

**House File 591 - Introduced**

HOUSE FILE 591  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 118)

**A BILL FOR**

1 An Act providing for juvenile court jurisdiction over minor  
2 guardianship proceedings and including effective date and  
3 applicability provisions.

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

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DIVISION I

IOWA MINOR GUARDIANSHIP PROCEEDINGS ACT

Section 1. NEW SECTION. 232D.101 Title.

This chapter shall be known as the "*Iowa Minor Guardianship Proceedings Act*".

Sec. 2. NEW SECTION. 232D.102 Definitions.

1. "*Adult*" means a person eighteen years of age or older or a person declared to be emancipated by a court of competent jurisdiction.

2. "*Conservator*" means a person appointed by a court to have custody and control of the property of a minor.

3. "*Court*" means the juvenile court established under section 602.7101.

4. "*Demonstrated lack of consistent parental participation*" means the refusal of a parent to comply with duties and responsibilities imposed upon a parent by the parent-child relationship, including but not limited to providing the minor with necessary food, clothing, shelter, health care, education, and other care and supervision necessary for the minor's physical, mental, and emotional health and development.

5. "*Guardian*" means a person appointed by the court to have custody of a minor.

6. "*Legal custodian*" means a person awarded legal custody of a minor.

7. "*Legal custody*" means an award of the rights of legal custody of a minor under which a parent has legal custodial rights and responsibilities toward the minor child including but not limited to decision making affecting the minor's legal status, medical care, education, extracurricular activities, and religious instruction.

8. "*Limited guardianship*" means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

9. "*Minor*" means an unmarried and unemancipated person under the age of eighteen years.

1 10. "Parent" means a biological or adoptive mother or father  
2 of a child, a person whose parental status has been established  
3 by operation of law due to the person's marriage to the mother  
4 at the time of the conception or birth of the child, by order  
5 of a court of competent jurisdiction, or by an administrative  
6 order when authorized by state law. "Parent" does not include a  
7 person whose parental rights have been terminated.

8 Sec. 3. NEW SECTION. 232D.103 Jurisdiction.

9 The juvenile court has exclusive jurisdiction in a  
10 guardianship proceeding concerning a minor who is alleged to  
11 be in need of a guardianship.

12 Sec. 4. NEW SECTION. 232D.104 Venue.

13 1. Venue for guardianship proceedings under this chapter  
14 shall be in the judicial district where the minor is found or  
15 in the judicial district of the minor's residence.

16 2. The court may transfer a guardianship proceeding brought  
17 under this chapter to the juvenile court of any county having  
18 venue at any stage in the proceedings as follows:

19 a. When it appears that the best interests of the minor  
20 or the convenience of the proceedings shall be served by a  
21 transfer, the court may transfer the case to the court of the  
22 county of the minor's residence.

23 b. With the consent of the receiving court, the court may  
24 transfer the case to the court of the county where the minor is  
25 found.

26 3. The court shall transfer the case by ordering the  
27 transfer and a continuance and by forwarding to the clerk  
28 of the receiving court a certified copy of all papers filed  
29 together with an order of transfer. The judge of the receiving  
30 court may accept the filings of the transferring court or may  
31 direct the filing of a new petition and hear the case anew.

32 Sec. 5. NEW SECTION. 232D.105 Proceedings governed by other  
33 law.

34 1. A petition alleging that a minor is in need of a  
35 conservatorship is not subject to this chapter. Such

1 proceedings shall be governed by chapter 633 and may be  
2 initiated pursuant to section 633.627.

3 2. A petition for the appointment of a guardian for a minor  
4 and a petition for appointment of a conservator of a minor  
5 shall not be combined.

6 3. If a minor guardianship proceeding under this chapter  
7 pertains to an Indian child as defined in section 232B.3 and  
8 the proceeding is subject to the Iowa Indian child welfare Act  
9 under chapter 232B, the proceeding and other actions taken in  
10 connection with the proceeding shall comply with chapter 232B.

11 **Sec. 6. NEW SECTION. 232D.106 Applicability of rules of**  
12 **civil procedure.**

13 The rules of civil procedure shall govern guardianship  
14 proceedings concerning a minor who is alleged to be in need of  
15 a guardianship except as otherwise set forth in this chapter.

16 **Sec. 7. NEW SECTION. 232D.201 Termination of parental**  
17 **rights and child in need of assistance cases.**

18 1. The court may appoint a guardian for a minor who does not  
19 have a guardian if all parental rights have been terminated.

20 2. The court may appoint a guardian for a minor in a child  
21 in need of assistance case pursuant to section 232.101A,  
22 232.103A, or 232.104.

23 **Sec. 8. NEW SECTION. 232D.202 Death of parents.**

24 1. The court may appoint a guardian for a minor if both  
25 parents are deceased.

26 2. In appointing a guardian for a minor whose parents are  
27 deceased, the court shall give preference to a person, if  
28 qualified and suitable, nominated as guardian for a minor by a  
29 will that was executed by the parent or parents having legal  
30 custody of the minor at the time of the parent's or parents'  
31 death, and that was admitted to probate under chapter 633.

32 **Sec. 9. NEW SECTION. 232D.203 Guardianship with parental**  
33 **consent.**

34 1. The court may appoint a guardian for a minor if the court  
35 finds all of the following:

1     *a.* The parent or parents having legal custody of the minor  
2 understand the nature of the guardianship and knowingly and  
3 voluntarily consent to the guardianship.

4     *b.* The minor is in need of a guardianship because of any one  
5 of the following:

6         (1) The parent having legal custody of the minor has a  
7 physical or mental illness that prevents the parent from  
8 providing care and supervision of the child.

