

Senate Study Bill 1147 - Introduced

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

A BILL FOR

1 An Act relating to the creation, administration, and
2 termination of adult and minor guardianships and
3 conservatorships.
4 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 2023, 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 232D.103, Code 2023, is amended to read as
18 follows:

19 **232D.103 Jurisdiction.**

20 The juvenile court has exclusive jurisdiction in a
21 guardianship proceeding concerning a minor who is alleged to be
22 in need of a guardianship and guardianships of minors.

23 Sec. 3. NEW SECTION. **232D.107 Confidentiality.**

24 Official juvenile court records in guardianship proceedings
25 shall be confidential and are not public records. The court,
26 at its discretion, may authorize other persons to access such
27 records. Confidential records may be inspected and their
28 contents shall be disclosed to all of the following without
29 court order, provided that a person or entity who inspects
30 or receives a confidential record under this section shall
31 not disclose the confidential record or its contents unless
32 permitted by law:

- 33 1. The judge and professional court staff.
34 2. The minor and the minor's counsel.
35 3. The minor's parent, guardian or custodian, court

1 visitor, and any counsel representing such person.

2 Sec. 4. Section 232D.301, subsection 2, paragraph d,
3 subparagraph (3), Code 2023, is amended to read as follows:

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

8 Sec. 5. Section 232D.301, subsection 4, Code 2023, is
9 amended to read as follows:

10 4. The petition shall state whether a limited guardianship
11 is appropriate, and whether a conservatorship for the minor is
12 already in existence.

13 Sec. 6. Section 232D.302, subsection 2, Code 2023, is
14 amended to read as follows:

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

22 Sec. 7. Section 232D.305, subsection 1, Code 2023, is
23 amended to read as follows:

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

28 Sec. 8. Section 232D.305, subsection 3, paragraph b, Code
29 2023, is amended to read as follows:

30 b. Explaining to the minor, if the minor's age is
31 appropriate, the substance of the petition, the purpose and
32 effect of the guardianship proceeding, ~~the rights of the~~
33 ~~minor at the hearing,~~ and the general powers and duties of a
34 guardian.

35 Sec. 9. Section 232D.305, Code 2023, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 6. The court may order a court visitor to
3 continue to serve if the court determines continued service
4 would be in the best interest of the minor. If the court
5 continues the services of the court visitor, the court may
6 limit the direct duties of the court visitor as the court deems
7 necessary in which case the court visitor shall thereafter
8 continue to serve until discharged by the court. If the
9 court does not order the court visitor to continue, the order
10 appointing the guardian shall discharge the court visitor.

11 Sec. 10. Section 232D.306, Code 2023, is amended by adding
12 the following new subsection:

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

15 Sec. 11. Section 232D.307, subsection 1, Code 2023, is
16 amended to read as follows:

17 1. The court shall request criminal record checks and checks
18 of the child abuse, dependent adult abuse, and sex offender
19 registries in this state for all proposed guardians other than
20 financial institutions with Iowa trust powers unless a proposed
21 guardian has undergone the required background checks in this
22 section within the ~~twelve~~ six months prior to the filing of
23 a petition and the background check has been provided to the
24 court.

25 Sec. 12. Section 232D.401, subsection 1, Code 2023, is
26 amended to read as follows:

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

30 Sec. 13. Section 232D.401, subsection 3, unnumbered
31 paragraph 1, Code 2023, is amended to read as follows:

32 An order by the court appointing a guardian for a minor shall
33 state the powers granted to the guardian until such time as the
34 guardian files an initial care plan and such plan is approved
35 by the court as required by section 232D.501, subsection 4.

1 Except as otherwise limited by ~~court~~ an order appointing a
2 guardian for a minor, the court may grant the guardian the
3 following powers, ~~which may be exercised without prior court~~
4 ~~approval~~:

5 Sec. 14. Section 232D.501, subsection 1, paragraph a, Code
6 2023, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (03) The guardian's plan, if any, for
8 applying for and receiving funds and benefits payable for the
9 support of the minor.

10 Sec. 15. Section 232D.501, subsection 1, paragraph b, Code
11 2023, is amended by adding the following new subparagraph:

12 NEW SUBPARAGRAPH. (11) The results of the guardian's
13 efforts to apply for funds or benefits for the minor, and
14 an accounting for the use of such funds or benefits by the
15 guardian.

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

18 Sec. 16. Section 232D.501, Code 2023, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 5. The court, for good cause, may extend
21 the deadline for filing required reports. Required reports of
22 a guardian which are not timely filed and which are delinquent,
23 and for which no extension for filing has been granted by the
24 court, shall be administered in the same manner as provided in
25 section 633.32.

26 DIVISION II

27 ADULT GUARDIANSHIPS AND MINOR AND ADULT CONSERVATORSHIPS

28 Sec. 17. Section 235B.6, subsection 2, paragraph d, Code
29 2023, is amended by adding the following new subparagraph:

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

33 Sec. 18. Section 633.556, subsections 4, 5, and 8, Code
34 2023, are amended to read as follows:

35 4. The petition shall list ~~the name and address~~ all of the

1 ~~petitioner and the petitioner's relationship to the respondent~~
2 following:

3 a. The name and address of the respondent.

4 b. The name and address of the petitioner, and the
5 petitioner's relationship to the respondent.

6 c. The name and address of the proposed guardian or
7 conservator, and the reason the proposed guardian or
8 conservator should be selected.

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

11 ~~a. The name and address of the proposed guardian and the~~
12 ~~reason the proposed guardian should be selected.~~

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

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

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

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

23 ~~f.~~ e. Any legal representative or representative payee of
24 the respondent.

25 ~~g.~~ f. Any person designated as an attorney in fact in a
26 durable power of attorney for health care which is valid under
27 chapter 144B, or any person designated as an agent in a durable
28 power of attorney which is valid under [chapter 633B](#).

29 8. The petition shall provide a brief description of
30 the respondent's alleged functional limitations that make
31 the respondent unable to communicate or carry out important
32 decisions concerning the respondent's financial affairs if
33 the petition is for appointment of a conservator for an adult
34 respondent, or a brief description of the respondent's alleged
35 inability to care for the respondent's safety or provide for

1 necessities such as food, shelter, clothing, or medical care
2 without which physical injury or illness may occur if the
3 petition requests the appointment of a guardian.

