

**Senate Study Bill 3006 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

**A BILL FOR**

1 An Act relating to the administration of adult guardianships  
2 and conservatorships.

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

1 Section 1. Section 633.556, subsections 4, 5, and 8, Code  
2 2020, are amended to read as follows:

3 4. The petition shall list the name and address of the  
4 ~~petitioner and the petitioner's relationship to the respondent.~~  
5 following:

6 a. The name and address of the respondent.

7 b. The petitioner and the petitioner's relationship to the  
8 respondent.

9 c. The name and address of the proposed guardian or  
10 conservator and the reason the proposed guardian or conservator  
11 should be selected.

12 5. The petition shall list the name and address, to the  
13 extent known, of the following:

14 ~~a. The name and address of the proposed guardian and the~~  
15 ~~reason the proposed guardian should be selected.~~

16 ~~b.~~ a. Any spouse of the respondent.

17 ~~c.~~ b. Any adult children of the respondent.

18 ~~d.~~ c. Any parents of the respondent.

19 ~~e.~~ d. Any adult, who has had the primary care of the  
20 respondent or with whom the respondent has lived for at least  
21 six months ~~prior to~~ immediately preceding the filing of the  
22 petition, or any institution or facility where the respondent  
23 has resided for at least six months prior to the filing of the  
24 petition.

25 ~~f.~~ e. Any legal representative or representative payee of  
26 the respondent.

27 ~~g.~~ f. Any person designated as an attorney in fact in a  
28 durable power of attorney for health care which is valid under  
29 chapter 144B, or any person designated as an agent in a durable  
30 power of attorney which is valid under **chapter 633B.**

31 ~~8. The petition shall provide a brief description of~~  
32 ~~the respondent's alleged functional limitations that make~~  
33 ~~the respondent unable to communicate or carry out important~~  
34 ~~decisions concerning the respondent's financial affairs.~~

35 Sec. 2. Section 633.558, subsection 3, Code 2020, is amended

1 to read as follows:

2 3. Notice of the filing of a petition given to persons under  
3 ~~subsections subsection 2 and 3~~ shall include a statement that  
4 such persons may register to receive notice of the hearing  
5 on the petition and other proceedings and the manner of such  
6 registration.

7 Sec. 3. Section 633.561, subsection 4, paragraphs c and f,  
8 Code 2020, are amended to read as follows:

9 c. Ensure that the respondent has been properly advised of  
10 the respondent's rights in a guardianship or conservatorship  
11 proceeding.

12 f. Ensure that the guardianship or conservatorship  
13 procedures conform to the statutory and due process  
14 requirements of Iowa law.

15 Sec. 4. Section 633.561, subsection 5, paragraphs a and b,  
16 Code 2020, are amended to read as follows:

17 a. Inform the respondent of the effects of the order entered  
18 for appointment of guardian or conservator.

19 b. Advise the respondent of the respondent's rights to  
20 petition for modification or termination of the guardianship  
21 or conservatorship.

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

24 a. A recommendation regarding the appropriateness of a  
25 limited guardianship or conservatorship for the respondent,  
26 including whether less restrictive alternatives are available.

27 b. A statement of the qualifications of the guardian or  
28 conservator together with a statement of whether the respondent  
29 has expressed agreement with the appointment of the proposed  
30 guardian or conservator.

31 Sec. 6. Section 633.562, Code 2020, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 7. A court visitor shall be discharged  
34 from all further duties upon appointment of a guardian or  
35 conservator, unless further ordered by the court. The court

1 may order a court visitor to continue to serve if the court  
2 determines continued service would be in the best interest of  
3 the protected person. If the court continues the service of  
4 the court visitor, the court may limit the direct duties of the  
5 court visitor as the court deems necessary. The court visitor  
6 shall thereafter continue to serve until discharged by the  
7 court.