9         (2) The parent having legal custody of the minor is  
10 incarcerated or imprisoned.

11         (3) The parent having legal custody of the minor is on  
12 active military duty.

13         (4) The minor is in need of a guardianship for some other  
14 reason constituting good cause shown.

15     *c.* Appointment of a guardian for the minor is in the best  
16 interest of the minor.

17     2. If the guardianship petition requests a guardianship  
18 with parental consent, the petition shall include an affidavit  
19 signed by the parent or parents verifying that the parent or  
20 parents knowingly and voluntarily consent to the guardianship.  
21 The consent required by this subsection shall be on a form  
22 prescribed by the judicial branch.

23     3. On or before the date of the hearing on the petition,  
24 the parent or parents and the proposed guardian shall file  
25 an agreement with the court. This agreement shall state the  
26 following:

27         *a.* The responsibilities of the guardian.

28         *b.* The responsibilities of the parent or parents.

29         *c.* The expected duration of the guardianship, if known.

30     4. If the court grants the petition, it shall approve the  
31 guardianship agreement between the custodial parent and the  
32 proposed guardian and incorporate its terms by reference unless  
33 the court finds the agreement was not reached knowingly and  
34 voluntarily or is not in the best interests of the child.

35     Sec. 10. NEW SECTION. **232D.204 Guardianship without**

1 **parental consent.**

2 1. The court may appoint a guardian for a minor without the  
3 consent of the parent or parents having legal custody of the  
4 minor if the court finds by clear and convincing evidence all  
5 of the following:

6 a. There is a person serving as a de facto guardian of the  
7 minor.

8 b. There has been a demonstrated lack of consistent  
9 parental participation in the life of the minor by the parent.  
10 In determining whether a parent has demonstrated a lack of  
11 consistent participation in the minor's life, the court may  
12 consider all of the following:

13 (1) The intent of the parent in placing the custody, care,  
14 and supervision of the minor with the person petitioning as a  
15 de facto guardian and the facts and circumstances regarding  
16 such placement.

17 (2) The amount of communication and visitation of the parent  
18 with the minor during the alleged de facto guardianship.

19 (3) Any refusal of the parent to comply with conditions for  
20 retaining custody of the minor set forth in any previous court  
21 orders.

22 2. The court may appoint a guardian for a minor without the  
23 consent of the parent or parents having legal custody of the  
24 minor if the court finds by clear and convincing evidence all  
25 of the following:

26 a. No parent having legal custody of the minor is willing or  
27 able to exercise the power the court will grant to the guardian  
28 if the court appoints a guardian.

29 b. Appointment of a guardian for the minor is in the best  
30 interest of the minor.

31 3. Prior to granting a petition for guardianship, the  
32 court shall consider whether the filing of a child in need of  
33 assistance petition is appropriate under section 232.87. If  
34 the court determines a child in need of assistance petition is  
35 not appropriate, the court shall make findings of why a child

1 in need of assistance petition is not appropriate.

2 4. A proceeding under this section shall not create a new  
3 eligibility category for the department of human services  
4 protective services.

5 Sec. 11. NEW SECTION. 232D.301 **Petition.**

6 1. Proceedings for guardianship pursuant to this chapter  
7 may be initiated by the filing of a petition by any person with  
8 an interest in the welfare of the minor.

9 2. The petition shall list, to the extent known, all of the  
10 following:

11 a. The name, age, and address of the minor who is the  
12 subject of the petition.

13 b. The name and address of the petitioner and the  
14 petitioner's relationship to the minor.

15 c. If the petitioner is not the proposed guardian, the  
16 name and address of the proposed guardian and the reason the  
17 proposed guardian should be selected.

18 d. The name and address, to the extent known and  
19 ascertainable, of the following:

20 (1) Any living parents of the minor.

21 (2) Any legal custodian of the minor.

22 (3) Any adult who has had the primary care of the minor or  
23 with whom the minor has lived for at least six months prior to  
24 the filing of the petition.

25 3. The petition shall contain a concise statement of the  
26 factual basis for the petition.

27 4. The petition shall state whether a limited guardianship  
28 is appropriate.

29 5. Any additional information, to the extent known and  
30 reasonably ascertainable, required by section 598B.209 shall be  
31 included in an affidavit attached to the petition.

32 6. The petition may request that a temporary guardian for  
33 a minor may be appointed. Such a petition shall specify the  
34 duration of the requested temporary guardianship and the reason  
35 for a temporary guardianship.

1     **Sec. 12. NEW SECTION. 232D.302 Notice.**

2     1. The filing of a petition shall be served upon the minor  
3 who is the subject of the petition in the manner of an original  
4 notice in accordance with rule of civil procedure 1.305(2)  
5 governing such notice. Notice to the attorney representing the  
6 minor, if any, is notice to the minor.

7     2. Notice shall be served upon the minor's known parents  
8 listed in the petition in accordance with rule of civil  
9 procedure 1.305.

10    3. Notice shall be served upon other known persons listed in  
11 the petition in the manner prescribed by the court, which may  
12 be notice by mail. Failure of such persons to receive actual  
13 notice does not constitute a jurisdictional defect precluding  
14 the appointment of a guardian by the court.

15    4. Notice of the filing of a petition given to a person  
16 under subsection 2 or 3 shall include a statement that the  
17 person may register to receive notice of the hearing on  
18 the petition and other proceedings and the manner of such  
19 registration.

20     **Sec. 13. NEW SECTION. 232D.303 Attorney for minor.**

21    1. Upon the filing of a petition for appointment of a  
22 guardian pursuant to section 232D.301, the court may appoint  
23 an attorney for the minor, if the court determines that the  
24 interests of the minor are or may be inadequately represented.