4 Sec. 19. Section 633.560, subsection 3, Code 2023, is
5 amended to read as follows:

6 3. The court shall require the proposed guardian or
7 conservator to attend the hearing on the petition but the court
8 may excuse the proposed guardian's or conservator's attendance
9 for good cause shown.

10 Sec. 20. Section 633.561, subsection 6, Code 2023, is
11 amended to read as follows:

12 6. If the court determines that it would be in the
13 respondent's best interest to have legal representation
14 with respect to any further proceedings in a guardianship
15 or conservatorship, the court may appoint an attorney to
16 represent the respondent at the expense of the respondent or
17 the respondent's estate, or if the respondent is indigent the
18 cost of the court appointed attorney shall be assessed against
19 the county in which the proceedings are pending.

20 Sec. 21. Section 633.562, subsection 1, Code 2023, is
21 amended to read as follows:

22 1. If the court determines that the appointment of a court
23 visitor would be in the best interest of the respondent, the
24 court shall appoint a court visitor at the expense of the
25 respondent or the respondent's estate, or, if the respondent
26 is indigent, the cost of the court visitor shall be assessed
27 against the county in which the proceedings are pending. The
28 court may appoint any qualified person as a court visitor in
29 a guardianship or conservatorship proceeding. A person is
30 qualified to serve in this capacity if the court determines the
31 person has demonstrated sufficient knowledge of guardianships
32 or conservatorships to adequately perform the duties in
33 subsection 3.

34 Sec. 22. Section 633.562, subsection 3, paragraph b, Code
35 2023, is amended to read as follows:

1 *b.* Explaining to the respondent the substance of the
2 petition, the purpose and effect of the guardianship or
3 conservatorship proceeding, ~~the rights of the respondent at~~
4 ~~the hearing,~~ and the general powers and duties of a guardian
5 or conservator.

6 Sec. 23. Section 633.562, Code 2023, is amended by adding
7 the following new subsection:

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

18 Sec. 24. Section 633.563, subsection 1, Code 2023, is
19 amended by adding the following new paragraph:

20 NEW PARAGRAPH. *c.* The petition is for opening a
21 conservatorship for a minor.

22 Sec. 25. Section 633.564, subsection 1, Code 2023, is
23 amended to read as follows:

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

32 Sec. 26. Section 633.569, subsections 1, 2, and 3, Code
33 2023, are amended to read as follows:

34 1. A person authorized to file a petition under section
35 ~~633.552, 633.553, or 633.554~~ 633.556 or 633.557 may file an

1 application for the emergency appointment of a temporary
2 guardian or conservator.

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

4 a. The name and address of the respondent.

5 b. The name and address of the petitioner and the
6 petitioner's relationship to the respondent.

7 ~~b.~~ c. The name and address of the proposed guardian or
8 conservator and the reason the proposed guardian or conservator
9 should be selected.

10 d. The names and addresses, to the extent known, of any
11 other persons who must be named in the petition for the
12 appointment of a guardian or conservator under section 633.556
13 or 633.557.

14 ~~e.~~ e. The reason the emergency appointment of a temporary
15 guardian or conservator is sought.

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

20 a. There is not sufficient time to file a petition and hold
21 a hearing pursuant to ~~section 633.552, 633.553, or 633.554~~
22 633.556, 633.557, or 633.560.

23 b. The appointment of a temporary guardian or conservator
24 is necessary to avoid immediate or irreparable harm to the
25 respondent before a hearing with notice to the respondent can
26 be held.

27 c. There is reason to believe that the basis for appointment
28 of guardian or conservator exists under ~~section 633.552,~~
29 ~~633.553, or 633.554~~ 633.556 or 633.557.

30 Sec. 27. Section 633.569, Code 2023, is amended by adding
31 the following new subsections:

32 NEW SUBSECTION. 8. The court may order an extension of
33 the temporary guardianship or conservatorship for good cause
34 shown. Prior to or contemporaneously with the filing for
35 an application for the extension of time, the guardian or

1 conservator shall file a report with the court setting forth
2 all of the following:

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

6 b. All actions that the guardian or conservator plans to
7 conduct on behalf of the protected person during the extension
8 period.

9 NEW SUBSECTION. 9. The temporary guardian or conservator
10 shall submit any other report the court requires.

11 Sec. 28. Section 633.570, subsections 1 and 2, Code 2023,
12 are amended to read as follows:

13 1. In a proceeding for the appointment of a guardian, the
14 respondent shall be given written notice which advises the
15 respondent ~~of the powers that~~ the court may grant a guardian
16 ~~may exercise without court approval pursuant to the powers set~~
17 out in section 633.635, subsection 2, and the powers ~~that the~~
18 ~~guardian may exercise only with court approval pursuant to set~~
19 out in section 633.635, subsection 3.

20 2. In a proceeding for the appointment of a conservator,
21 the respondent shall be given written notice which advises the
22 respondent ~~of the powers that~~ the court may grant a conservator
23 ~~may exercise without court approval pursuant to section 633.646~~
24 ~~and the powers that the conservator may exercise only with~~
25 ~~court approval pursuant to section 633.647~~ the powers set out
26 in sections 633.641 and 633.642.

27 Sec. 29. Section 633.635, subsection 3, unnumbered
28 paragraph 1, Code 2023, 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. 30. Section 633.641, subsection 3, Code 2023, is
33 amended to read as follows:

34 3. If the court appoints a conservator for a protected
35 person who has previously executed a valid power of attorney

1 under chapter 633B, ~~the conservator shall act in accordance~~
2 ~~with the applicable provisions of chapter 633B~~ the power of
3 attorney is suspended unless the power of attorney provides
4 otherwise or unless the court determines the power of attorney
5 should continue. If the power of attorney continues, the agent
6 is accountable to the conservator as well as to the protected
7 person. The power of attorney shall be reinstated upon
8 termination of the conservatorship as a result of the protected
9 person regaining capacity.

