

**Senate File 31 - Introduced**

SENATE FILE 31

BY DAWSON

**A BILL FOR**

1 An Act relating to the opening, administration, and termination  
2 of adult and minor guardianships and conservatorships.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MINOR GUARDIANSHIPS

1  
2  
3 Section 1. Section 232.3, subsection 1, Code 2021, is  
4 amended to read as follows:

5 1. During the pendency of an action under **this chapter**, a  
6 party to the action is estopped from litigating concurrently  
7 the custody, guardianship, or placement of a child who is the  
8 subject of the action, in a court other than the juvenile court  
9 with jurisdiction of the pending action under this chapter. A  
10 district judge, district associate judge, juvenile court judge,  
11 magistrate, or judicial hospitalization referee, upon notice  
12 of the pendency of an action under **this chapter**, shall not  
13 issue an order, finding, or decision relating to the custody,  
14 guardianship, or placement of the child who is the subject of  
15 the action, under any law, including but not limited to chapter  
16 232D, 598, or 598B, ~~or 633~~.

17 Sec. 2. Section 232.3, Code 2021, is amended by adding the  
18 following new subsection:

19 NEW SUBSECTION. 3. An action which is pending under chapter  
20 232D prior to an action being brought under this chapter shall  
21 be stayed by the court in the chapter 232D action unless the  
22 court follows the procedures in subsection 2 and authorizes a  
23 party to the action to litigate a specific issue under this  
24 chapter.

25 Sec. 3. Section 232D.103, Code 2021, is amended to read as  
26 follows:

27 **232D.103 Jurisdiction.**

28 The juvenile court has exclusive jurisdiction in a  
29 guardianship proceeding concerning a minor who is alleged to be  
30 in need of a guardianship and guardianships of minors.

31 Sec. 4. NEW SECTION. **232D.107 Confidentiality.**

32 Official juvenile court records in guardianship proceedings  
33 shall be confidential and are not public records. Confidential  
34 records may be inspected and their contents shall be disclosed  
35 to the following without court order, provided that a person

1 or entity who inspects or receives a confidential record under  
2 this section shall not disclose the confidential record or its  
3 contents unless required by law:

- 4 1. The judge and professional court staff.
- 5 2. The minor and the minor's counsel.
- 6 3. The minor's parent, guardian or custodian, court  
7 visitor, and any counsel representing such person.

8 Sec. 5. Section 232D.301, subsection 2, paragraph d,  
9 subparagraph (3), Code 2021, is amended to read as follows:

10 (3) Any adult who has had the primary care of the minor or  
11 with whom the minor has lived for ~~at least~~ any time during the  
12 six months prior to immediately preceding the filing of the  
13 petition.

14 Sec. 6. Section 232D.301, subsection 4, Code 2021, is  
15 amended to read as follows:

16 4. The petition shall state whether a limited guardianship  
17 is appropriate, and whether a conservatorship for the minor is  
18 already in existence.

19 Sec. 7. Section 232D.302, subsection 2, Code 2021, is  
20 amended to read as follows:

21 2. Notice shall be served upon the minor's known parents  
22 listed in the petition in accordance with the rules of civil  
23 procedure. If the parent has not filed a consent to the  
24 appointment of a guardian, the notice shall inform any parent  
25 named in the petition that the parent may be entitled to  
26 representation under the conditions described in section  
27 232D.304.

28 Sec. 8. Section 232D.305, subsection 1, Code 2021, is  
29 amended to read as follows:

30 1. The court may appoint a court visitor for the minor. A  
31 person is qualified to serve as a court visitor if the court  
32 determines the person has demonstrated sufficient knowledge of  
33 guardianships to adequately perform the duties in subsection 3.

34 Sec. 9. Section 232D.306, Code 2021, is amended by adding  
35 the following new subsection:

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

3 Sec. 10. Section 232D.307, subsection 1, Code 2021, is  
4 amended to read as follows:

5 1. The court shall request criminal record checks and checks  
6 of the child abuse, dependent adult abuse, and sex offender  
7 registries in this state for all proposed guardians other than  
8 financial institutions with Iowa trust powers unless a proposed  
9 guardian has undergone the required background checks in this  
10 section within the ~~twelve~~ six months prior to the filing of  
11 a petition and the background check has been provided to the  
12 court.

13 Sec. 11. Section 232D.401, subsection 1, Code 2021, is  
14 amended to read as follows:

15 1. The order by the court appointing a guardian for a minor  
16 shall state the basis for the order and the date on which the  
17 first reporting period for the guardianship will end.

18 Sec. 12. Section 232D.401, subsection 3, unnumbered  
19 paragraph 1, Code 2021, is amended to read as follows:

20 An order by the court appointing a guardian for a minor shall  
21 state the powers granted to the guardian. ~~Except as otherwise~~  
22 ~~limited by court order, the~~ The court may grant the guardian  
23 the following powers, ~~which may be exercised without prior~~  
24 ~~court approval:~~

25 Sec. 13. Section 232D.501, subsection 1, paragraph a, Code  
26 2021, is amended by adding the following new subparagraph:

27 NEW SUBPARAGRAPH. (2A) The guardian's plan, if any, for  
28 applying for and receiving funds and benefits payable for the  
29 support of the minor.

30 Sec. 14. Section 232D.501, subsection 1, paragraph b, Code  
31 2021, is amended by adding the following new subparagraphs:

32 NEW SUBPARAGRAPH. (11) The results of the guardian's  
33 efforts to apply for funds or benefits for the minor, and  
34 an accounting for the use of such funds or benefits by the  
35 guardian.

1 NEW SUBPARAGRAPH. (12) Any other information the guardian  
2 deems necessary for the court to consider.

3 Sec. 15. Section 232D.501, Code 2021, is amended by adding  
4 the following new subsections:

5 NEW SUBSECTION. 5. A copy of the verified initial care plan  
6 and verified annual report shall be served, annually, on the  
7 protected person, the protected person's attorney, if any, and  
8 court visitor, if any.

9 NEW SUBSECTION. 6. The court, for good cause, may extend  
10 the deadline for filing required reports. Required reports of  
11 a guardian which are not timely filed and which are delinquent,  
12 and for which no extension for filing has been granted by the  
13 court, shall be administered in the same manner as provided in  
14 section 633.32.