25    2. An attorney representing the minor shall advocate  
26 for the wishes of the minor to the extent that those wishes  
27 are reasonably ascertainable and advocate for best interest  
28 of the minor if the wishes of the minor are not reasonably  
29 ascertainable.

30     **Sec. 14. NEW SECTION. 232D.304 Attorney for parent.**

31    Upon the filing of a petition for appointment of a guardian,  
32 the court shall appoint an attorney for the parent identified  
33 in the petition if all of the following are true:

34    1. The parent objects to the appointment of a guardian for  
35 the minor.



1     2. The parent requests appointment of an attorney and  
2 the court determines that the parent is unable to pay for an  
3 attorney in accordance with section 232D.505.

4     Sec. 15. NEW SECTION.   **232D.305 Court visitor.**

5     1. The court may appoint a court visitor for the minor.

6     2. The same person shall not serve both as the attorney  
7 representing the minor and as court visitor.

8     3. Unless otherwise enlarged or circumscribed by the court,  
9 the duties of a court visitor with respect to the minor shall  
10 include all of the following:

11     *a.* Conducting, if the minor's age is appropriate, an initial  
12 in-person interview with the minor.

13     *b.* Explaining to the minor, if the minor's age is  
14 appropriate, the substance of the petition, the purpose and  
15 effect of the guardianship proceeding, the rights of the  
16 minor at the hearing, and the general powers and duties of a  
17 guardian.

18     *c.* Determining, if the minor's age is appropriate, the views  
19 of the minor regarding the proposed guardian, the proposed  
20 guardian's powers and duties, and the scope and duration of the  
21 proposed guardianship.

22     *d.* Interviewing the parent or parents and any other person  
23 with legal responsibility for the custody, care, or both, of  
24 the minor.

25     *e.* Interviewing the petitioner, and if the petitioner is not  
26 the proposed guardian, interviewing the proposed guardian.

27     *f.* Visiting, to the extent feasible, the residence where it  
28 is reasonably believed that the minor will live if the guardian  
29 is appointed.

30     *g.* Making any other investigation the court directs,  
31 including but not limited to interviewing any persons providing  
32 medical, mental health, educational, social, or other services  
33 to the minor.

34     4. The court visitor shall submit a written report to the  
35 court that contains all of the following:

1     *a.* A recommendation regarding the appropriateness of a  
2 guardianship for the minor.

3     *b.* A statement of the qualifications of the guardian  
4 together with a statement of whether the minor has expressed  
5 agreement with the appointment of the proposed guardian.

6     *c.* Any other matters the court visitor deems relevant to the  
7 petition for guardianship and the best interests of the minor.

8     *d.* Any other matters the court directs.

9     5. The report of the court visitor shall be made part of the  
10 court record unless otherwise ordered by the court.

11     Sec. 16. NEW SECTION. 232D.306 **Hearing on petition.**

12     1. The court shall fix the time and place of hearing on  
13 the petition and shall prescribe a time not less than twenty  
14 days after the date the notice is served unless the court finds  
15 there is good cause shown to shorten the time period. The  
16 court shall also prescribe the manner of service of the notice  
17 of such hearing.

18     2. The minor who is the subject of a petition filed pursuant  
19 to section 232D.301 shall be entitled to attend the hearing on  
20 the petition if the minor is of an age appropriate to attend  
21 the hearing. A presumption shall exist that a minor fourteen  
22 years of age or older is of an age appropriate to attend the  
23 hearing.

24     3. The court shall not exclude a minor entitled to  
25 attend the hearing under subsection 2 unless the court finds  
26 that there is good cause shown for excluding the minor from  
27 attendance.

28     Sec. 17. NEW SECTION. 232D.307 **Background checks of**  
29 **proposed guardians.**

30     1. The court shall request criminal record checks and checks  
31 of the child abuse, dependent adult abuse, and sex offender  
32 registries in this state for all proposed guardians other than  
33 financial institutions with Iowa trust powers unless a proposed  
34 guardian has undergone the required background checks in this  
35 section within the twelve months prior to the filing of a

1 petition.

2 2. The court shall review the results of background checks  
3 in determining the suitability of a proposed guardian for  
4 appointment.

5 3. The judicial branch in conjunction with the department  
6 of public safety, the department of human services, and the  
7 state chief information officer shall establish procedures for  
8 electronic access to the single contact repository necessary to  
9 conduct background checks requested under subsection 1.

10 4. The person who files a petition for appointment of  
11 guardian for a minor shall be responsible for paying the fee  
12 for the background check conducted through the single contact  
13 repository unless the court waives the fee for good cause  
14 shown.

15 Sec. 18. NEW SECTION. 232D.308 Selection of guardian —  
16 qualifications and preferences.

17 1. The court shall appoint as guardian a qualified and  
18 suitable person who is willing to serve subject to the  
19 preferences as to the appointment of a guardian set forth in  
20 subsections 2 and 3.

21 2. In appointing a guardian for a minor, the court shall  
22 give preference to a person, if qualified and suitable,  
23 nominated as guardian for a minor by a will that was executed  
24 by the parent or parents having legal custody of the minor  
25 at the time of the parent's or parents' death, and that was  
26 admitted to probate under chapter 633.

27 3. In appointing a guardian for a minor, the court shall  
28 give preference, if qualified and suitable, to a person  
29 requested by a minor fourteen years of age or older.

30 Sec. 19. NEW SECTION. 232D.309 Emergency appointment of  
31 temporary guardian.

32 1. A person authorized to file a petition under section  
33 232D.301 may file a petition for the emergency appointment of a  
34 temporary guardian for the minor.