10 Sec. 31. Section 633.642, Code 2023, is amended by striking
11 the section and inserting in lieu thereof the following:

12 **633.642 Powers of conservator.**

13 1. An order by the court appointing a conservator shall
14 state the basis for the conservatorship pursuant to section
15 633.553 or section 633.554.

16 2. Upon appointment by the court, and until such time as the
17 conservator files an initial financial management plan and such
18 plan is approved by the court as required by section 633.670,
19 subsection 1, a conservator has the authority to exercise all
20 powers applicable to fiduciaries pursuant to sections 633.63
21 through 633.162, unless expressly modified by the court.

22 3. In the order approving an initial financial management
23 plan or an annual report, the court shall approve and set forth
24 the specific powers of a conservator, which may be thereafter
25 exercised by the conservator until further court order. Except
26 as otherwise ordered by the court, a conservator must give
27 notice to persons entitled to notice and receive specific prior
28 authorization by the court before the conservator may take any
29 other action on behalf of the protected person.

30 4. Upon the filing of an appropriate oath by the
31 conservator, the clerk of court shall issue letters of
32 appointment. A copy of the initial order of the court shall be
33 attached to the letters of appointment.

34 Sec. 32. Section 633.669, Code 2023, is amended by striking
35 the section and inserting in lieu thereof the following:

1 **633.669 Reports by guardians.**

2 1. The court shall assign a guardianship created under
3 this chapter, and may reassign as necessary in the court's
4 discretion, to one of following reporting tiers:

5 *a.* Tier I: A guardian assigned a tier I guardianship shall
6 file with the court a verified annual report which shall not
7 be waived by the court. The annual report shall include all of
8 the following:

9 (1) The current mental and physical condition of the
10 protected person.

11 (2) The present living arrangement of the protected person,
12 including a description of each residence where the protected
13 person has resided during the reporting period.

14 (3) A summary of the medical, educational, vocational and
15 technical, and other professional services provided for the
16 protected person.

17 (4) A description of the guardian's visits with and
18 activities on behalf of the protected person.

19 (5) A recommendation as to the need for continued
20 guardianship.

21 (6) Other information requested by the court or useful in
22 the opinion of the guardian.

23 *b.* Tier II: A guardian assigned a tier II guardianship
24 shall file with the court the following written verified
25 reports which shall not be waived by the court:

26 (1) An initial care plan filed within sixty days of
27 appointment. The information in the initial care plan shall
28 include but is not limited to the following information:

29 (a) The current residence of the protected person and the
30 guardian's plan for the protected person's living arrangements.

31 (b) The guardian's plan for payment of the protected
32 person's living expenses and other expenses.

33 (c) The protected person's health status and health care
34 needs, and the guardian's plan for meeting the protected
35 person's needs for medical, dental, and other health care

1 needs.

2 (d) Whether the protected person has a living will or health
3 care power of attorney.

4 (e) If applicable, the protected person's need for other
5 professional services for mental, behavioral, or emotional
6 health, and the guardian's plan for other professional services
7 needed by the protected person.

8 (f) If applicable, the protected person's employment
9 status, the protected person's need for educational, training,
10 or vocational services, and the guardian's plan for meeting the
11 educational, training, and vocational needs of the protected
12 person.

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

15 (h) The guardian's plan for facilitating contacts between
16 the protected person and the protected person's family members
17 and other persons significant in the life of the protected
18 person.

19 (i) The guardian's plan for contact with, and activities on
20 behalf of, the protected person.

21 (j) The powers that the guardian requests to carry out the
22 initial care plan.

23 (2) An amended plan when there has been a significant
24 change in the circumstances or the guardian seeks to deviate
25 significantly from the plan. The guardian must obtain court
26 approval of the amended plan before implementing any of its
27 provisions.

28 (3) An annual report, filed within sixty days of the close
29 of the reporting period. The information in the annual report
30 shall include but is not limited to the following information:

31 (a) The current living arrangements of the protected
32 person.

33 (b) The sources of payment for the protected person's living
34 expenses and other expenses.

35 (c) A description, if applicable, of the following:

1 (i) The protected person's physical and mental health
2 status and the medical, dental, and other professional services
3 provided to the protected person.

4 (ii) If applicable, the protected person's employment
5 status and the educational, training, and vocational services
6 provided to the protected person.

7 (iii) The contact of the protected person with family
8 members and other significant persons.

9 (iv) The nature and extent of the guardian's visits with,
10 and activities on behalf of, the protected person.

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

13 (e) The ability of the guardian to continue as guardian.

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

17 (g) Any other information the guardian deems necessary for
18 the court to consider.

19 2. The guardian under a tier I or II guardianship shall file
20 a final report within thirty days of the termination of the
21 guardianship under section 633.675 unless that time is extended
22 by the court.

23 3. The court shall develop a simplified uniform reporting
24 form for use in filing the required reports.

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

29 5. Reports of guardians shall be reviewed and approved by a
30 district court judge or referee.

31 6. The court, for good cause, may extend the deadline for
32 filing required reports. Required reports of a guardian which
33 are not timely filed and which are delinquent, and for which no
34 extension for filing has been granted by the court, shall be
35 administered as provided in section 633.32.

1 7. The guardian shall provide a copy of the reports required
2 by this section to the protected person, the protected person's
3 attorney, if any, and the court visitor, if any.

4 Sec. 33. Section 633.670, Code 2023, is amended by striking
5 the section and inserting in lieu thereof the following:

6 **633.670 Reports by conservators.**

7 1. The court shall assign a conservatorship created under
8 this chapter, and may reassign as necessary in the court's
9 discretion, to one of following reporting tiers:

10 a. Tier I: A conservator assigned a tier I conservatorship
11 shall file with the court a verified annual report which shall
12 not be waived by the court. The annual report shall include
13 all of the following:

14 (1) The balance of funds on hand at the close of the last
15 previous accounting, and all amounts received from any source
16 during the period covered by the accounting.

17 (2) All disbursements made during the period covered by the
18 accounting.

19 (3) Any changes in investments since the last previous
20 report, including a list of all assets, and recommendations
21 of the conservator for the retention or disposition of any
22 property held by the conservator.

23 (4) The amount of the bond and the name of the surety on the
24 bond.

25 (5) The residence or physical location of the protected
26 person.