15 DIVISION II

16 ADULT GUARDIANSHIPS AND MINOR AND ADULT CONSERVATORSHIPS

17 Sec. 16. Section 235B.6, subsection 2, paragraph d, Code  
18 2021, is amended by adding the following new subparagraph:

19 NEW SUBPARAGRAPH. (7) To a district court conducting  
20 checks of the dependent adult abuse registry for all proposed  
21 guardians and conservators pursuant to section 633.564.

22 Sec. 17. Section 633.556, subsections 4 and 5, Code 2021,  
23 are amended to read as follows:

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

27 a. The respondent.

28 b. The petitioner and the petitioner's relationship to the  
29 respondent.

30 c. The proposed guardian or conservator and the reason the  
31 proposed guardian or conservator should be selected.

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

34 ~~a. The name and address of the proposed guardian and the~~  
35 ~~reason the proposed guardian should be selected.~~

- 1     *b.* Any spouse of the respondent.
- 2     *c.* Any adult children of the respondent.
- 3     *d.* Any parents of the respondent.
- 4     *e.* Any adult, who has had the primary care of the respondent  
5 or with whom the respondent has lived for ~~at least~~ any time  
6 during the six months prior to immediately preceding the filing  
7 of the petition, or any institution or facility where the  
8 respondent has resided for ~~at least six months prior to any~~  
9 time during the six months immediately preceding the filing of  
10 the petition.
- 11    *f.* Any legal representative or representative payee of the  
12 respondent.
- 13    *g.* Any person designated as an attorney in fact in a durable  
14 power of attorney for health care which is valid under chapter  
15 144B, or any person designated as an agent in a durable power  
16 of attorney which is valid under [chapter 633B](#).
- 17    Sec. 18. Section 633.560, subsection 3, Code 2021, 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. 19. Section 633.561, subsection 6, Code 2021, is  
24 amended to read as follows:
- 25    6. If the court determines that it would be in the  
26 respondent's best interest to have legal representation  
27 with respect to any further proceedings in a guardianship  
28 or conservatorship, the court may appoint an attorney to  
29 represent the respondent at the expense of the respondent or  
30 the respondent's estate, or if the respondent is indigent the  
31 cost of the court appointed attorney shall be assessed against  
32 the county in which the proceedings are pending.
- 33    Sec. 20. Section 633.562, subsection 1, Code 2021, is  
34 amended to read as follows:
- 35    1. If the court determines that the appointment of a court

1 visitor would be in the best interest of the respondent, the  
2 court shall appoint a court visitor at the expense of the  
3 respondent or the respondent's estate, or, if the respondent  
4 is indigent, the cost of the court visitor shall be assessed  
5 against the county in which the proceedings are pending. The  
6 court may appoint any qualified person as a court visitor in  
7 a guardianship or conservatorship proceeding. A person is  
8 qualified to serve in this capacity if the court determines the  
9 person has demonstrated sufficient knowledge of guardianships  
10 or conservatorships to adequately perform the duties in  
11 subsection 3.

12 Sec. 21. Section 633.562, Code 2021, is amended by adding  
13 the following new subsection:

14 NEW SUBSECTION. 7. A court visitor shall be discharged  
15 from all further duties upon appointment of a guardian or  
16 conservator, unless otherwise ordered by the court. The court  
17 may order a court visitor to continue to serve if the court  
18 determines continued service would be in the best interest of  
19 the protected person. If the court continues the service of  
20 the court visitor, the court may limit the direct duties of the  
21 court visitor as the court deems necessary. The court visitor  
22 shall thereafter continue to serve until discharged by the  
23 court.

24 Sec. 22. Section 633.564, subsection 1, Code 2021, is  
25 amended to read as follows:

26 1. The court shall request criminal record checks and  
27 checks of the child abuse, dependent adult abuse, and sexual  
28 offender registries in this state for all proposed guardians  
29 and conservators, other than financial institutions with Iowa  
30 trust powers, unless a proposed guardian or conservator has  
31 undergone the required background checks required by this  
32 section within the six months prior to the filing of a petition  
33 and the background check has been provided to the court.

34 Sec. 23. Section 633.569, Code 2021, is amended to read as  
35 follows:

1       **633.569 Emergency appointment of temporary guardian or**  
2 **conservator.**

3       1. A person authorized to file a petition under section  
4 ~~633.552, 633.553, or 633.554~~ 633.556 or 633.557 may file an  
5 application for the emergency appointment of a temporary  
6 guardian or conservator.

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

8       *a.* The name and address of the respondent.

9       *Ob.* The name and address of the petitioner and the  
10 petitioner's relationship to the respondent.

11       *b.* The name and address of the proposed guardian or  
12 conservator and the reason the proposed guardian or conservator  
13 should be selected.

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

17       *c.* The reason the emergency appointment of a temporary  
18 guardian or conservator is sought.

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

23       *a.* There is not sufficient time to file a petition  
24 and hold a hearing pursuant to section ~~633.552, 633.553,~~  
25 ~~or 633.554~~ 633.556, 633.557, or 633.560.

26       *b.* The appointment of a temporary guardian or conservator  
27 is necessary to avoid immediate or irreparable harm to the  
28 respondent before a hearing with notice to the respondent can  
29 be held.

30       *c.* There is reason to believe that the basis for appointment  
31 of guardian or conservator exists under section ~~633.552,~~  
32 ~~633.553, or 633.554~~ 633.556 or 633.557.

33       4. Notice of a petition for the appointment of a temporary  
34 guardian or conservator and the issuance of an ex parte  
35 order appointing a temporary guardian or conservator shall be



1 provided to the respondent, the respondent's attorney, and any  
2 other person the court determines should receive notice.

3 5. Upon the issuance of an ex parte order, if the respondent  
4 is an adult, the respondent may file a request for a hearing.  
5 If the respondent is a minor, the respondent, a parent having  
6 legal custody of the respondent, or any other person having  
7 legal custody of the respondent may file a written request for  
8 a hearing. Such hearing shall be held no later than seven days  
9 after the filing of a written request.

10 6. The powers of the temporary guardian or conservator  
11 set forth in the order of the court shall be limited to those  
12 necessary to address the emergency situation requiring the  
13 appointment of a temporary guardian or conservator.

14 7. The temporary guardianship or conservatorship shall  
15 terminate within thirty days after the order is issued.