35 2. The petition shall state all of the following:

1     *a.* The name and address of the minor and the birthdate of  
2 the minor.

3     *b.* The name and address of the living parents of the minor,  
4 if known.

5     *c.* The name and address of any other person legally  
6 responsible for the custody or care of the minor, if known.

7     *d.* The reason the emergency appointment of a temporary  
8 guardian is sought.

9     3. The court may enter an *ex parte* order appointing a  
10 temporary guardian for a minor on an emergency basis under this  
11 section if the court finds that all of the following are met:

12     *a.* There is not sufficient time to file a petition and hold  
13 a hearing pursuant to section 232D.301.

14     *b.* The appointment of temporary guardian is necessary to  
15 avoid immediate or irreparable harm to the minor.

16     4. Notice of the emergency appointment of a temporary  
17 guardian shall be provided to persons required to be listed in  
18 the petition under subsection 2.

19     5. The parents of the minor and any other person legally  
20 responsible for the custody or care of the minor may file a  
21 written request for a hearing. Such hearing shall be held no  
22 later than seven days after the filing of the written request.

23     6. The powers of the temporary guardian set forth in the *ex*  
24 *parte* order shall be limited to those necessary to address the  
25 emergency situation requiring the appointment of a temporary  
26 guardian.

27     7. The *ex parte* order shall terminate within thirty days  
28 after the order is issued.

29     Sec. 20. NEW SECTION. 232D.310 **Appointment of a guardian**  
30 **for a minor on a standby basis.**

31     A petition for the appointment of a guardian for a minor  
32 on a standby basis may be filed by any person under the same  
33 procedure and requirements as provided under this chapter.

34     Sec. 21. NEW SECTION. 232D.311 **Appointment of guardian for**  
35 **minor approaching majority on a standby basis.**

1 Notwithstanding section 232D.103, any adult with an interest  
2 in the welfare of a minor who is at least seventeen years and  
3 six months of age may file a verified petition pursuant to  
4 section 633.552 to initiate a proceeding to appoint a guardian  
5 of the minor to take effect on the minor's eighteenth birthday.

6 Sec. 22. NEW SECTION. 232D.401 Order appointing guardian  
7 and powers of guardian.

8 1. The order by the court appointing a guardian for a minor  
9 shall state the basis for the order.

10 2. The order by the court appointing a guardian for a minor  
11 shall state whether the guardianship is a limited guardianship.

12 3. An order by the court appointing a guardian for a minor  
13 shall state the powers granted to the guardian. Except as  
14 otherwise limited by court order, the court may grant the  
15 guardian the following powers, which may be exercised without  
16 prior court approval:

17 a. Taking custody of the minor and establishing the minor's  
18 permanent residence if otherwise consistent with the terms of  
19 any order of competent jurisdiction relating to the custody,  
20 placement, detention, or commitment of the minor within the  
21 state.

22 b. Consenting to medical, dental, and other health care  
23 treatment and services for the minor.

24 c. Providing or arranging for the provision of education  
25 for the minor including but not limited to preschool education,  
26 primary education and secondary education, special education  
27 and related services, and vocational services.

28 d. Consenting to professional services for the minor to  
29 ensure the safety and welfare of the minor.

30 e. Applying for and receiving funds and benefits payable for  
31 the support of the minor.

32 f. Any other powers the court may specify.

33 4. The court may grant the guardian the following powers,  
34 which shall only be exercised with prior court approval:

35 a. Consenting to the withholding or withdrawal of

1 life-sustaining procedures, as defined in section 144A.2, from  
2 the minor, the performance of an abortion on the minor, or the  
3 sterilization of the minor.

4 *b.* Establishing the residence of the minor outside of the  
5 state.

6 *c.* Consenting to the marriage of the minor.

7 *d.* Consenting to the emancipation of the minor.

8 5. The guardian shall obtain prior court approval for denial  
9 of all visitation, communication, or interaction between the  
10 minor and the parents of the minor. The court shall approve  
11 such denial of visitation, communication, or interaction  
12 upon a showing by the guardian that significant physical or  
13 emotional harm to the minor has resulted or is likely to result  
14 to the minor from parental contact. The guardian may place  
15 reasonable time, place, or manner restrictions on visitation,  
16 communication, or interaction between the minor and the minor's  
17 parents without prior court approval.

18 Sec. 23. NEW SECTION. 232D.402 Duties and responsibilities  
19 of guardian.

20 1. A guardian is a fiduciary and shall act in the  
21 best interest of the minor and exercise reasonable care,  
22 diligence, and prudence in performing guardianship duties and  
23 responsibilities. The fiduciary duties of a guardian for an  
24 adult set forth in chapter 633 are applicable to a guardian  
25 under this chapter.

26 2. Except as otherwise limited by the court, a guardian  
27 has the duty and responsibility to ensure the minor's health,  
28 education, safety, welfare, and support.

29 3. A guardian with whom the minor is not living should  
30 maintain regular contact with the minor.

31 4. A guardian should make reasonable efforts to facilitate  
32 the continuation of the relationship of the minor and the  
33 minor's parents subject to section 232D.401, subsection 5.

34 5. A guardian shall file the reports with the court required  
35 under section 232D.501.

1 6. A guardian shall promptly inform the court of any change  
2 in the permanent residence of the minor and the minor's new  
3 address.