8 Sec. 7. Section 633.563, subsection 7, unnumbered paragraph  
9 1, Code 2020, is amended to read as follows:

10 The results of the evaluation ordered by the court shall be  
11 ~~made available to~~ filed with the court and made available to  
12 the following:

13 Sec. 8. Section 633.569, subsections 1, 2, and 3, Code 2020,  
14 are amended to read as follows:

15 1. A person authorized to file a petition under section  
16 ~~633.552, 633.553, or 633.554~~ 633.556 or 633.557 may file an  
17 application for the emergency appointment of a temporary  
18 guardian or conservator.

19 2. Such application shall state all of the following:

20 a. The name and address of the respondent.

21 b. The name and address of the petitioner.

22 ~~b.~~ c. The name and address of the proposed guardian or  
23 conservator and the reason the proposed guardian or conservator  
24 should be selected.

25 ~~c.~~ d. The reason the emergency appointment of a temporary  
26 guardian or conservator is sought.

27 3. The court may enter an ex parte order appointing a  
28 temporary guardian or conservator on an emergency basis under  
29 this section if the court finds that all of the following  
30 conditions are met:

31 a. There is not sufficient time to file a petition and hold  
32 a hearing pursuant to ~~section 633.552, 633.553, or 633.554~~  
33 633.556 or 633.557.

34 b. The appointment of a temporary guardian or conservator  
35 is necessary to avoid immediate or irreparable harm to the

1 respondent.

2 c. There is reason to believe that the basis for appointment  
3 of guardian or conservator exists under section 633.552,  
4 633.553, or 633.554 633.556 or 633.557.

5 Sec. 9. Section 633.570, subsections 1 and 2, Code 2020, are  
6 amended to read as follows:

7 1. In a proceeding for the appointment of a guardian,  
8 the respondent shall be given written notice which advises  
9 the respondent ~~of the powers that~~ that the court may grant  
10 ~~a guardian may exercise without court approval pursuant to~~  
11 the powers set out in section 633.635, subsection 2, and the  
12 ~~powers that the guardian may exercise only with court approval~~  
13 ~~pursuant to set out in~~ section 633.635, subsection 3.

14 2. In a proceeding for the appointment of a conservator,  
15 the respondent shall be given written notice which advises the  
16 respondent ~~of the powers that~~ the court may grant a conservator  
17 ~~may exercise without court approval pursuant to the powers set~~  
18 out in section 633.646 and ~~the powers that the guardian may~~  
19 ~~exercise only with court approval pursuant to section 633.647~~  
20 633.642.

21 Sec. 10. Section 633.635, subsection 2, unnumbered  
22 paragraph 1, Code 2020, is amended to read as follows:

23 Based upon the evidence produced at the hearing, the court  
24 may grant a guardian the following powers and duties with  
25 respect to a protected person ~~which may be exercised without~~  
26 ~~prior court approval:~~

27 Sec. 11. Section 633.635, subsection 3, unnumbered  
28 paragraph 1, Code 2020, is amended to read as follows:

29 A Notwithstanding subsection 2, a guardian may be granted  
30 the following powers which may only be exercised upon court  
31 approval:

32 Sec. 12. Section 633.642, unnumbered paragraph 1, Code  
33 2020, is amended to read as follows:

34 Except as otherwise ordered by the court, and except  
35 for those powers relating to all fiduciaries as set out in

1 sections 633.63 through 633.162 which may be exercised without  
2 approval of the court unless expressly modified by the court,  
3 a conservator must give notice to persons entitled to notice  
4 and receive specific prior authorization by the court before  
5 the conservator may take any other action on behalf of the  
6 protected person. ~~These other powers~~ Powers requiring court  
7 approval include but are not limited to the authority of the  
8 conservator to:

9 Sec. 13. Section 633.669, subsection 1, Code 2020, is  
10 amended to read as follows:

11 1. A guardian appointed by the court under this chapter  
12 shall file with the court the following written verified  
13 reports which shall not be waived by the court:

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

17 (01) The age of the protected person, the reasons for the  
18 protected person's guardianship, and the highest educational  
19 level attained by the protected person.

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

22 (2) The current sources of payment for the protected  
23 person's living expenses and other expenses, and the guardian's  
24 plan for payment of the protected person's living expenses and  
25 other expenses.