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

26 a. All actions conducted by the guardian or conservator on  
27 behalf of the protected person from the time of the initial  
28 appointment of the guardian up to the time of the report.

29 b. All actions that the guardian or conservator plans to  
30 conduct on behalf of the protected person during the thirty-day  
31 extension period.

32 9. The temporary guardian or conservator shall submit any  
33 other report the court requires.

34 Sec. 24. Section 633.570, subsections 1 and 2, Code 2021,  
35 are amended to read as follows:

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

8 2. In a proceeding for the appointment of a conservator,  
9 the respondent shall be given written notice which advises  
10 the respondent ~~of the powers that the court may grant~~ a  
11 conservator ~~may exercise without court approval pursuant to~~  
12 the powers set out in section 633.646 and the powers that the  
13 ~~guardian may exercise only with court approval pursuant to~~  
14 ~~section 633.647~~ 633.642.

15 Sec. 25. Section 633.635, subsection 1, Code 2021, is  
16 amended to read as follows:

17 1. The order by the court appointing a guardian shall state  
18 the factual basis for the guardianship pursuant to section  
19 633.552 and the date on which the first reporting period for  
20 the guardianship shall end.

21 Sec. 26. Section 633.635, subsection 2, unnumbered  
22 paragraph 1, Code 2021, 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. 27. Section 633.635, subsection 3, unnumbered  
28 paragraph 1, Code 2021, 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. 28. NEW SECTION. 633.640A Powers of conservator upon  
33 appointment.

34 1. The order by the court appointing a conservator shall  
35 state the basis for the conservatorship pursuant to section

1 633.553 or pursuant to section 633.554.

2 2. Upon appointment, the conservator may exercise the  
3 powers relating to all fiduciaries as set out in sections  
4 633.63 through 633.162, unless expressly modified by the court,  
5 without prior court approval. These powers include but are not  
6 limited to the following:

7 a. Make written requests for the purpose of obtaining the  
8 property of the protected person, or obtaining information  
9 about the property of the protected person pursuant to section  
10 633.78.

11 b. Designate and employ an attorney to assist in the  
12 administration of the estate of the protected person pursuant  
13 to section 633.82.

14 c. Hold investments in the name of a bank or trustee company  
15 pursuant to section 633.124.

16 d. Require a bank to show ownership of investments held in  
17 nominee name and keep them separate from the assets of the bank  
18 pursuant to section 633.125.

19 3. Until such time as the conservator files an initial  
20 financial management plan and such plan is approved by the  
21 court as required by section 633.670, subsection 1, the  
22 conservator may exercise the following powers with respect to  
23 a protected person without court approval except as otherwise  
24 ordered by the court:

25 a. Collect, receive, and receipt for any principal or income  
26 of the protected person.

27 b. Receive property of the protected person from any source.

28 c. Continue to hold any investment or other property of the  
29 protected person.

30 4. Upon the filing of an appropriate oath by the  
31 conservator, the clerk of the court shall issue letters of  
32 appointment. A copy of the initial order of the court and  
33 any future order, granting or limiting the authority of the  
34 conservator to act on behalf of the protected person shall be  
35 attached to the letters of appointment.

1     Sec. 29. Section 633.641, subsection 3, Code 2021, is  
2 amended to read as follows:

3     3. ~~If a protected person has executed a valid power of~~  
4 ~~attorney under [chapter 633B](#), the conservator shall act in~~  
5 ~~accordance with the applicable provisions of [chapter 633B](#).~~  
6 If the court appoints a conservator for a protected person  
7 who has previously executed a valid power of attorney under  
8 chapter 633B, the power of attorney is suspended unless the  
9 power of attorney provides otherwise or the court appointing  
10 the conservator orders that the power of attorney should  
11 continue. If the power of attorney continues, the agent is  
12 accountable to the conservator as well as the principal. The  
13 power of attorney shall be reinstated upon termination of the  
14 conservatorship for reasons other than the protected person's  
15 death.

16     Sec. 30. Section 633.642, unnumbered paragraph 1, Code  
17 2021, is amended to read as follows:

18     Except as otherwise ordered by the court, and except  
19 for those powers relating to all fiduciaries as set out in  
20 sections 633.63 through 633.162 which may be exercised without  
21 approval of the court unless expressly modified by the court,  
22 a conservator must give notice to persons entitled to notice  
23 and receive specific prior authorization by the court before  
24 the conservator may take any other action on behalf of the  
25 protected person. ~~These other powers~~ Powers requiring court  
26 approval include but are not limited to the authority of the  
27 conservator to:

28     Sec. 31. Section 633.669, Code 2021, is amended to read as  
29 follows:

30     **633.669 Reporting requirements — assistance Reports by clerk**  
31 **guardians.**

32     1. A guardian appointed by the court under [this chapter](#)  
33 shall file with the court the following ~~written~~ verified  
34 reports which shall not be waived by the court:

35     a. An initial care plan filed within sixty days of

1 appointment. The information in the initial care plan shall  
2 include but not be limited to the following information:

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

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

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

13 (3A) Whether the protected person has a living will or  
14 health care power of attorney.

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

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

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

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

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

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

34 (10) The guardian shall file an amended plan when there  
35 has been a significant change in the circumstances or the

1 guardian seeks to deviate significantly from the plan. The  
2 guardian must obtain court approval of the amended plan before  
3 implementing any of its provisions.

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

8 (1) The current living arrangements of the protected  
9 person.

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

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

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

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

19 (0c) The guardian's facilitation of the participation of  
20 the protected person in social activities.

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

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

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

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

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

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

33 (6) The need of the guardian for assistance in providing or  
34 arranging for the provision of the care and protection of the  
35 protected person.

1 (7) Any other information the guardian deems necessary for  
2 the court to consider.

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. The court, for good cause, may extend the deadline for  
15 filing required reports. Required reports of a guardian which  
16 are not timely filed and which are delinquent, and for which no  
17 extension for filing has been granted by the court, shall be  
18 administered as provided in section 633.32.

19 6. Reports required by this section shall be served on the  
20 protected person, the protected person's attorney, if any, and  
21 the court visitor, if any.