4 Sec. 24. NEW SECTION. 232D.403 **Guardian's acceptance of**  
5 **appointment and oath and issuance of letters of appointment.**

6 The court shall issue letters of appointment to a guardian  
7 upon the guardian's acceptance of appointment and the  
8 guardian's subscription of an oath, or certification under  
9 penalties of perjury, that the guardian will faithfully  
10 discharge the duties imposed by law, according to the best of  
11 the guardian's ability.

12 Sec. 25. NEW SECTION. 232D.501 **Reports of guardian.**

13 1. A guardian appointed by the court under this chapter  
14 shall file the following reports which shall not be waived by  
15 the court:

16 a. A verified initial care plan filed within sixty days of  
17 appointment. The information in the initial care plan shall  
18 include but not be limited to the following information:

19 (1) The minor's current residence and guardian's plan for  
20 the minor's living arrangements.

21 (2) The guardian's plan for payment of the minor's living  
22 expenses and other expenses.

23 (3) The minor's health status and the guardian's plan for  
24 meeting the minor's health needs.

25 (4) The minor's educational training and vocational needs  
26 and the guardian's plan for meeting the minor's educational  
27 training and vocational needs.

28 (5) The guardian's plan for facilitating contacts of the  
29 minor with the minor's parents.

30 (6) The guardian's plan for contact with and activities on  
31 behalf of the minor.

32 b. A verified annual report filed within thirty days of  
33 the close of the reporting period. The information in the  
34 annual report shall include but not be limited to the following  
35 information:

1 (1) The current residence and living arrangements of the  
2 minor.

3 (2) The sources of the payment for the minor's living  
4 expenses and other expenses.

5 (3) The minor's health status and health services provided  
6 the minor.

7 (4) The minor's mental, behavioral, or emotional problems,  
8 if any, and professional services provided the minor for such  
9 problems.

10 (5) The minor's educational status and educational training  
11 and vocational services provided the minor.

12 (6) The nature and extent of parental visits and  
13 communication with the minor.

14 (7) The nature and extent of the guardian's visits with and  
15 activities on behalf of the minor.

16 (8) The need for continuation of guardianship.

17 (9) The ability of the guardian to continue as guardian.

18 (10) The need of the guardian for assistance in providing or  
19 arranging for the provision of care for the minor.

20 c. A final report filed within thirty days of the  
21 termination of the guardianship under section 232D.503.

22 2. The judicial branch shall prescribe the forms for use by  
23 the guardian in filing the reports required by this section.

24 3. The clerk of the court shall notify the guardian in  
25 writing of the reporting requirements and shall provide  
26 information and assistance to the guardian in filing the  
27 reports.

28 4. Reports of the guardian shall be reviewed and approved  
29 by the court.

30 **Sec. 26. NEW SECTION. 232D.502 Removal of guardian —**  
31 **appointment of successor guardian.**

32 1. The court may remove a guardian for a minor for failure  
33 to perform guardianship duties or for other good cause shown.

34 2. The court shall conduct a hearing to determine whether  
35 a guardian should be removed on the filing of a petition by



1 a minor under guardianship who is fourteen years of age or  
2 older, the parent of a minor, or other person with an interest  
3 in welfare of the minor if the court determines that there are  
4 reasonable grounds for believing that removal is appropriate  
5 based on the allegations stated in the petition.

6 3. The court may conduct a hearing to determine whether  
7 the guardian should be removed on the receipt of a written  
8 communication from a minor under guardianship who is fourteen  
9 years of age or older, the parent of the minor, or other  
10 person with an interest in welfare of the minor if the court  
11 determines that a hearing would be in the best interest of the  
12 minor.

13 4. The court may decline to hold a hearing under subsection  
14 2 or 3 if the same or substantially similar facts were alleged  
15 in a petition filed in the preceding six months or in a written  
16 communication received in the preceding six months.

17 5. The court may appoint a successor guardian on the  
18 removal of a guardian pursuant to subsection 1, the death of a  
19 guardian, or the resignation of a guardian.

20 Sec. 27. NEW SECTION. 232D.503 Termination and modification  
21 of guardianships.

22 1. A guardianship shall terminate on the minor's death,  
23 adoption, emancipation, or attainment of majority.

24 2. The court shall terminate a guardianship established  
25 pursuant to section 232D.203 if the court finds that the basis  
26 for the guardianship set forth in section 232D.203 is not  
27 currently satisfied unless the court finds that the termination  
28 of the guardianship would be harmful to the minor and the  
29 minor's interest in continuation of the guardianship outweighs  
30 the interest of a parent of the minor in the termination of the  
31 guardianship.

32 3. The court shall terminate a guardianship established  
33 pursuant to section 232D.204 if the court finds that the  
34 basis for the guardianship set forth in section 232D.204  
35 is not currently satisfied. A person seeking termination

1 of guardianship established pursuant to section 232D.204  
2 has the burden of making a prima facie showing that the  
3 guardianship should be terminated. If such a showing is made,  
4 the guardian has the burden of going forward to prove by clear  
5 and convincing evidence that the guardianship should not be  
6 terminated.

7 4. The court shall modify the powers granted to the guardian  
8 if the court finds such powers no longer meet the needs of the  
9 minor or are not in the minor's best interest.

10 5. The court may conduct a hearing to determine whether  
11 termination or modification of a guardianship is appropriate  
12 on the filing of a petition by a minor fourteen years of age or  
13 older who is under guardianship, a guardian, or other person  
14 with an interest in the welfare of the minor or on receipt of a  
15 written communication from such persons.

16 Sec. 28. NEW SECTION. 232D.504 **Rights and immunities of**  
17 **a guardian.**

18 1. A guardian is not required to use the guardian's personal  
19 funds for the minor's expenses. If a conservator has been  
20 appointed for the estate of the minor, the guardian may request  
21 and the conservator may approve and pay for the requested  
22 reimbursement without prior court approval.