26 (3) The protected person's health status and health care  
27 needs, and the guardian's plan for meeting the protected  
28 ~~person's needs for medical, dental, and other~~ health care  
29 needs.

30 (3A) A concise description of whether the protected person  
31 has a living will or health care power of attorney, if any.

32 (4) If applicable, the protected person's need for other  
33 professional services for mental, behavioral, or emotional  
34 problems, or other problems, and the guardian's plan for other  
35 professional services needed by the protected person.

1 (5) If applicable, a concise statement of the protected  
2 person's employment status, the protected person's need  
3 for educational, training, or vocational services, and the  
4 guardian's plan for meeting the educational, training, and  
5 vocational needs of the protected person.

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

8 (7) The guardian's plan for facilitating contacts between  
9 the protected person and the protected person's family members  
10 and other significant persons.

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

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

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

19 (1) The current living arrangements of the protected  
20 person.

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

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

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

27 (0b) The protected person's mental, behavioral, or  
28 emotional problems, or other problems, and the professional  
29 services provided the protected person for mental, behavioral,  
30 or emotional problems, or other problems.

31 (b) If applicable, the protected person's employment status  
32 and the educational, training, and vocational services provided  
33 to the protected person.

34 (0c) The guardian's facilitation of the participation of  
35 the protected person in social activities.

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

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

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

7 (004) The powers that the guardian requests to carry out  
8 the care plan for the protected person for the next annual  
9 reporting period.

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

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

13 (6) The need of the guardian for assistance in providing or  
14 arranging for the provision of the care and protection of the  
15 protected person.

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

19 Sec. 14. Section 633.670, Code 2020, is amended to read as  
20 follows:

21 **633.670 Reports by conservators.**

22 1. A conservator appointed by the court under this chapter  
23 shall file an with the court a written verified initial  
24 financial management plan for protecting, managing, investing,  
25 expending, and distributing the assets of the conservatorship  
26 estate within ninety days after appointment which shall not be  
27 waived by the court. The plan must be based on the needs of  
28 the protected person and take into account the best interest  
29 of the protected person as well as the protected person's  
30 preference, values, and prior directions to the extent known  
31 to, or reasonably ascertainable by, the conservator.

32 ~~a. The initial plan shall include all of the following: The~~  
33 initial financial management plan shall state the protected  
34 person's age, residence, living arrangements, and sources of  
35 payment for living expenses.

1 ~~(1) A budget containing projected expenses and resources,~~  
2 ~~including an estimate of the total amount of fees the~~  
3 ~~conservator anticipates charging per year and a statement or~~  
4 ~~list of the amount the conservator proposes to charge for each~~  
5 ~~service the conservator anticipates providing to the protected~~  
6 ~~person.~~

7 ~~(2) A statement as to how the conservator will involve~~  
8 ~~the protected person in decisions about management of the~~  
9 ~~conservatorship estate.~~

10 ~~(3) If ordered by the court, any step the conservator plans~~  
11 ~~to take to develop or restore the ability of the protected~~  
12 ~~person to manage the conservatorship estate.~~

13 ~~(4) An estimate of the duration of the conservatorship.~~

14 b. If applicable, the protected person's will shall be  
15 attached to the plan or filed with the court and the protected  
16 person's prepaid burial trust and powers of attorney shall be  
17 described.

18 c. The conservator shall include a proposed budget for the  
19 protected person and budget-related information for the next  
20 annual reporting period including all of the following:

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

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

34 (3) The protected person's estimated expenses on a monthly  
35 and annual basis including, if applicable, nursing home or

1 facility charge, real property expenses for residence, food and  
2 household expenses, utilities, household help and caregiver  
3 expenses, health services and health insurance expenses,  
4 educational and vocational expenses, personal auto and other  
5 transportation expenses, clothing expenses, personal allowance  
6 and other personal expenses, liabilities and debts, attorney  
7 fees and other professional expenses, conservator fees, and  
8 other administrative expenses.