22 Sec. 32. Section 633.670, Code 2021, is amended to read as  
23 follows:

24 **633.670 Reports by conservators.**

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

34 ~~a. The initial plan shall include all of the following:~~ The  
35 initial financial management plan shall state the protected

1 person's age, residence, living arrangements, and sources of  
2 payment for living expenses.

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

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

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

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

16 b. If applicable, the protected person's will shall be filed  
17 with the court clerk and the protected person's prepaid burial  
18 trust and powers of attorney shall be described.

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

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

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



1     (3) The protected person's estimated expenses on a monthly  
2 and annual basis including, if applicable, nursing home or  
3 facility charge, real property expenses for residence, food and  
4 household expenses, utilities, household help and caregiver  
5 expenses, health services and health insurance expenses,  
6 educational and vocational expenses, personal auto and other  
7 transportation expenses, clothing expenses, personal allowance  
8 and other personal expenses, liabilities and debts, attorney  
9 fees and other professional expenses, conservator fees, and  
10 other administrative expenses.

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

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

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

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

35     ~~b. h. Within two days after filing the initial plan, the~~

1 The conservator shall give provide notice of the filing of  
2 the initial plan ~~with~~ and a copy of the initial plan to the  
3 protected person, the protected person's attorney, if any, and  
4 court visitor, if any, and others as directed by the court.  
5 The notice must state that any person entitled to a copy of  
6 the plan must file any objections to the plan not later than  
7 ~~fifteen days after it is filed~~ twenty days from the date of  
8 mailing notice of filing the initial plan.

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

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

19 ~~e.~~ k. The conservator shall file an amended plan when  
20 there has been a significant change in circumstances or the  
21 conservator seeks to deviate significantly from the plan.  
22 Before the amended plan is implemented, the provisions for  
23 court approval of the plan shall be followed as provided in  
24 ~~paragraphs "b", "c", and "d"~~ the initial financial management  
25 plan.

26 2. A conservator shall file attach an inventory of the  
27 protected person's assets within ninety days after appointment  
28 and debts to the initial financial management plan, which  
29 includes an oath or affirmation that the inventory is believed  
30 to be complete and accurate as far as information permits.  
31 Copies After approval by the court, the conservator shall  
32 provide copies of the inventory ~~shall be provided~~ to the  
33 protected person, the protected person's attorney, if any,  
34 and court visitor, if any, and others as directed by the  
35 court. When the conservator receives additional property

1 of the protected person, or becomes aware of its existence,  
2 a description of the property shall be included in the  
3 conservator's next annual report.

4 2A. A conservator shall attach to the initial financial  
5 management plan an inventory of the protected person's assets  
6 and debts, which includes an oath or affirmation that the  
7 inventory is believed to be complete and accurate as far as  
8 information permits. The conservator shall provide copies of  
9 the inventory to the protected person, the protected person's  
10 attorney, if any, and the court visitor, if any, and others  
11 as directed by the court. Any objections to the inventory  
12 shall be filed in the same manner and according to the same  
13 schedule as objections to the initial financial management  
14 plan. The court shall review the inventory and determine  
15 whether the inventory should be approved at the same time as  
16 the court reviews the initial financial management plan. When  
17 the conservator receives an additional asset of the protected  
18 person or becomes aware of its existence, or becomes aware  
19 of additional debt of the protected person, a description of  
20 the asset or debt shall be included in the conservator's next  
21 annual report.

22 3. A conservator shall file a ~~written and verified report on~~  
23 an annual basis for the period since the end of the preceding  
24 report period. ~~The court which shall not waive these reports~~  
25 be waived by the court.

26 ~~a. These reports shall include all of the following: The~~  
27 annual report shall state the age, the residence, and the  
28 living arrangements of the protected person, and sources of  
29 payment for the protected person's living expenses during the  
30 reporting period.

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

33 ~~(2) Disbursements made.~~

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

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

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

2 ~~(6) Residence and physical location of the protected~~  
3 ~~person.~~

4 ~~(7) General physical and mental condition of the protected~~  
5 ~~person.~~

6 ~~(8) Other information reflecting the condition of the~~  
7 ~~conservatorship estate.~~

8 ~~b. These reports shall be filed:~~ The conservator shall  
9 submit with the annual report an inventory of the assets of the  
10 protected person as of the last day of the reporting period the  
11 total value of assets at the beginning and end of the reporting  
12 period.

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

16 c. The annual report shall include an itemization of all  
17 income or funds received and all expenditures made by the  
18 conservator on behalf of the protected person. If any of  
19 the expenditures were made to provide support for or pay the  
20 debts of another person, the annual report shall include an  
21 explanation of these expenditures. If any of the expenditures  
22 were made to pay any liability or debt owed by the protected  
23 person to the conservator, the annual report shall include an  
24 explanation of these expenditures. If any of the expenditures  
25 were made to pay any liability or debt that is also owed by  
26 another person or entity, the annual report shall include an  
27 explanation of these expenditures.

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

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

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

35 (3) A request for approval of the proposed budget and

1 authority to make expenditures in accordance with the proposed  
2 budget.

3 e. The annual report shall include the following information  
4 related to the management of the assets of the protected  
5 person:

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

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

11 (3) A request for approval of the proposed plan for  
12 management of the assets of the protected person and the  
13 authority to carry out the plan.

14 f. The conservator shall include a statement as to how the  
15 conservator will involve the protected person in decisions  
16 about management of the conservatorship estate.

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

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

24 i. The conservator may request court approval of fees  
25 provided the conservator on behalf of the conservatorship or  
26 the protected person during the preceding reporting period.

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

29 ~~(2)~~ a. Within thirty days following removal of the  
30 conservator.

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

33 ~~(4)~~ c. Within sixty days following the termination of the  
34 conservatorship.

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

1 ~~e.~~ 5. Reports required by this section The initial  
2 financial management plan, the inventory of the protected  
3 person's assets, and the annual report shall be served,  
4 annually, on the protected person, the protected person's  
5 attorney, if any, and court visitor, if any, and the veterans  
6 administration if the protected person is receiving veterans  
7 veterans' benefits.

8 6. The court, for good cause, may extend the deadline for  
9 filing required reports. Required reports of a conservator  
10 which are not timely filed and which are delinquent, and for  
11 which no extension for filing has been granted by the court,  
12 shall be administered as provided in section 633.32.