23 2. A guardian may submit a request, together with the  
24 guardian's annual report, for approval by the court of  
25 reasonable compensation for services as guardian.

26 3. Notwithstanding section 137C.25B or any other provision  
27 of law to the contrary, a guardian is not liable to a third  
28 person for an act or omission of the minor solely by reason of  
29 the guardianship.

30 Sec. 29. NEW SECTION. 232D.505 **Expenses.**

31 1. Except as otherwise provided by law, the court shall  
32 inquire into the ability of the minor or the minor's parent to  
33 pay expenses incurred pursuant to the guardianship proceedings  
34 established under this chapter. After giving the minor and  
35 the parent a reasonable opportunity to be heard, the court

1 may order the minor or the parent to pay all or part of the  
2 following:

3 a. Costs of legal expenses of the minor and the parent.

4 b. Expenses for a court visitor.

5 c. Filing fees and other court costs, unless the costs are  
6 waived for good cause shown.

7 2. If the court finds a minor's parents to be indigent, or  
8 if the minor has no parent, costs shall be assessed against  
9 the county in which the proceeding is pending. For purposes  
10 of assessing costs under this subsection, the court shall find  
11 a minor's parents to be indigent if the minor's or the parent's  
12 income and resources do not exceed one hundred fifty percent  
13 of the federal poverty level, or the minor's parent would be  
14 unable to pay such costs without prejudicing the parent's  
15 ability to provide economic necessities for the parent or the  
16 parent's dependents.

17 DIVISION II

18 CORRESPONDING CODE CHANGES

19 Sec. 30. Section 232.101A, Code 2019, is amended to read as  
20 follows:

21 **232.101A Transfer of guardianship to custodian.**

22 1. After a dispositional hearing the court may ~~enter an~~  
23 ~~order transferring guardianship of the child to a custodian~~  
24 close the child in need of assistance case and appoint a  
25 guardian pursuant to sections 232D.308 and 232D.401 if all of  
26 the following conditions are met:

27 a. The person receiving guardianship meets the definition  
28 of custodian in [section 232.2](#).

29 b. The person receiving guardianship has assumed  
30 responsibility for the child prior to filing of the petition  
31 under [this division](#) and has maintained placement of the child  
32 since the filing of the petition under [this division](#).

33 c. The parent of the child does not appear at the  
34 dispositional hearing, or the parent appears at the  
35 dispositional hearing, does not object to the transfer of

1 guardianship, and agrees to waive the requirement for making  
2 reasonable efforts as defined in [section 232.102](#).

3 2. If the court ~~transfers guardianship~~ appoints a guardian  
4 pursuant to [subsection 1](#), the court may close the child in  
5 need of assistance case ~~by transferring jurisdiction over the~~  
6 ~~child's guardianship to the probate court~~. The court shall  
7 inform the proposed guardian of the guardian's reporting duties  
8 under ~~section 633.669~~ [232D.501](#) and other duties under chapter  
9 ~~633~~ [232D](#). ~~Upon transferring jurisdiction, the~~ The court shall  
10 direct the ~~probate clerk of court~~, once the proposed guardian  
11 has filed an oath of office and identification ~~in accordance~~  
12 ~~with section 602.6111~~, to issue letters of appointment for  
13 guardianship and ~~docket the case in probate~~. Records contained  
14 in the probate case file that were copied or transferred from  
15 the juvenile court file concerning the case shall be subject to  
16 ~~section 232.147~~ and other confidentiality provisions of this  
17 chapter for cases not involving juvenile delinquency.

18 Sec. 31. Section 232.104, subsection 8, paragraph b, Code  
19 2019, is amended to read as follows:

20 b. In lieu of the procedures specified in paragraph "a",  
21 the court may close the child in need of assistance case ~~by~~  
22 ~~transferring jurisdiction over the child's guardianship to the~~  
23 probate court and may appoint a guardian pursuant to chapter  
24 232D. ~~The court shall inform the proposed guardian of the~~  
25 ~~guardian's reporting duties under section 633.669 and other~~  
26 ~~duties under the probate code. Upon transferring jurisdiction,~~  
27 ~~the court shall direct the probate clerk, once the proposed~~  
28 ~~guardian has filed an oath of office and identification~~  
29 ~~in accordance with section 602.6111, to issue letters of~~  
30 ~~appointment for guardianship and docket the case in probate.~~  
31 ~~Records contained in the probate case file that were copied or~~  
32 ~~transferred from the juvenile court file concerning the case~~  
33 ~~shall be subject to section 232.147 and other confidentiality~~  
34 ~~provisions of this chapter for cases not involving juvenile~~  
35 ~~delinquency.~~

1     Sec. 32. Section 235A.15, subsection 2, paragraph d,  
2 subparagraphs (1) and (2), Code 2019, are amended to read as  
3 follows:

4     (1) To a juvenile court involved in an adjudication or  
5 disposition of a child named in a report or a child that is the  
6 subject of a guardianship proceeding under chapter 232D.

7     (2) To a district court upon a finding that data is  
8 necessary for the resolution of an issue arising in any phase  
9 of a case involving child abuse or guardianship proceedings for  
10 a child under chapter 232D.

11    Sec. 33. Section 235B.6, subsection 2, paragraph d, Code  
12 2019, is amended by adding the following new subparagraphs:

13    NEW SUBPARAGRAPH. (5) To a juvenile court involved in an  
14 adjudication or disposition of a child that is the subject of a  
15 guardianship proceeding under chapter 232D.