27 (6) The general physical and mental condition of the
28 protected person.

29 (7) Such other information as is necessary to show the
30 condition of the affairs of the conservatorship.

31 b. Tier II: A conservator assigned a tier II
32 conservatorship shall file with the court a verified initial
33 financial management plan for protecting, managing, investing,
34 expending, and distributing the assets of the conservatorship
35 estate within ninety days after appointment, which shall not

1 be waived by the court. The plan must be based on the needs of
2 the protected person and take into account the best interest
3 of the protected person as well as the protected person's
4 preference, values, and prior directions to the extent known
5 to, or reasonably ascertainable by, the conservator.

6 (1) The initial financial management plan must state the
7 protected person's age, residence, living arrangements, and
8 sources of payment for living expenses.

9 (2) If applicable, the protected person's will shall be
10 filed with the court clerk and the protected person's prepaid
11 burial trust and powers of attorney shall be described.

12 (3) The conservator shall provide notice of the filing of
13 the initial financial management plan and a copy of the plan
14 to the protected person, the protected person's attorney, if
15 any, and court visitor, if any, and others as directed by the
16 court. The notice must state that any person entitled to a
17 copy of the plan must file any objections to the plan not later
18 than twenty days from the date of mailing notice of filing the
19 initial plan.

20 (4) At least twenty days after the initial financial
21 management plan has been filed, the court shall review and
22 determine whether the plan should be approved or revised, after
23 considering objections filed and whether the plan is consistent
24 with the conservator's powers and duties.

25 (5) After approval of the initial financial management
26 plan by the court, the conservator shall provide a copy of the
27 approved plan and order approving the plan to the protected
28 person, the protected person's attorney, if any, and court
29 visitor, if any, and others as directed by the court.

30 (6) The conservator shall file an amended financial
31 management plan when there has been a significant change in
32 circumstances or the conservator seeks to deviate significantly
33 from the plan. Before the amended plan is implemented, the
34 provisions for court approval of the plan shall be followed as
35 provided in the initial financial management plan.

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

19 (8) (a) The conservator shall file a verified report on
20 an annual basis for the period since the end of the preceding
21 report period, which shall not be waived by the court.

22 (b) The annual report required by this subparagraph shall
23 state the age, the residence, and the living arrangements of
24 the protected person, and sources of payment for the protected
25 person's living expenses during the reporting period.

26 (c) The conservator shall submit with the annual report
27 required by this subparagraph an inventory of the assets of the
28 protected person as of the last day of the reporting period the
29 total value of assets at the beginning and end of the reporting
30 period.

31 2. The conservator assigned a tier I or II conservatorship
32 shall file a verified final report with the court as follows:

33 a. Within thirty days following removal of the conservator.

34 b. Upon the conservator's filing of a resignation and before
35 the resignation is accepted by the court.

1 c. Within sixty days following the termination of the
2 conservatorship.

3 d. At other times as ordered by the court.

4 3. The conservator shall provide a copy of the initial
5 financial management plan, if applicable, the inventory of the
6 protected person's assets, if applicable, and the annual report
7 to the protected person, the protected person's attorney, if
8 any, and court visitor, if any, and the veterans administration
9 if the protected person is receiving veterans' benefits.

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

15 5. Reports of conservators shall be reviewed and approved by
16 a district court judge or referee.

17 Sec. 34. Section 633.675, subsections 2, 3, and 5, Code
18 2023, are amended to read as follows:

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

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

27 5. 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 DIVISION III

32 CONFORMING CHANGES

33 Sec. 35. Section 10.1, subsection 7, Code 2023, is amended
34 to read as follows:

35 7. "*Farm estate*" means the real and personal property of a

1 decedent, a ~~ward~~ protected person, or a trust as provided in
2 chapters 633 and 633A, if at least sixty percent of the gross
3 receipts from the estate comes from farming.

4 Sec. 36. Section 217.40, Code 2023, is amended to read as
5 follows:

6 **217.40 Training for guardians and conservators.**

7 The department of human services, or a person designated
8 by the director, shall establish training programs designed
9 to assist all duly appointed guardians and conservators in
10 understanding their fiduciary duties and liabilities, the
11 special needs of the ~~ward~~ protected person, and how to best
12 serve the ~~ward~~ protected person and the ~~ward's~~ protected
13 person's interests.

14 Sec. 37. Section 231E.2, subsection 2, paragraph b, Code
15 2023, is amended to read as follows:

16 b. It is also the intent of the general assembly that the
17 state office of public guardian provide assistance to both
18 public and private guardians, conservators, and representative
19 payees throughout the state in securing necessary services
20 for their ~~wards~~ protected persons and clients, and to assist
21 guardians, conservators, representative payees, ~~wards~~ protected
22 persons, clients, courts, and attorneys in the orderly and
23 expeditious handling of guardianship, conservatorship, and
24 representative payee proceedings.

25 Sec. 38. Section 231E.3, subsection 17, Code 2023, is
26 amended to read as follows:

27 17. "~~Ward~~" "Protected person" means the individual for whom
28 a guardianship or conservatorship is established.

29 Sec. 39. Section 231E.4, subsection 3, paragraphs f and h,
30 Code 2023, are amended to read as follows:

31 f. Develop and maintain a current listing of public and
32 private services and programs available to assist ~~wards~~
33 protected persons and clients, and their families, and
34 establish and maintain relationships with public and private
35 entities to assure the availability of effective guardianship,

1 conservatorship, and representative payee services for ~~wards~~
2 protected persons and clients.

3 *h.* Maintain statistical data on the local offices including
4 various methods of funding, the types of services provided, and
5 the demographics of the ~~wards~~ protected persons and clients,
6 and report to the general assembly on or before November
7 1, annually, regarding the local offices and recommend any
8 appropriate legislative action.

