to the knowledge of the affiant, except as
5 therein stated. The duplicate of said claim shall be mailed
6 by the clerk to the conservator or the conservator's attorney
7 of record; however, valid contract claims arising in the
8 ordinary course of the conduct of the business or affairs of
9 the ward protected person by the conservator may be paid by the
10 conservator without requiring affidavit or filing.

11 Sec. _____. Section 633.656, Code 2020, is amended to read as
12 follows:

13 **633.656 How claim entitled.**

14 All claims filed against the estate of the ward protected
15 person shall be entitled in the name of the claimant against
16 the conservator as such, naming the conservator, and in all
17 further proceedings thereon, this title shall be preserved.

18 Sec. _____. Section 633.660, Code 2020, is amended to read as
19 follows:

20 **633.660 Execution and levy prohibited.**

21 No execution shall issue upon, nor shall any levy be made
22 against, any property of the estate of a ward protected person
23 under any judgment against the ward protected person or a
24 conservator, but the provisions of [this section](#) shall not be so
25 construed as to prevent the enforcement of a mortgage, pledge,
26 or other lien upon property in an appropriate proceeding.

27 Sec. _____. Section 633.661, Code 2020, is amended to read as
28 follows:

29 **633.661 Claims of conservators.**

30 If the conservator is a creditor of the ward protected
31 person, the conservator shall file the claim as other
32 creditors, and the court shall appoint some competent person as
33 temporary conservator to represent the ward protected person
34 at the hearing on the conservator's claim. The same procedure
35 shall be followed in the case of coconservators where all

1 such conservators are creditors of the ~~ward~~ protected person;
2 but if one of the coconservators is not a creditor of the
3 ~~ward~~ protected person, such disinterested conservator shall
4 represent the ~~ward~~ protected person at the hearing on any claim
5 against the ~~ward~~ protected person by a coconservator.

6 Sec. _____. Section 633.662, Code 2020, is amended to read as
7 follows:

8 **633.662 Claims not filed.**

9 The conservator may pay any valid claim against the estate of
10 the ~~ward~~ protected person even though such claim has not been
11 filed, but all such payments made by the conservator shall be
12 at the conservator's own peril.

13 Sec. _____. Section 633.664, Code 2020, is amended to read as
14 follows:

15 **633.664 Liens not affected by failure to file claim.**

16 Nothing in [sections 633.654](#) and [633.658](#) shall affect or
17 prevent an action or proceeding to enforce any mortgage,
18 pledge, or other lien upon the property of the ~~ward~~ protected
19 person.

20 Sec. _____. Section 633.665, Code 2020, is amended to read as
21 follows:

22 **633.665 Separate actions and claims.**

23 1. Any action pending against the ~~ward~~ protected person at
24 the time the conservator is appointed shall also be considered
25 a claim filed in the conservatorship if notice of substitution
26 is served on the conservator as defendant and a duplicate of
27 the proof of service of notice of such proceeding is filed in
28 the conservatorship proceeding.

29 2. A separate action based on a debt or other liability
30 of the ~~ward~~ protected person may be commenced against the
31 conservator in lieu of filing a claim in the conservatorship.
32 Such an action shall be commenced by serving an original notice
33 on the conservator and filing a duplicate of the proof of
34 service of notice of such proceeding in the conservatorship
35 proceeding. Such an action shall also be considered a claim

1 filed in the conservatorship. Such an action may be commenced
2 only in a county where the venue would have been proper if
3 there were no conservatorship and the action had been commenced
4 against the ~~ward~~ protected person.

5 Sec. _____. Section 633.667, Code 2020, is amended to read as
6 follows:

7 **633.667 Payment of claims in insolvent conservatorships.**

8 When it appears that the assets in a conservatorship are
9 insufficient to pay in full all the claims against such
10 conservatorship, the conservator shall report such matter to
11 the court, and the court shall, upon hearing, with notice to
12 all persons who have filed claims in the conservatorship, make
13 an order for the pro rata payment of claims giving claimants
14 the same priority, if any, as they would have if the ~~ward~~
15 protected person were not under conservatorship.

16 Sec. _____. Section 633.668, Code 2020, is amended to read as
17 follows:

18 **633.668 Conservator may make gifts.**

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

31 Sec. _____. Section 633.673, Code 2020, is amended to read as
32 follows:

33 **633.673 Court costs in guardianships.**

34 The ~~ward~~ protected person or the ~~ward's~~ protected person's
35 estate shall be charged with the court costs of a ~~ward's~~

1 protected person's guardianship, including the guardian's fees
2 and the fees of the attorney for the guardian. The court
3 may, upon application, enter an order waiving payment of the
4 court costs in indigent cases. However, if the ward protected
5 person or ward's protected person's estate becomes financially
6 capable of paying any waived costs, the costs shall be paid
7 immediately.

8 Sec. _____. Section 633.676, Code 2020, is amended to read as
9 follows:

10 **633.676 Assets exhausted.**

11 At any time that the assets of the ward's protected person's
12 estate do not exceed the amount of the charges and claims
13 against it, the court may direct the conservator to proceed to
14 terminate the conservatorship.

15 Sec. _____. Section 633.677, Code 2020, is amended to read as
16 follows:

17 **633.677 Accounting to ward protected person — notice.**

18 Upon the termination of a conservatorship, the conservator
19 shall pay the costs of administration and shall render a full
20 and complete accounting to the ward protected person or the
21 ward's protected person's personal representative and to the
22 court. Notice of the final report of a conservator shall be
23 served on the ward protected person or the ward's protected
24 person's personal representative, in accordance with section
25 633.40, unless notice is waived. An order prescribing notice
26 may be made before or after the filing of the final report.

27 Sec. _____. Section 633.681, Code 2020, is amended to read as
28 follows:

29 **633.681 Assets of minor ward protected person exhausted.**

30 When the assets of a minor ward's protected person's
31 conservatorship are exhausted or consist of personal property
32 only of an aggregate value not in excess of twenty-five
33 thousand dollars, the court, upon application or upon its
34 own motion, may terminate the conservatorship. The order
35 for termination shall direct the conservator to deliver any

1 property remaining after the payment of allowed claims and
2 expenses of administration to a custodian under any uniform
3 transfers to minors Act. Such delivery shall have the same
4 force and effect as if delivery had been made to the ~~ward~~
5 protected person after attaining majority.

6 Sec. _____. Section 633.682, Code 2020, is amended to read as
7 follows:

8 **633.682 Discharge of conservator and release of bond.**

9 Upon settlement of the final accounting of a conservator,
10 and upon determining that the property of the ~~ward~~ protected
11 person has been delivered to the person or persons lawfully
12 entitled thereto, the court shall discharge the conservator and
13 exonerate the surety on the conservator's bond.>

14 20. Title page, by striking line 1 and inserting <An Act
15 relating to the opening, administration, and termination of
16 adult and minor>

17 21. By renumbering, redesignating, and correcting internal
18 references as necessary.

DAN DAWSON