

3-8-95 Judiciary

FILED MAR 8 1995

SENATE FILE 276
BY HAMMOND and SORENSEN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment of guardians and conservators
2 including providing for published notice of the proceedings
3 and medical evaluation of the ward.

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

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S.F. 276

1 Section 1. Section 633.552, Code 1995, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 6. That the proposed ward, if a person
4 under subsection 2, paragraph "a", has been, or will have been
5 prior to trial, medically evaluated to determine any long-term
6 impairment of judgment or competency.

7 Sec. 2. Section 633.554, Code 1995, is amended to read as
8 follows:

9 633.554 NOTICE TO PROPOSED WARD -- PUBLICATION.

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

21 Notice of the guardianship proceeding shall also be
22 published in accordance with chapter 618 not less than seven
23 days prior to the proceeding.

24 Sec. 3. Section 633.559, Code 1995, is amended to read as
25 follows:

26 633.559 PREFERENCE AS TO APPOINTMENT OF GUARDIAN.

27 The parents of a minor, or either of them, if qualified and
28 suitable, shall be preferred over all others for appointment
29 as guardian. Preference shall then be given to any person, if
30 qualified and suitable, nominated as guardian for a minor
31 child by a will executed by the parent having custody of a
32 minor child, and any qualified and suitable person requested
33 by a minor fourteen years of age or older, or by standby
34 petition executed by a person having physical and legal
35 custody of a minor. A member of the proposed adult ward's

1 immediate family shall be preferred over all others for
2 appointment of a guardian unless the proposed adult ward
3 objects. Subject to these preferences, the court shall
4 appoint as guardian a qualified and suitable person who is
5 willing to serve in that capacity.

6 Sec. 4. Section 633.561, Code 1995, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 7. A proposed guardian may also be
9 represented by counsel at the proceeding.

10 Sec. 5. Section 633.566, Code 1995, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 7. That the proposed ward, if a person
13 under subsection 2, paragraph "a", has been, or will have been
14 prior to trial, medically evaluated to determine any long-term
15 impairment of judgment or competency.

16 Sec. 6. Section 633.568, Code 1995, is amended to read as
17 follows:

18 633.568 NOTICE TO PROPOSED WARD -- PUBLICATION.

19 If the proposed ward is an adult, notice of the filing of
20 the petition shall be served upon the proposed ward in the
21 manner of an original notice and the content of the notice is
22 governed by the rules of civil procedure governing original
23 notice. If the proposed ward is a minor and the court
24 determines, pursuant to section 633.575, subsection 1, that
25 the proposed ward is entitled to representation, notice in the
26 manner of original notice, or another form of notice ordered
27 by the court, given to the attorney appointed to represent the
28 ward is notice to the proposed ward.

29 Notice of the conservatorship proceeding shall also be
30 published in accordance with chapter 618 not less than seven
31 days prior to the proceeding.

32 Sec. 7. Section 633.571, Code 1995, is amended to read as
33 follows:

34 633.571 PREFERENCE AS TO APPOINTMENT OF CONSERVATOR.

35 The parents of a minor, or either of them, if qualified and

1 suitable, shall be preferred over all others for appointment
2 as conservator. Preference shall then be given to any person,
3 if qualified and suitable, nominated as conservator for a
4 minor child by a will executed by the parent having custody of
5 a minor child, and any qualified and suitable person requested
6 by a minor fourteen years of age or older, or by standby
7 petition executed by a person having physical and legal
8 custody of a minor. A member of the proposed adult ward's
9 immediate family shall be preferred over all others for
10 appointment of a conservator unless the proposed adult ward
11 objects. Subject to these preferences, the court shall
12 appoint as conservator a qualified and suitable person who is
13 willing to serve in that capacity.

14 Sec. 8. Section 633.575, Code 1995, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 7. A proposed conservator may also be
17 represented by counsel at the proceeding.

18 Sec. 9. Section 633.635, Code 1995, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 5. The guardian shall have the ward
21 medically evaluated annually to determine whether the ward
22 still meets the criteria for appointment of a guardian under
23 section 633.552, subsection 2, paragraph "a".

24 Sec. 10. Section 633.641, Code 1995, is amended by adding
25 the following new unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. The conservator shall have the
27 ward medically evaluated annually to determine whether the
28 ward still meets the criteria for appointment of a conservator
29 under section 633.566, subsection 2, paragraph "a".

30 EXPLANATION

31 This bill provides that in involuntary proceedings for the
32 appointment of a guardian or a conservator, the proposed ward
33 shall be medically evaluated regarding the proposed ward's
34 physical or mental incapacity prior to the proceeding in which
35 the guardian or conservator is appointed. The bill also

1 provides that a guardian or conservator shall have the ward
2 medically evaluated annually to determine whether the
3 incapacity still exists.

4 In addition, the bill provides that a notice of the pending
5 guardianship or conservatorship proceeding is to be published
6 in the manner of other legal notices under chapter 618.

7 The bill also permits a proposed guardian or conservator to
8 be represented by an attorney at the guardianship or
9 conservatorship proceeding.

10 Further, the bill provides that a member of a proposed
11 adult ward's family is the preferable guardian or conservator
12 unless the proposed ward objects.

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