13 Sec. 33. Section 633.675, subsections 2, 3, and 4, Code  
14 2021, are amended to read as follows:

15 2. The court shall terminate a guardianship for an adult if  
16 ~~it the court finds by clear and convincing evidence~~ that the  
17 basis for appointing a guardian pursuant to [section 633.552](#) has  
18 not been established.

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

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

27 DIVISION III

28 CONFORMING CHANGES

29 Sec. 34. Section 633.3, subsections 9, 17, 22, and 23, Code  
30 2021, are amended to read as follows:

31 9. *Conservator* — means a person appointed by the court  
32 to have the custody and control of the property of a ~~ward~~  
33 protected person under the provisions of this probate code.

34 17. *Estate* — the real and personal property of either a  
35 decedent or a ~~ward~~ protected person, and may also refer to the

1 real and personal property of a trust described in section  
2 633.10.

3 22. *Guardian* — means the person appointed by the court to  
4 have the custody of the person of the ward protected person  
5 under the provisions of this probate code.

6 23. *Guardian of the property* — at the election of the  
7 person appointed by the court to have the custody and care of  
8 the property of a ward protected person, the term "*guardian of*  
9 *the property*" may be used, which term shall be synonymous with  
10 the term "*conservator*".

11 Sec. 35. Section 633.78, subsection 1, unnumbered paragraph  
12 1, Code 2021, is amended to read as follows:

13 A fiduciary under [this chapter](#) may present a written request  
14 to any person for the purpose of obtaining property owned by  
15 a decedent or by a ward protected person of a conservatorship  
16 for which the fiduciary has been appointed, or property to  
17 which a decedent or ward protected person is entitled, or  
18 for information about such property needed to perform the  
19 fiduciary's duties. The request must contain statements  
20 confirming all of the following:

21 Sec. 36. Section 633.78, subsection 1, paragraph b, Code  
22 2021, is amended to read as follows:

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

25 Sec. 37. Section 633.78, subsection 4, paragraph a, Code  
26 2021, is amended to read as follows:

27 *a.* Damages sustained by the decedent's or ward's protected  
28 person's estate.

29 Sec. 38. Section 633.80, Code 2021, is amended to read as  
30 follows:

31 **633.80 Fiduciary of a fiduciary.**

32 A fiduciary has no authority to act in a matter wherein the  
33 fiduciary's decedent or ward protected person was merely a  
34 fiduciary, except that the fiduciary shall file a report and  
35 accounting on behalf of the decedent or ward protected person

1 in said matter.

2 Sec. 39. Section 633.93, Code 2021, is amended to read as  
3 follows:

4 **633.93 Limitation on actions affecting deeds.**

5 No action for recovery of any real estate sold by any  
6 fiduciary can be maintained by any person claiming under the  
7 deceased, the ward protected person, or a beneficiary, unless  
8 brought within five years after the date of the recording of  
9 the conveyance.

10 Sec. 40. Section 633.112, Code 2021, is amended to read as  
11 follows:

12 **633.112 Discovery of property.**

13 The court may require any person suspected of having  
14 possession of any property, including records and documents,  
15 of the decedent, ward protected person, or the estate, or of  
16 having had such property under the person's control, to appear  
17 and submit to an examination under oath touching such matters,  
18 and if on such examination it appears that the person has the  
19 wrongful possession of any such property, the court may order  
20 the delivery thereof to the fiduciary. Such a person shall be  
21 liable to the estate for all damages caused by the person's  
22 acts.

23 Sec. 41. Section 633.123, subsection 1, paragraph b,  
24 subparagraph (3), Code 2021, is amended to read as follows:

25 (3) The needs and rights of the beneficiaries or the ward  
26 protected person.

27 Sec. 42. Section 633.580, subsections 1 and 4, Code 2021,  
28 are amended to read as follows:

29 1. The name, age, and last known post office address of the  
30 proposed ward protected person.

31 4. A general description of the property of the proposed  
32 ward protected person within this state and of the proposed  
33 ward's protected person's right to receive property; also, the  
34 estimated present value of the real estate, the estimated value  
35 of the personal property, and the estimated gross annual income



1 of the estate. If any money is payable, or to become payable,  
2 to the proposed ~~ward~~ protected person by the United States  
3 through the United States department of veterans affairs, the  
4 petition shall so state.

5 Sec. 43. Section 633.591A, Code 2021, is amended to read as  
6 follows:

7 **633.591A Voluntary petition for appointment of conservator**  
8 **for a minor — standby basis.**

9 A person having physical and legal custody of a minor  
10 may execute a verified petition for the appointment of a  
11 standby conservator of the proposed ~~ward's~~ protected person's  
12 property, upon the express condition that the petition shall  
13 be acted upon by the court only upon the occurrence of an event  
14 specified or the existence of a described condition of the  
15 mental or physical health of the petitioner, the occurrence  
16 of which event, or the existence of which condition, shall be  
17 established in the manner directed in the petition.

18 Sec. 44. Section 633.603, Code 2021, is amended to read as  
19 follows:

20 **633.603 Appointment of foreign conservators.**

21 When there is no conservatorship, nor any application  
22 therefor pending, in this state, the duly qualified foreign  
23 conservator or guardian of a nonresident ~~ward~~ protected  
24 person may, upon application, be appointed conservator of the  
25 property of such person in this state; provided that a resident  
26 conservator is appointed to serve with the foreign conservator;  
27 and provided further, that for good cause shown, the court  
28 may appoint the foreign conservator to act alone without the  
29 appointment of a resident conservator.

30 Sec. 45. Section 633.604, Code 2021, is amended to read as  
31 follows:

32 **633.604 Application.**

33 The application for appointment of a foreign conservator  
34 or guardian as conservator in this state shall include the  
35 name and address of the nonresident ~~ward~~ protected person, and

1 of the nonresident conservator or guardian, and the name and  
2 address of the resident conservator to be appointed. It shall  
3 be accompanied by a certified copy of the original letters  
4 or other authority conferring the power upon the foreign  
5 conservator or guardian to act as such. The application  
6 shall also state the cause for the appointment of the foreign  
7 conservator to act as sole conservator, if such be the case.

8 Sec. 46. Section 633.605, Code 2021, is amended to read as  
9 follows:

10 **633.605 Personal property.**

11 A foreign conservator or guardian of a nonresident may  
12 be authorized by the court of the county wherein such ~~ward~~  
13 protected person has personal property to receive the same upon  
14 compliance with the provisions of [sections 633.606, 633.607](#) and  
15 633.608.