9 Sec. 40. Section 231E.4, subsection 6, paragraph e, Code
10 2023, is amended to read as follows:

11 *e.* A fee schedule. The department may establish by
12 rule a schedule of reasonable fees for the costs of public
13 guardianship services provided under [this chapter](#). The fee
14 schedule established may be based upon the ability of the ~~ward~~
15 protected person or client to pay for the services but shall
16 not exceed the actual cost of providing the services. The
17 state office or a local office may waive collection of a fee
18 upon a finding that collection is not economically feasible.
19 The rules may provide that the state office or a local office
20 may investigate the financial status of a ~~ward~~ protected person
21 or client that requests guardianship, conservatorship, or
22 representative payee services or for whom the state public
23 guardian or a local public guardian has been appointed for
24 the purpose of determining the fee to be charged by requiring
25 the ~~ward~~ protected person or client to provide any written
26 authorizations necessary to provide access to records of
27 public or private sources, otherwise confidential, needed to
28 evaluate the individual's financial eligibility. The rules
29 may also provide that the state public guardian or a local
30 public guardian may, upon request and without payment of fees
31 otherwise required by law, obtain information necessary to
32 evaluate the individual's financial eligibility from any office
33 of the state or of a political subdivision or agency of the
34 state that possesses public records.

35 Sec. 41. Section 231E.5, subsection 2, paragraph g,

1 unnumbered paragraph 1, Code 2023, is amended to read as
2 follows:

3 With regard to a proposed ~~ward~~ protected person, the local
4 office shall do all of the following:

5 Sec. 42. Section 231E.5, subsection 2, paragraph g,
6 subparagraphs (2), (3), and (4), Code 2023, are amended to read
7 as follows:

8 (2) Determine whether the needs of the proposed ~~ward~~
9 protected person require the appointment of a guardian or
10 conservator.

11 (3) Assess the financial resources of the proposed ~~ward~~
12 protected person based on the information supplied to the local
13 office at the time of the determination.

14 (4) Inquire and, if appropriate, search to determine
15 whether any other person may be willing and able to serve as
16 the proposed ~~ward's~~ protected person's guardian or conservator.

17 Sec. 43. Section 231E.6, subsection 1, unnumbered paragraph
18 1, Code 2023, is amended to read as follows:

19 The court may appoint on its own motion or upon petition of
20 any person, the state office or a local office, to serve as
21 guardian or conservator for any proposed ~~ward~~ protected person
22 in cases in which the court determines that the proceeding
23 will establish the least restrictive form of guardianship
24 or conservatorship services suitable for the proposed ~~ward~~
25 protected person and if the proposed ~~ward~~ protected person
26 meets all of the following criteria:

27 Sec. 44. Section 231E.7, subsection 3, Code 2023, is amended
28 to read as follows:

29 3. The best interests of the ~~ward~~ protected person require
30 the intervention.

31 Sec. 45. Section 231E.8, subsections 2, 3, and 4, Code 2023,
32 are amended to read as follows:

33 2. The state office or local office shall maintain
34 reasonable personal contact with each ~~ward~~ protected person or
35 client for whom the state office or local office is appointed

1 or designated in order to monitor the ward's protected person's
2 or client's care and progress.

3 3. Notwithstanding any provision of law to the contrary,
4 the state office or local office appointed by the court may
5 access all confidential records concerning the ward protected
6 person for whom the state office or local office is appointed
7 or designated, including medical records and abuse reports.

8 4. In any proceeding in which the state or a local office is
9 appointed or is acting as guardian or conservator, the court
10 shall waive court costs or filing fees, if the state office
11 or local office certifies to the court that the state office
12 or local office has waived its fees in their entirety based
13 upon the ability of the ward protected person to pay for the
14 services of the state office or local office.

15 Sec. 46. Section 231E.8, subsection 6, paragraphs a, b, c,
16 and d, Code 2023, are amended to read as follows:

17 a. The ward protected person displays assaultive or
18 aggressive behavior that causes the public guardian to fear for
19 their personal safety.

20 b. The ward protected person refuses the services of the
21 public guardian.

22 c. The ward protected person refuses to have contact with
23 the public guardian.

24 d. The ward protected person moves out of Iowa.

25 Sec. 47. Section 252C.2, subsection 3, Code 2023, is amended
26 to read as follows:

27 3. The provision of child support collection or paternity
28 determination services under [chapter 252B](#) to an individual,
29 even though the individual is ineligible for public assistance,
30 creates a support debt due and owing to the individual or the
31 individual's child or ward protected person by the responsible
32 person in the amount of a support obligation established by
33 court order or by the administrator. The administrator may
34 establish a support debt in favor of the individual or the
35 individual's child or ward protected person and against the

1 responsible person, both as to amounts accrued and accruing,
2 pursuant to [section 598.21B](#).

3 Sec. 48. Section 282.2, Code 2023, is amended to read as
4 follows:

5 **282.2 Offsetting tax.**

6 The parent or guardian whose child or ~~ward~~ protected person
7 attends school in a district of which the parent or guardian is
8 not a resident shall be allowed to deduct the amount of school
9 tax paid by the parent or guardian in said district from the
10 amount of tuition required to be paid.

11 Sec. 49. Section 321.198, subsection 2, Code 2023, is
12 amended to read as follows:

13 2. The provisions of [this section](#) shall also apply to the
14 spouse and children, or ~~ward~~ protected person, of military
15 personnel when such spouse, children, or ~~ward~~ protected person
16 are living with the military personnel described in subsection
17 1 outside of the state of Iowa and provided that such extension
18 of license does not exceed five years.

19 Sec. 50. Section 321.219, subsection 1, Code 2023, is
20 amended to read as follows:

21 1. A person shall not cause or knowingly permit the person's
22 child or ~~ward~~ protected person under the age of eighteen years
23 to drive a motor vehicle upon any highway when the minor is not
24 authorized under [this chapter](#).

25 Sec. 51. Section 563.12, Code 2023, is amended to read as
26 follows:

27 **563.12 Special agreements — evidence.**

28 This chapter shall not prevent adjoining proprietors from
29 entering into special agreements about walls on the lines
30 between them, but no evidence thereof shall be competent unless
31 in writing, signed by the parties thereto or their lawfully
32 authorized agents, or the guardian of either, if a minor,
33 who shall have full authority to act for the guardian's ~~ward~~
34 protected person in all matters relating to walls in common
35 without an order of court therefor.