16    NEW SUBPARAGRAPH. (6) To a district court upon a finding  
17 that data is necessary for the resolution of an issue arising  
18 in any phase of a case involving proceedings for a child  
19 guardianship under chapter 232D.

20    Sec. 34. Section 602.7101, subsection 1, Code 2019, is  
21 amended to read as follows:

22    1. A juvenile court is established in each county. The  
23 juvenile court is within the district court and has the  
24 jurisdiction provided in ~~chapter~~ chapters 232 and 232D.

25    Sec. 35. Section 602.8102, subsection 42, Code 2019, is  
26 amended to read as follows:

27    42. Serve as clerk of the juvenile court and carry out  
28 duties as provided in ~~chapter~~ chapters 232 and 232D and article  
29 7 of this chapter.

30    Sec. 36. Section 633.10, subsection 3, Code 2019, is amended  
31 to read as follows:

32    3. *Conservatorships and guardianships.*

33    a. The Except as provided for in paragraph "b", the  
34 appointment of conservators and guardians; the granting  
35 of letters of conservatorship and guardianship; the

1 administration, settlement and closing of conservatorships and  
2 guardianships.

3 b. Beginning the effective date of this Act, minor  
4 guardianships are under the exclusive jurisdiction of the  
5 juvenile court pursuant to, and except as limited by, chapter  
6 232D.

7 Sec. 37. Section 633.552, subsection 2, Code 2019, is  
8 amended to read as follows:

9 2. That the proposed ward is ~~in either of the following~~  
10 ~~categories:~~

11 ~~a.~~ Is a person whose decision-making capacity is so  
12 impaired that the person is unable to care for the person's  
13 personal safety or to attend to or provide for necessities for  
14 the person such as food, shelter, clothing, or medical care,  
15 without which physical injury or illness might occur.

16 ~~b. Is a minor.~~

17 Sec. 38. Section 633.554, subsection 2, Code 2019, is  
18 amended to read as follows:

19 2. a. ~~If the proposed ward is a minor or if the~~  
20 proposed ward is an adult under a standby petition and the  
21 court determines, pursuant to section 633.561, subsection  
22 1, paragraph "b", that the proposed ward is entitled to  
23 representation, notice in the manner of original notice, or  
24 another form of notice ordered by the court, given to the  
25 attorney appointed to represent the ward is notice to the  
26 proposed ward.

27 b. Notice shall also be served upon:

28 ~~(1) The parents of the proposed ward, if the proposed ward~~  
29 ~~is a minor.~~

30 ~~(2) The~~ the spouse of the proposed ward, if the proposed  
31 ward is an adult. If the proposed ward has no spouse, notice  
32 shall be served upon the proposed ward's adult children, if  
33 any.

34 Sec. 39. Section 633.557, subsection 1, Code 2019, is  
35 amended to read as follows:

1 1. A guardian may also be appointed by the court upon the  
2 verified petition of the proposed ward, without further notice,  
3 ~~if the proposed ward is other than a minor under the age of~~  
4 ~~fourteen years,~~ provided the court determines that such an  
5 appointment will inure to the best interest of the applicant.  
6 However, if an involuntary petition is pending, the court shall  
7 be governed by [section 633.634](#). The petition shall provide  
8 the proposed ward notice of a guardian's powers as provided in  
9 section 633.562.

10 Sec. 40. Section 633.561, subsection 1, paragraph b, Code  
11 2019, is amended to read as follows:

12 b. If the proposed ward is ~~either a minor or~~ an adult under  
13 a standby petition, the court shall determine whether, under  
14 the circumstances of the case, the proposed ward is entitled  
15 to representation. The determination regarding representation  
16 may be made with or without notice to the proposed ward, as  
17 the court deems necessary. If the court determines that the  
18 proposed ward is entitled to representation, the court shall  
19 appoint an attorney to represent the proposed ward. After  
20 making the determination regarding representation, the court  
21 shall set a hearing on the petition, and provide for notice on  
22 the determination regarding representation and the date for  
23 hearing.

24 Sec. 41. Section 633.635, subsection 5, Code 2019, is  
25 amended to read as follows:

26 5. From time to time, upon a proper showing, the court may  
27 modify the respective responsibilities of the guardian and  
28 the ward, after notice to the ward and an opportunity to be  
29 heard. Any modification that would be more restrictive or  
30 burdensome for the ward shall be based on clear and convincing  
31 evidence that the ward continues to fall within the categories  
32 of [section 633.552, subsection 2, paragraph "a" or "b"](#), and  
33 that the facts justify a modification of the guardianship.  
34 Section 633.551 applies to the modification proceedings. Any  
35 modification that would be less restrictive for the ward shall

1 be based upon proof in accordance with the requirements of  
2 section 633.675.

3 Sec. 42. Section 633.675, subsection 2, Code 2019, is  
4 amended by striking the subsection.

5 Sec. 43. Section 633.679, subsection 2, Code 2019, is  
6 amended by striking the subsection.

7 Sec. 44. REPEAL. Section 633.559, Code 2019, is repealed.

8 Sec. 45. EFFECTIVE DATE. This Act takes effect January 1,  
9 2020.

10 Sec. 46. APPLICABILITY. This Act applies to guardianships  
11 and guardianship proceedings of minors established or pending  
12 before, on, or after January 1, 2020.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with  
15 the explanation's substance by the members of the general assembly.

16 This bill provides the basis for appointment of a guardian  
17 for a minor by the juvenile court, the procedures for  
18 establishment of a minor guardianship, and court monitoring and  
19 administration of minor guardianships.