16 Sec. 47. Section 633.607, Code 2021, is amended to read as  
17 follows:

18 **633.607 Order for delivery.**

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

23 Sec. 48. Section 633.633, Code 2021, is amended to read as  
24 follows:

25 **633.633 Provisions applicable to all fiduciaries shall**  
26 **govern.**

27 The provisions of this probate code applicable to all  
28 fiduciaries shall govern the appointment, qualification, oath  
29 and bond of guardians and conservators, except that a guardian  
30 shall not be required to give bond unless the court, for good  
31 cause, finds that the best interests of the ~~ward~~ protected  
32 person require a bond. The court shall then fix the terms and  
33 conditions of such bond.

34 Sec. 49. Section 633.633B, Code 2021, is amended to read as  
35 follows:

1       **633.633B Tort liability of guardians and conservators.**

2       The fact that a person is a guardian or conservator shall not  
3 in itself make the person personally liable for damages for the  
4 acts of the ward protected person.

5       Sec. 50. Section 633.636, Code 2021, is amended to read as  
6 follows:

7       **633.636 Effect of appointment of guardian or conservator.**

8       The appointment of a guardian or conservator shall not  
9 constitute an adjudication that the ward protected person is of  
10 unsound mind.

11       Sec. 51. Section 633.637, Code 2021, is amended to read as  
12 follows:

13       **633.637 Powers of ward protected person.**

14       1. A ward protected person for whom a conservator has been  
15 appointed shall not have the power to convey, encumber, or  
16 dispose of property in any manner, other than by will if the  
17 ward protected person possesses the requisite testamentary  
18 capacity, unless the court determines that the ward protected  
19 person has a limited ability to handle the ward's protected  
20 person's own funds. If the court makes such a finding, the  
21 court shall specify to what extent the ward protected person  
22 may possess and use the ward's protected person's own funds.

23       2. Any modification of the powers of the ward protected  
24 person that would be more restrictive of the ward's protected  
25 person's control over the ward's protected person's financial  
26 affairs shall be based upon clear and convincing evidence  
27 and the burden of persuasion is on the conservator. Any  
28 modification that would be less restrictive of the ward's  
29 protected person's control over the ward's protected person's  
30 financial affairs shall be based upon proof in accordance with  
31 the requirements of [section 633.675](#).

32       Sec. 52. Section 633.637A, Code 2021, is amended to read as  
33 follows:

34       **633.637A Rights of ward protected person under guardianship.**

35       An adult ward protected person under a guardianship has the

1 right of communication, visitation, or interaction with other  
2 persons upon the consent of the adult ward protected person,  
3 subject to [section 633.635, subsection 2](#), paragraph "i", and  
4 [section 633.635, subsection 3](#), paragraph "c". If an adult ward  
5 protected person is unable to give express consent to such  
6 communication, visitation, or interaction with a person due  
7 to a physical or mental condition, consent of an adult ward  
8 protected person may be presumed by a guardian or a court based  
9 on an adult ward's protected person's prior relationship with  
10 such person.

11 Sec. 53. Section 633.638, Code 2021, is amended to read as  
12 follows:

13 **633.638 Presumption of fraud.**

14 If a conservator be appointed, all contracts, transfers and  
15 gifts made by the ward protected person after the filing of the  
16 petition shall be presumed to be a fraud against the rights  
17 and interest of the ward protected person except as otherwise  
18 directed by the court pursuant to [section 633.637](#).

19 Sec. 54. Section 633.639, Code 2021, is amended to read as  
20 follows:

21 **633.639 Title to ward's protected person's property.**

22 The title to all property of the ward protected person is  
23 in the ward protected person and not the conservator subject,  
24 however, to the possession of the conservator and to the  
25 control of the court for the purposes of administration,  
26 sale or other disposition, under the provisions of the  
27 law. Any real property titled at any time in the name of a  
28 conservatorship shall be deemed to be titled in the ward's  
29 protected person's name subject to the conservator's right of  
30 possession.

31 Sec. 55. Section 633.640, Code 2021, is amended to read as  
32 follows:

33 **633.640 Conservator's right to possession.**

34 Every conservator shall have a right to, and shall take,  
35 possession of all of the real and personal property of the

1 ~~ward~~ protected person. The conservator shall pay the taxes  
2 and collect the income therefrom until the conservatorship is  
3 terminated. The conservator may maintain an action for the  
4 possession of the property, and to determine the title to the  
5 same.

6 Sec. 56. Section 633.643, Code 2021, is amended to read as  
7 follows:

8 **633.643 Disposal of will by conservator.**

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

12 Sec. 57. Section 633.644, Code 2021, is amended to read as  
13 follows:

14 **633.644 Court order to preserve testamentary intent of ~~ward~~**  
15 **protected person.**

16 Upon receiving an instrument purporting to be the will of a  
17 living ~~ward~~ protected person under the provisions of section  
18 633.643, the court may open said will and read it. The court  
19 with or without notice, as it may determine, may enter such  
20 orders in the conservatorship as it deems advisable for the  
21 proper administration of the conservatorship in light of the  
22 expressed testamentary intent of the ~~ward~~ protected person.

23 Sec. 58. Section 633.645, Code 2021, is amended to read as  
24 follows:

25 **633.645 Court to deliver will to clerk.**

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

31 Sec. 59. Section 633.653A, Code 2021, is amended to read as  
32 follows:

33 **633.653A Claims for cost of medical care or services.**

34 The provision of medical care or services to a ~~ward~~ protected  
35 person who is a recipient of medical assistance under chapter

1 249A creates a claim against the conservatorship for the amount  
2 owed to the provider under the medical assistance program for  
3 the care or services. The amount of the claim, after being  
4 allowed or established as provided in this part, shall be paid  
5 by the conservator from the assets of the conservatorship.