1 Sec. 52. Section 587.4, Code 2023, is amended to read as
2 follows:

3 **587.4 Decrees for sale of real estate by guardian.**

4 In all cases where decrees and orders of court have been
5 obtained for the sale of real estate by a guardian prior to
6 January 1, 1969, where the original notice shows that service
7 of notice pertaining to the sale of such real estate was made
8 on the minor or ~~ward~~ protected person outside of the state
9 of Iowa, such services of notices are hereby legalized. All
10 decrees so obtained as aforesaid are hereby legalized and held
11 to have the same force and effect as though the service of such
12 original notice had been made on the minor or ~~ward~~ protected
13 person within the state of Iowa.

14 Sec. 53. Section 595.3, subsection 5, Code 2023, is amended
15 to read as follows:

16 5. Where either party is a ~~ward~~ protected person under
17 a guardianship and the court has made a finding that the
18 ~~ward~~ protected person lacks the capacity to contract a valid
19 marriage.

20 Sec. 54. Section 598.29, subsection 4, Code 2023, is amended
21 to read as follows:

22 4. Where either party was a ~~ward~~ protected person under a
23 guardianship and was found by the court to lack the capacity
24 to contract a valid marriage.

25 Sec. 55. Section 633.3, subsections 9, 17, 22, and 23, Code
26 2023, are amended to read as follows:

27 9. "*Conservator*" means a person appointed by the court
28 to have the custody and control of the property of a ~~ward~~
29 protected person under the provisions of this probate code.

30 17. "*Estate*" means the real and personal property of either
31 a decedent or a ~~ward~~ protected person, and may also refer to
32 the real and personal property of a trust described in section
33 633.10.

34 22. "*Guardian*" means the person appointed by the court to
35 have the custody of the person of the ~~ward~~ protected person

1 under the provisions of this probate code.

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

7 Sec. 56. Section 633.78, subsection 1, unnumbered paragraph
8 1, Code 2023, is amended to read as follows:

9 A fiduciary under **this chapter** may present a written request
10 to any person for the purpose of obtaining property owned by
11 a decedent or by a ward protected person of a conservatorship
12 for which the fiduciary has been appointed, or property to
13 which a decedent or ward protected person is entitled, or
14 for information about such property needed to perform the
15 fiduciary's duties. The request must contain statements
16 confirming all of the following:

17 Sec. 57. Section 633.78, subsection 1, paragraph b, Code
18 2023, is amended to read as follows:

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

21 Sec. 58. Section 633.78, subsection 4, paragraph a, Code
22 2023, is amended to read as follows:

23 *a.* Damages sustained by the decedent's or ward's protected
24 person's estate.

25 Sec. 59. Section 633.80, Code 2023, is amended to read as
26 follows:

27 **633.80 Fiduciary of a fiduciary.**

28 A fiduciary has no authority to act in a matter wherein the
29 fiduciary's decedent or ward protected person was merely a
30 fiduciary, except that the fiduciary shall file a report and
31 accounting on behalf of the decedent or ward protected person
32 in said matter.

33 Sec. 60. Section 633.93, Code 2023, is amended to read as
34 follows:

35 **633.93 Limitation on actions affecting deeds.**

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

6 Sec. 61. Section 633.112, Code 2023, is amended to read as
7 follows:

8 **633.112 Discovery of property.**

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

19 Sec. 62. Section 633.123, subsection 1, paragraph b,
20 subparagraph (3), Code 2023, is amended to read as follows:

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

23 Sec. 63. Section 633.580, subsections 1 and 4, Code 2023,
24 are amended to read as follows:

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

27 4. A general description of the property of the proposed
28 ~~ward~~ protected person within this state and of the proposed
29 ~~ward's~~ protected person's right to receive property; also, the
30 estimated present value of the real estate, the estimated value
31 of the personal property, and the estimated gross annual income
32 of the estate. If any money is payable, or to become payable,
33 to the proposed ~~ward~~ protected person by the United States
34 through the United States department of veterans affairs, the
35 petition shall so state.

1 Sec. 64. Section 633.591A, Code 2023, is amended to read as
2 follows:

3 **633.591A Voluntary petition for appointment of conservator**
4 **for a minor — standby basis.**

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

14 Sec. 65. Section 633.603, Code 2023, is amended to read as
15 follows:

16 **633.603 Appointment of foreign conservators.**

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

26 Sec. 66. Section 633.604, Code 2023, is amended to read as
27 follows:

28 **633.604 Application.**

29 The application for appointment of a foreign conservator
30 or guardian as conservator in this state shall include the
31 name and address of the nonresident ~~ward~~ protected person, and
32 of the nonresident conservator or guardian, and the name and
33 address of the resident conservator to be appointed. It shall
34 be accompanied by a certified copy of the original letters
35 or other authority conferring the power upon the foreign

1 conservator or guardian to act as such. The application
2 shall also state the cause for the appointment of the foreign
3 conservator to act as sole conservator, if such be the case.

4 Sec. 67. Section 633.605, Code 2023, is amended to read as
5 follows:

6 **633.605 Personal property.**

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

12 Sec. 68. Section 633.607, Code 2023, is amended to read as
13 follows:

14 **633.607 Order for delivery.**

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

19 Sec. 69. Section 633.633, Code 2023, is amended to read as
20 follows:

21 **633.633 Provisions applicable to all fiduciaries shall**
22 **govern.**

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

30 Sec. 70. Section 633.633B, Code 2023, is amended to read as
31 follows:

32 **633.633B Tort liability of guardians and conservators.**

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

1 Sec. 71. Section 633.636, Code 2023, is amended to read as
2 follows:

3 **633.636 Effect of appointment of guardian or conservator.**

4 The appointment of a guardian or conservator shall not
5 constitute an adjudication that the ward protected person is of
6 unsound mind.

7 Sec. 72. Section 633.637, Code 2023, is amended to read as
8 follows:

9 **633.637 Powers of ward protected person.**

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

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

28 Sec. 73. Section 633.637A, Code 2023, is amended to read as
29 follows:

30 **633.637A Rights of ward protected person under guardianship.**

31 An adult ward protected person under a guardianship has the
32 right of communication, visitation, or interaction with other
33 persons upon the consent of the adult ward protected person,
34 subject to [section 633.635, subsection 2](#), paragraph "i", and
35 [section 633.635, subsection 3](#), paragraph "c". If an adult ward

1 protected person is unable to give express consent to such
2 communication, visitation, or interaction with a person due
3 to a physical or mental condition, consent of an adult ~~ward~~
4 protected person may be presumed by a guardian or a court based
5 on an adult ~~ward's~~ protected person's prior relationship with
6 such person.