9 d. The conservator shall include a list of the protected  
10 person's assets and the conservator's plan for management  
11 of these assets including, if applicable, financial  
12 accounts including checking and certificates of deposit and  
13 cash, investments including stocks, bonds, mutual funds,  
14 exchange-traded funds, individual retirement accounts and other  
15 investment accounts, pension, profit-sharing, annuities, and  
16 retirement fund, personal property including household goods  
17 and vehicles, receivables including mortgages and liens payable  
18 to the protected person's estate or trust, life insurance, and  
19 other property.

20 e. The conservator shall include a statement as to how the  
21 conservator will involve the protected person in decisions  
22 about management of the conservatorship estate.

23 f. If ordered by the court, the conservator shall include  
24 any action the conservator plans to take to develop or  
25 restore the ability of the protected person to manage the  
26 conservatorship estate.

27 g. The conservator shall include the authority that the  
28 guardian requests to carry out the initial financial plan  
29 including expenditures in accordance with the proposed budget  
30 for the protected person and the plan for the management of the  
31 assets of the protected person for the next annual reporting  
32 period.

33 ~~b.~~ h. Within two days after filing the initial plan, the  
34 conservator shall give notice of the filing of the initial plan  
35 with a copy of the plan to the protected person, the protected

1 person's attorney, if any, and court ~~adviser~~ visitor, if any,  
2 and others as directed by the court. The notice must state  
3 that any person entitled to a copy of the plan must file any  
4 objections to the plan not later than fifteen days after it is  
5 filed.

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

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

16 ~~e.~~ k. The conservator shall file an amended plan when  
17 there has been a significant change in circumstances or the  
18 conservator seeks to deviate significantly from the plan.  
19 Before the amended plan is implemented, the provisions for  
20 court approval of the plan shall be followed as provided in  
21 paragraphs ~~"b", "c", and "d"~~ "h", "i", and "j".

22 2. A conservator shall file an inventory of the protected  
23 person's assets within ninety days after appointment which  
24 includes an oath or affirmation that the inventory is believed  
25 to be complete and accurate as far as information permits.  
26 ~~Copies~~ After approval by the court, the conservator shall  
27 provide a copy of the inventory ~~shall be provided~~ to the  
28 protected person, the protected person's attorney, if any,  
29 and court ~~adviser~~ visitor, if any, and others as directed by  
30 the court. When the conservator receives additional property  
31 of the protected person, or becomes aware of its existence,  
32 a description of the property shall be included in the  
33 conservator's next annual report.

34 3. A conservator shall file a written ~~and~~ verified report on  
35 an annual basis for the period since the end of the preceding

1 report period. ~~The court which shall not waive these reports~~  
2 be waived by the court.

3 ~~a. These reports shall include all of the following: The~~  
4 annual report shall state the age, the residence and the living  
5 arrangements of the protected person, and sources of payment  
6 for the protected person's living expenses during the reporting  
7 period.

8 ~~(1) Balance of funds on hand at the beginning and end of the~~  
9 ~~period.~~

10 ~~(2) Disbursements made.~~

11 ~~(3) Changes in the conservator's plan.~~

12 ~~(4) List of assets as of the end of the period.~~

13 ~~(5) Bond amount and surety's name.~~

14 ~~(6) Residence and physical location of the protected~~  
15 ~~person.~~

16 ~~(7) General physical and mental condition of the protected~~  
17 ~~person.~~

18 ~~(8) Other information reflecting the condition of the~~  
19 ~~conservatorship estate.~~

20 ~~b. These reports shall be filed: The conservator shall~~  
21 submit with the annual report an inventory of the assets of the  
22 protected person as of the last day of the reporting period  
23 including the total value of assets at the beginning and end  
24 of the reporting period.

25 ~~(1) On an annual basis within sixty days of the end of the~~  
26 ~~reporting period unless the court orders an extension for good~~  
27 ~~cause shown in accordance with the rules of probate procedure.~~

28 ~~c. The annual report shall include an itemization of all~~  
29 income or funds received and all expenditures made by the  
30 conservator on behalf of the protected person. If any of  
31 the expenditures were made to provide support for or pay the  
32 debts of another person, the annual report shall include an  
33 explanation of these expenditures. If any of the expenditures  
34 were made to pay any liability or debt owed by the protected  
35 person to the conservator, the annual report shall include an

1 explanation of these expenditures. If any of the expenditures  
2 were made to pay any liability or debt that is also owed by  
3 another person or entity, the annual report shall include an  
4 explanation of these expenditures.