6 Sec. 60. Section 633.654, Code 2021, is amended to read as  
7 follows:

8 **633.654 Form and verification of claims — general**  
9 **requirements.**

10 No claim shall be allowed against the estate of a ward  
11 protected person upon application of the claimant unless  
12 it shall be in writing, filed in duplicate with the clerk,  
13 stating the claimant's name and address, and describing the  
14 nature and the amount thereof, if ascertainable. It shall be  
15 accompanied by the affidavit of the claimant, or of someone for  
16 the claimant, that the amount is justly due, or if not due,  
17 when it will or may become due, that no payments have been  
18 made thereon which are not credited, and that there are no  
19 offsets to the same, to the knowledge of the affiant, except as  
20 therein stated. The duplicate of said claim shall be mailed  
21 by the clerk to the conservator or the conservator's attorney  
22 of record; however, valid contract claims arising in the  
23 ordinary course of the conduct of the business or affairs of  
24 the ward protected person by the conservator may be paid by the  
25 conservator without requiring affidavit or filing.

26 Sec. 61. Section 633.656, Code 2021, is amended to read as  
27 follows:

28 **633.656 How claim entitled.**

29 All claims filed against the estate of the ward protected  
30 person shall be entitled in the name of the claimant against  
31 the conservator as such, naming the conservator, and in all  
32 further proceedings thereon, this title shall be preserved.

33 Sec. 62. Section 633.660, Code 2021, is amended to read as  
34 follows:

35 **633.660 Execution and levy prohibited.**

1 No execution shall issue upon, nor shall any levy be made  
2 against, any property of the estate of a ward protected person  
3 under any judgment against the ward protected person or a  
4 conservator, but the provisions of **this section** shall not be so  
5 construed as to prevent the enforcement of a mortgage, pledge,  
6 or other lien upon property in an appropriate proceeding.

7 Sec. 63. Section 633.661, Code 2021, is amended to read as  
8 follows:

9 **633.661 Claims of conservators.**

10 If the conservator is a creditor of the ward, the conservator  
11 shall file the claim as other creditors, and the court shall  
12 appoint some competent person as temporary conservator to  
13 represent the ward protected person at the hearing on the  
14 conservator's claim. The same procedure shall be followed in  
15 the case of coconservators where all such conservators are  
16 creditors of the ward protected person; but if one of the  
17 coconservators is not a creditor of the ward protected person,  
18 such disinterested conservator shall represent the ward at the  
19 hearing on any claim against the ward protected person by a  
20 coconservator.

21 Sec. 64. Section 633.662, Code 2021, is amended to read as  
22 follows:

23 **633.662 Claims not filed.**

24 The conservator may pay any valid claim against the estate of  
25 the ward protected person even though such claim has not been  
26 filed, but all such payments made by the conservator shall be  
27 at the conservator's own peril.

28 Sec. 65. Section 633.664, Code 2021, is amended to read as  
29 follows:

30 **633.664 Liens not affected by failure to file claim.**

31 Nothing in **sections 633.654** and **633.658** shall affect or  
32 prevent an action or proceeding to enforce any mortgage,  
33 pledge, or other lien upon the property of the ward protected  
34 person.

35 Sec. 66. Section 633.665, Code 2021, is amended to read as

1 follows:

2 **633.665 Separate actions and claims.**

3 1. Any action pending against the ward protected person at  
4 the time the conservator is appointed shall also be considered  
5 a claim filed in the conservatorship if notice of substitution  
6 is served on the conservator as defendant and a duplicate of  
7 the proof of service of notice of such proceeding is filed in  
8 the conservatorship proceeding.

9 2. A separate action based on a debt or other liability  
10 of the ward protected person may be commenced against the  
11 conservator in lieu of filing a claim in the conservatorship.  
12 Such an action shall be commenced by serving an original notice  
13 on the conservator and filing a duplicate of the proof of  
14 service of notice of such proceeding in the conservatorship  
15 proceeding. Such an action shall also be considered a claim  
16 filed in the conservatorship. Such an action may be commenced  
17 only in a county where the venue would have been proper if  
18 there were no conservatorship and the action had been commenced  
19 against the ward protected person.

20 Sec. 67. Section 633.667, Code 2021, is amended to read as  
21 follows:

22 **633.667 Payment of claims in insolvent conservatorships.**

23 When it appears that the assets in a conservatorship are  
24 insufficient to pay in full all the claims against such  
25 conservatorship, the conservator shall report such matter to  
26 the court, and the court shall, upon hearing, with notice to  
27 all persons who have filed claims in the conservatorship, make  
28 an order for the pro rata payment of claims giving claimants  
29 the same priority, if any, as they would have if the ward  
30 protected person were not under conservatorship.

31 Sec. 68. Section 633.668, Code 2021, is amended to read as  
32 follows:

33 **633.668 Conservator may make gifts.**

34 For good cause shown and under order of court, a conservator  
35 may make gifts on behalf of the ward protected person out of



1 the assets under a conservatorship to persons or religious,  
2 educational, scientific, charitable, or other nonprofit  
3 organizations to whom or to which such gifts were regularly  
4 made prior to the commencement of the conservatorship, or on  
5 a showing to the court that such gifts would benefit the ward  
6 protected person or the ward's protected person's estate from  
7 the standpoint of income, gift, estate or inheritance taxes.  
8 The making of gifts out of the assets must not foreseeably  
9 impair the ability to provide adequately for the best interests  
10 of the ward protected person.

11 Sec. 69. Section 633.673, Code 2021, is amended to read as  
12 follows:

13 **633.673 Court costs in guardianships.**

14 The ward protected person or the ward's protected person's  
15 estate shall be charged with the court costs of a ward's  
16 guardianship, including the guardian's fees and the fees of the  
17 attorney for the guardian. The court may, upon application,  
18 enter an order waiving payment of the court costs in indigent  
19 cases. However, if the ward protected person or ward's  
20 protected person's estate becomes financially capable of paying  
21 any waived costs, the costs shall be paid immediately.

22 Sec. 70. Section 633.676, Code 2021, is amended to read as  
23 follows:

24 **633.676 Assets exhausted.**

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

29 Sec. 71. Section 633.677, Code 2021, is amended to read as  
30 follows:

31 **633.677 Accounting to ward protected person — notice.**

32 Upon the termination of a conservatorship, the conservator  
33 shall pay the costs of administration and shall render a full  
34 and complete accounting to the ward protected person or the  
35 ward's protected person's personal representative and to the

1 court. Notice of the final report of a conservator shall be  
2 served on the ward protected person or the ward's protected  
3 person's personal representative, in accordance with section  
4 633.40, unless notice is waived. An order prescribing notice  
5 may be made before or after the filing of the final report.