7 Sec. 74. Section 633.638, Code 2023, is amended to read as
8 follows:

9 **633.638 Presumption of fraud.**

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

15 Sec. 75. Section 633.639, Code 2023, is amended to read as
16 follows:

17 **633.639 Title to ~~ward's~~ protected person's property.**

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

27 Sec. 76. Section 633.640, Code 2023, is amended to read as
28 follows:

29 **633.640 Conservator's right to possession.**

30 Every conservator shall have a right to, and shall take,
31 possession of all of the real and personal property of the
32 ~~ward~~ protected person. The conservator shall pay the taxes
33 and collect the income therefrom until the conservatorship is
34 terminated. The conservator may maintain an action for the
35 possession of the property, and to determine the title to the

1 same.

2 Sec. 77. Section 633.643, Code 2023, is amended to read as
3 follows:

4 **633.643 Disposal of will by conservator.**

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

8 Sec. 78. Section 633.644, Code 2023, is amended to read as
9 follows:

10 **633.644 Court order to preserve testamentary intent of ~~ward~~**
11 **protected person.**

12 Upon receiving an instrument purporting to be the will of a
13 living ~~ward~~ protected person under the provisions of section
14 633.643, the court may open said will and read it. The court
15 with or without notice, as it may determine, may enter such
16 orders in the conservatorship as it deems advisable for the
17 proper administration of the conservatorship in light of the
18 expressed testamentary intent of the ~~ward~~ protected person.

19 Sec. 79. Section 633.645, Code 2023, is amended to read as
20 follows:

21 **633.645 Court to deliver will to clerk.**

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

27 Sec. 80. Section 633.653A, Code 2023, is amended to read as
28 follows:

29 **633.653A Claims for cost of medical care or services.**

30 The provision of medical care or services to a ~~ward~~ protected
31 person who is a recipient of medical assistance under chapter
32 249A creates a claim against the conservatorship for the amount
33 owed to the provider under the medical assistance program for
34 the care or services. The amount of the claim, after being
35 allowed or established as provided in this part, shall be paid

1 by the conservator from the assets of the conservatorship.

2 Sec. 81. Section 633.654, Code 2023, is amended to read as
3 follows:

4 **633.654 Form and verification of claims — general**
5 **requirements.**

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

22 Sec. 82. Section 633.656, Code 2023, is amended to read as
23 follows:

24 **633.656 How claim entitled.**

25 All claims filed against the estate of the ~~ward~~ protected
26 person shall be entitled in the name of the claimant against
27 the conservator as such, naming the conservator, and in all
28 further proceedings thereon, this title shall be preserved.

29 Sec. 83. Section 633.660, Code 2023, is amended to read as
30 follows:

31 **633.660 Execution and levy prohibited.**

32 No execution shall issue upon, nor shall any levy be made
33 against, any property of the estate of a ~~ward~~ protected person
34 under any judgment against the ~~ward~~ protected person or a
35 conservator, but the provisions of **this section** shall not be so

1 construed as to prevent the enforcement of a mortgage, pledge,
2 or other lien upon property in an appropriate proceeding.

3 Sec. 84. Section 633.661, Code 2023, is amended to read as
4 follows:

5 **633.661 Claims of conservators.**

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

17 Sec. 85. Section 633.662, Code 2023, is amended to read as
18 follows:

19 **633.662 Claims not filed.**

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

24 Sec. 86. Section 633.664, Code 2023, is amended to read as
25 follows:

26 **633.664 Liens not affected by failure to file claim.**

27 Nothing in [sections 633.654](#) and [633.658](#) shall affect or
28 prevent an action or proceeding to enforce any mortgage,
29 pledge, or other lien upon the property of the ward protected
30 person.

31 Sec. 87. Section 633.665, Code 2023, is amended to read as
32 follows:

33 **633.665 Separate actions and claims.**

34 1. Any action pending against the ward protected person at
35 the time the conservator is appointed shall also be considered

1 a claim filed in the conservatorship if notice of substitution
2 is served on the conservator as defendant and a duplicate of
3 the proof of service of notice of such proceeding is filed in
4 the conservatorship proceeding.

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

16 Sec. 88. Section 633.667, Code 2023, is amended to read as
17 follows:

18 **633.667 Payment of claims in insolvent conservatorships.**

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

27 Sec. 89. Section 633.668, Code 2023, is amended to read as
28 follows:

29 **633.668 Conservator may make gifts.**

30 For good cause shown and under order of court, a conservator
31 may make gifts on behalf of the ward protected person out of
32 the assets under a conservatorship to persons or religious,
33 educational, scientific, charitable, or other nonprofit
34 organizations to whom or to which such gifts were regularly
35 made prior to the commencement of the conservatorship, or on

1 a showing to the court that such gifts would benefit the ward
2 protected person or the ward's protected person's estate from
3 the standpoint of income, gift, estate or inheritance taxes.
4 The making of gifts out of the assets must not foreseeably
5 impair the ability to provide adequately for the best interests
6 of the ward protected person.

7 Sec. 90. Section 633.671, subsections 5 and 6, Code 2023,
8 are amended to read as follows:

9 5. The residence or physical location of the ward protected
10 person.

11 6. The general physical and mental condition of the ward
12 protected person.

13 Sec. 91. Section 633.673, Code 2023, is amended to read as
14 follows:

15 **633.673 Court costs in guardianships.**

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

25 Sec. 92. Section 633.676, Code 2023, is amended to read as
26 follows:

27 **633.676 Assets exhausted.**

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

32 Sec. 93. Section 633.677, Code 2023, is amended to read as
33 follows:

34 **633.677 Accounting to ward protected person — notice.**

35 Upon the termination of a conservatorship, the conservator

1 shall pay the costs of administration and shall render a full
2 and complete accounting to the ward protected person or the
3 ~~ward's~~ protected person's personal representative and to the
4 court. Notice of the final report of a conservator shall be
5 served on the ward protected person or the ~~ward's~~ protected
6 person's personal representative, in accordance with section
7 633.40, unless notice is waived. An order prescribing notice
8 may be made before or after the filing of the final report.