20 JUVENILE COURT JURISDICTION OVER MINOR GUARDIANSHIPS. Code  
21 chapter 633 contains provisions relating to guardianships,  
22 which apply to adults and minors. The bill repeals and amends  
23 the provisions that specifically refer to minor guardianships  
24 and replaces them with new Code chapter 232D, the Iowa minor  
25 guardianship proceedings Act.

26 The bill provides that the juvenile court shall have  
27 exclusive jurisdiction over minor guardianship proceedings.  
28 The effect of this provision is to transfer jurisdiction over  
29 these proceedings from the probate court to the juvenile court.

30 BASIS FOR APPOINTMENT OF GUARDIAN. The bill authorizes  
31 minor guardianships under the following circumstances:  
32 termination of parental rights and child in need of assistance  
33 cases; cases involving the death of a minor's parents; cases  
34 in which there is parental consent to the establishment of a  
35 guardianship; and cases in which there is not parental consent



1 to the establishment of a guardianship.

2 The bill provides that a guardianship may be established  
3 without parental consent under the following circumstances:  
4 there is a person serving as a de facto guardian; there has  
5 been a demonstrated lack of parental participation in the life  
6 of the minor; and the appointment of a guardian is in the  
7 best interest of the minor. The bill also provides that a  
8 guardianship may be established if no parent is willing or able  
9 to exercise the power the court is requested to grant to the  
10 proposed guardian, and the appointment of a guardian is in the  
11 best interest of the minor.

12 ESTABLISHING A GUARDIANSHIP. The bill contains provisions  
13 relating to the establishment of minor guardianships. These  
14 provisions specify the requirements regarding the contents of a  
15 minor guardianship petition, notice, and hearing.

16 The bill provides that the court may appoint an attorney  
17 for the minor if the court determines that the interests of  
18 the minor are, or may be, inadequately represented. The bill  
19 also provides that the court shall appoint an attorney for a  
20 parent if the parent objects to the appointment of a guardian  
21 and the court determines that the parent is unable to pay for  
22 an attorney.

23 The bill provides that the court may appoint a court visitor  
24 to visit the minor and other parties to the proceeding and  
25 gather the information needed by the court in determining  
26 whether to grant the petition.

27 The bill retains the existing standard for appointment of  
28 a person as a guardian, namely that the person be qualified,  
29 suitable, and willing to serve in that capacity.

30 Current law does not require background checks of proposed  
31 guardians. The bill requires that proposed guardians, other  
32 than financial institutions, undergo Iowa criminal record  
33 checks and checks of the Iowa child abuse, dependent adult  
34 abuse, and sex offender registries. The bill provides that the  
35 judicial branch, in collaboration with other relevant state

1 agencies, shall establish procedures for electronic access to  
2 the single contact repository for the conduct of background  
3 checks for a minimal fee. The bill gives the judge discretion  
4 to evaluate the relevance of any negative background check  
5 information in determining the suitability of a person for  
6 appointment as a guardian.

7 The bill authorizes the emergency appointment of a temporary  
8 guardian. The court is authorized to issue an ex parte order  
9 appointing a temporary guardian on an emergency basis under  
10 limited circumstances.

11 ORDER APPOINTING GUARDIAN AND GUARDIAN'S POWERS, DUTIES, AND  
12 RESPONSIBILITIES. The bill contains provisions relating to  
13 the order appointing the guardian and the guardian's powers,  
14 duties, and responsibilities.

15 The bill specifies the powers that the court may grant to  
16 a guardian. The bill sets forth the specific powers that  
17 the guardian may exercise without prior court approval and  
18 those powers that the guardian may exercise only with prior  
19 court approval. The bill also specifies the duties and  
20 responsibilities of the guardian.

21 COURT MONITORING AND ADMINISTRATION OF MINOR GUARDIANSHIPS.  
22 The bill contains provisions relating to ongoing court  
23 monitoring of minor guardianship and administration of minor  
24 guardianships. The court has an ongoing responsibility to  
25 monitor minor guardianships in order to ensure the well-being  
26 and protection of minors subject to guardianship and the  
27 accountability of the persons appointed to serve as guardians.

28 The bill provides that guardians shall file an initial care  
29 plan for the minor within 60 days of appointment for review  
30 and approval by the court. The bill retains the existing  
31 requirement that guardians file thereafter an annual report  
32 describing the minor's status and needs and the guardian's  
33 activities. The bill authorizes the court to remove a guardian  
34 and appoint a successor guardian under certain circumstances.  
35 The bill further authorizes the court to modify a guardianship

1 or terminate a guardianship under certain circumstances.

2     EXPENSES. The bill provides that the court shall inquire  
3 into the ability of the minor or the minor's parent to pay  
4 expenses incurred pursuant to the guardianship proceedings.  
5 After giving the minor and the parent a reasonable opportunity  
6 to be heard, the court may order the minor or the parent to  
7 pay all or part of the following: costs of legal expenses  
8 of the minor and the parent; expenses for a court visitor;  
9 and filing fees and other court costs, unless the costs are  
10 waived for good cause shown. The bill provides that if the  
11 court finds a minor's parents to be indigent or if the minor  
12 has no parent, costs shall be assessed against the county in  
13 which the proceeding is pending. The minor or the minor's  
14 parents are indigent if the minor's or the parent's income and  
15 resources do not exceed 150 percent of the federal poverty  
16 level, or the minor's parent would be unable to pay such costs  
17 without prejudicing the parent's ability to provide economic  
18 necessities for the parent or the parent's dependents.

19     EFFECTIVE DATE AND APPLICABILITY. The bill takes effect  
20 January 1, 2020, and applies to all minor guardianships and  
21 guardianship proceedings established or pending before, on, or  
22 after January 1, 2020.