6 Sec. 72. Section 633.681, Code 2021, is amended to read as  
7 follows:

8 **633.681 Assets of minor ward protected person exhausted.**

9 When the assets of a minor ward's protected person's  
10 conservatorship are exhausted or consist of personal property  
11 only of an aggregate value not in excess of twenty-five  
12 thousand dollars, the court, upon application or upon its  
13 own motion, may terminate the conservatorship. The order  
14 for termination shall direct the conservator to deliver any  
15 property remaining after the payment of allowed claims and  
16 expenses of administration to a custodian under any uniform  
17 transfers to minors Act. Such delivery shall have the same  
18 force and effect as if delivery had been made to the ward  
19 protected person after attaining majority.

20 Sec. 73. Section 633.682, Code 2021, is amended to read as  
21 follows:

22 **633.682 Discharge of conservator and release of bond.**

23 Upon settlement of the final accounting of a conservator,  
24 and upon determining that the property of the ward protected  
25 person has been delivered to the person or persons lawfully  
26 entitled thereto, the court shall discharge the conservator and  
27 exonerate the surety on the conservator's bond.

28 EXPLANATION

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

31 This bill relates to the administration of adult and minor  
32 guardianships and conservatorships.

33 Under current law, the juvenile court has exclusive  
34 jurisdiction of guardianship proceedings. The bill provides  
35 that the juvenile court also has exclusive jurisdiction over

1 guardianships of minors.

2 The bill creates a new Code section that makes official  
3 juvenile court records in guardianships confidential and not  
4 public records. The following people are authorized to request  
5 the records without court order: the judge and professional  
6 court staff, the minor and the minor's counsel, the minor's  
7 parent, guardian, or custodian, court visitor, and any counsel  
8 representing such person, so long as they do not disclose the  
9 confidential record or contents unless required by law.

10 Under current law, the petition for minor and adult  
11 guardianships includes the name and address of any adult  
12 who has had the primary care of the minor or with whom the  
13 protected person has lived for at least six months prior to the  
14 filing of the petition. The bill requires the name and address  
15 of any adult who has had the primary care of the protected  
16 person or with whom the protected person had lived with at any  
17 time during the six months prior to the filing of the petition.

18 The bill provides that in addition to stating in the  
19 guardianship for the minor petition why a limited guardianship  
20 is appropriate, the petition must also state whether a  
21 conservatorship for the minor is already in place.

22 The bill provides that notice of a guardianship proceeding  
23 must be given to any adult with whom the minor has lived for the  
24 six months immediately preceding the filing of the petition.

25 The bill further provides that if a minor's known parents  
26 have not consented to the appointment of a guardian, the notice  
27 of the filing of a guardianship petition shall inform the known  
28 parents that they are entitled to representation if they meet  
29 the conditions in Code section 232D.304.

30 Under current law, qualification for a court visitor is not  
31 provided. The bill provides a person is qualified to serve  
32 as a court visitor for a minor or adult protected person if  
33 the court determines the person has demonstrated sufficient  
34 knowledge of guardianships to adequately perform the duties of  
35 a court visitor.

1 The bill changes the requirements of the background checks  
2 for a proposed guardian of the minor. Previously, the proposed  
3 guardian for the minor could use background checks from the  
4 past 12 months prior to filing the petition. The bill changes  
5 that time frame to six months and adds that the background  
6 check needs to have been provided to the court. The bill also  
7 includes the same provision for adult guardianships.

8 The bill strikes a reference to "without prior court  
9 approval" in a Code section listing powers a court may grant  
10 to a guardian.

11 The bill also directs that the initial verified care plan  
12 must include the guardian's plan for applying and receiving  
13 funds and benefits for the support of the minor.

14 The bill allows a district court conducting checks of the  
15 dependent adult abuse registry for all proposed guardians and  
16 conservators pursuant to Code section 633.564 to have access  
17 to dependent adult abuse information other than unfounded  
18 dependent adult abuse information.

19 The bill provides that a court visitor will be discharged  
20 upon the appointment of a guardian or conservator unless  
21 ordered by the court to continue.

22 The bill enacts new Code section 633.640A, which provides  
23 the powers of a conservator upon appointment. The bill  
24 provides that an order appointing a conservator shall state  
25 the basis for the conservatorship, and upon appointment  
26 the conservator may exercise the powers relating to all  
27 fiduciaries, unless expressly modified by the court, without  
28 prior court approval. These powers include but are not  
29 limited to the following: making written requests for the  
30 purpose of obtaining the property of the protected person,  
31 or obtaining information about the property of the protected  
32 person; designating and employing an attorney to assist in  
33 the administration of the estate of the protected person;  
34 holding investments in the name of a bank or trustee company;  
35 and requiring a bank to show ownership of investments held in

1 nominee name and keep them separate from the assets of the  
2 bank. The bill further provides that until the conservator  
3 files and the court approves an initial financial management  
4 plan, the conservator may exercise the following powers without  
5 court approval except as otherwise ordered by the court:  
6 collect, receive, and receipt for any principal or income of  
7 the protected person; receive property of the protected person  
8 from any source; and continue to hold any investment or other  
9 property of the protected person. The bill also provides that  
10 the clerk of the court shall issue letters of appointment upon  
11 the filing of an appropriate oath by the conservator and a  
12 copy of the initial order of the court and any future order,  
13 granting or limiting the authority of the conservator to act on  
14 behalf of the protected person shall be attached to the letters  
15 of appointment.

16 The bill amends the information required to be contained in  
17 a guardian's written verified reports including the initial  
18 care plan and annual reports, and information required to be  
19 included in reports by conservators including the initial  
20 financial management plan, including an inventory of the  
21 protected person's assets and debts, the annual report, and the  
22 final report.

23 The bill amends reporting requirements for guardians, and  
24 requires that guardians must obtain court approval prior to any  
25 significant deviation from the initial care plan filed with the  
26 court.

27 The bill amends reporting requirements for conservators.  
28 The conservator must give notice of filing a plan, and if no  
29 objection is made within 20 days, the conservator must submit  
30 a proposed order to the court approving the initial plan. If  
31 there are objections to the plan, the court must set the matter  
32 for hearing.

33 The bill makes conforming changes to the probate code by  
34 changing the term "ward" to "protected person".