5 d. The annual report shall include the following budget and  
6 information related to the budget for the protected person:

7 (1) A description of changes, if any, made in the budget  
8 approved by the court for the preceding reporting period.

9 (2) A proposed budget and budget-related information for  
10 the next reporting period containing the information set forth  
11 in subsection 1, paragraph "c".

12 (3) A request for approval of the proposed budget and  
13 authority to make expenditures in accordance with the proposed  
14 budget.

15 e. The annual report shall include the following information  
16 related to the management of the assets of the protected  
17 person:

18 (1) A description of changes, if any, in the plan for  
19 management of the assets of the protected person approved by  
20 the court for the preceding reporting period.

21 (2) A proposed plan for management of the assets of the  
22 protected person for the next reporting period.

23 (3) A request for approval of the proposed plan for  
24 management of the assets of the protected person and the  
25 authority to carry out the plan.

26 f. The annual report shall describe, if applicable, how the  
27 protected person was involved and will be involved in decisions  
28 about management of assets.

29 g. The annual report shall describe, if ordered by the  
30 court, the actions that have been taken and that will be taken  
31 by the conservator to develop or restore the ability of the  
32 protected person to manage the conservatorship's assets.

33 h. The conservator may request court approval of fees  
34 provided by an attorney on behalf of the conservatorship or the  
35 protected person during the preceding reporting period.

1 i. The conservator may request court approval of fees  
2 provided the conservator on behalf of the conservatorship or  
3 the protected person during the preceding reporting period.

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

6 ~~(2)~~ a. Within thirty days following removal of the  
7 conservator.

8 ~~(3)~~ b. Upon the conservator's filing of a resignation and  
9 before the resignation is accepted by the court.

10 ~~(4)~~ c. Within sixty days following the termination of the  
11 conservatorship.

12 ~~(5)~~ d. At other times as ordered by the court.

13 ~~e.~~ 5. Reports required by [this section](#) shall be served  
14 on the protected person, the protected person's attorney and  
15 ~~court advisor~~, if any, and the veterans administration if the  
16 protected person is receiving veterans benefits.

17 Sec. 15. Section 633.675, subsections 2, 3, and 4, Code  
18 2020, are amended to read as follows:

19 2. The court shall terminate a guardianship for an adult  
20 if it finds by clear and convincing evidence that the basis  
21 for appointing a guardian pursuant to [section 633.552](#) is not  
22 satisfied.

23 3. The court shall terminate a conservatorship for an adult  
24 if the court finds by clear and convincing evidence that the  
25 basis for appointing a conservator pursuant to [section 633.553](#)  
26 or [633.554](#) is not satisfied.

27 4. The standard of proof and the burden of proof to be  
28 applied in a termination proceeding to terminate a guardianship  
29 or conservatorship for an adult shall be the same as set forth  
30 in [section 633.551, subsection 2.](#)

31

#### EXPLANATION

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

34 This bill relates to the administration of adult  
35 guardianships and conservatorships.

1 The bill amends current law to provide that Code sections  
2 apply to both guardianships and conservatorships of adults.

3 The bill provides that a court visitor will be discharged  
4 upon the appointment of a guardian or conservator unless  
5 ordered by the court to continue.

6 The bill specifies that a court-ordered professional  
7 evaluation conducted at or before a hearing on a petition for  
8 the appointment of a guardian or conservator must be filed with  
9 the court.

10 The bill amends language concerning powers which a guardian  
11 or conservator may be granted that can be exercised without  
12 further court approval. The bill also amends powers of a  
13 conservator which require further court approval before being  
14 exercised.

15 The bill amends the information required to be contained in  
16 a guardian's written verified reports including the initial  
17 care plan and annual reports, and information required to be  
18 included in reports by conservators including the initial  
19 financial management plan, the annual report, and the final  
20 report.