9 Sec. 94. Section 633.682, Code 2023, is amended to read as
10 follows:

11 **633.682 Discharge of conservator and release of bond.**

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

17 Sec. 95. Section 636.23, subsection 13, Code 2023, is
18 amended to read as follows:

19 13. *Life, endowment or annuity contracts of legal reserve*
20 *life insurance companies authorized to do business in Iowa.* The
21 purchase of contracts authorized by **this subsection** shall be
22 limited to executors or the successors to their powers when
23 specifically authorized by will, and to guardians and trustees,
24 in an amount not to exceed twenty-five percent of the value
25 of the ~~ward's~~ protected person's property in possession of
26 the fiduciary. Such contract may be issued on the life or
27 lives of a ward protected person or ~~wards~~ protected persons or
28 beneficiary or beneficiaries of a trust fund created by will or
29 trust agreement, or upon the life or lives of persons in whose
30 life or lives such ward protected person or beneficiary has an
31 insurable interest. The proceeds or avails of such contract
32 shall be the sole property of the person or persons whose funds
33 are invested therein.

34 Sec. 96. Section 638.2, subsections 5, 15, and 27, Code
35 2023, are amended to read as follows:

1 5. "Conservator" means the same as defined in [section 633.3](#).
2 "Conservator" includes a person appointed to have the custody
3 and control of the property of a ward protected person in a
4 limited conservatorship unless otherwise provided by order of
5 the court.

6 15. "Guardian" means the same as defined in [section 633.3](#).
7 "Guardian" includes a person appointed to have the custody and
8 care of the person of the ward protected person in a limited
9 guardianship unless otherwise provided by order of the court.

10 27. "~~Ward~~" "Protected person" means an individual for whom a
11 conservator or guardian has been appointed. "~~Ward~~" "Protected
12 person" includes an individual for whom an application for the
13 appointment of a conservator or guardian is pending and for
14 which a court order authorizing access under [this chapter](#) has
15 been granted.

16 Sec. 97. Section 638.3, subsection 1, paragraph c, Code
17 2023, is amended to read as follows:

18 c. A conservator or guardian acting for a ward protected
19 person on or after July 1, 2017.

20 Sec. 98. Section 638.14, Code 2023, is amended to read as
21 follows:

22 **638.14 Disclosure of digital assets to conservator or**
23 **guardian of a ward protected person.**

24 1. After an opportunity for a hearing to all interested
25 parties, the court may grant a conservator or guardian access
26 to the digital assets of a ward protected person.

27 2. Unless otherwise ordered by the court or directed by the
28 user, a custodian shall disclose to a conservator or guardian
29 the catalogue of electronic communications sent or received
30 by a ward protected person and any digital assets, other than
31 the content of electronic communications, in which the ward
32 protected person has a right or interest if the conservator or
33 guardian gives the custodian all of the following:

34 a. A written request for disclosure in physical or
35 electronic form.

1 *b.* A file-stamped copy of the court order that gives the
2 conservator or guardian authority over the digital assets of
3 the ward protected person.

4 *c.* If requested by the custodian, any of the following:

5 (1) A number, username, address, or other unique subscriber
6 or account identifier assigned by the custodian to identify the
7 account of the ward protected person.

8 (2) Evidence linking the account to the ward protected
9 person.

10 3. If the conservatorship or guardianship is not limited,
11 the conservator or guardian may request a custodian of the
12 digital assets of the ward protected person to suspend or
13 terminate an account of the ward protected person for good
14 cause. A request made under [this section](#) must be accompanied
15 by a file-stamped copy of the court order establishing the
16 conservatorship or guardianship.

17 Sec. 99. Section 638.15, subsections 3, 4, and 5, Code 2023,
18 are amended to read as follows:

19 3. A fiduciary with authority over the property of a
20 decedent, ward protected person, principal, or settlor has
21 the right to access any digital asset in which the decedent,
22 ward protected person, principal, or settlor had a right or
23 interest and that is not held by a custodian or subject to a
24 terms-of-service agreement.

25 4. A fiduciary acting within the scope of the fiduciary's
26 duties is an authorized user of the property of the decedent,
27 ward protected person, principal, or settlor for the purpose
28 of applicable computer-fraud and unauthorized-computer-access
29 laws, including [section 716.6B](#).

30 5. A fiduciary with authority over the tangible, personal
31 property of a decedent, ward protected person, principal, or
32 settlor possesses all of the following authority:

33 *a.* Has the right to access the property and any digital
34 asset stored in the property.

35 *b.* Is an authorized user for the purpose of computer-fraud

1 and unauthorized-computer-access laws, including section
2 716.6B.

3 Sec. 100. Section 692A.113, subsection 2, paragraph b, Code
4 2023, is amended to read as follows:

5 b. Who is the parent or legal guardian of a minor shall not
6 be in violation of [subsection 1](#) solely during the period of
7 time reasonably necessary to transport the offender's own minor
8 child or ~~ward~~ protected person to or from a place specified in
9 subsection 1.

10 Sec. 101. Section 692A.114, subsection 3, paragraph f, Code
11 2023, is amended to read as follows:

12 f. The sex offender is a ~~ward~~ protected person in a
13 guardianship, and a district judge or associate probate judge
14 grants an exemption from the residency restriction.

15 Sec. 102. Section 726.5, subsection 1, Code 2023, is amended
16 to read as follows:

17 1. a. A person, who being able to do so, fails or refuses
18 to provide support for the person's child or ~~ward~~ protected
19 person under the age of eighteen years for a period longer than
20 one year or in an amount greater than five thousand dollars
21 commits the offense of nonsupport.

22 b. A person shall not be held to have violated [this section](#)
23 if the person fails to support any child or ~~ward~~ protected
24 person under the age of eighteen who has left the home of the
25 parent or other person having legal custody of the child or
26 ~~ward~~ protected person without the consent of that parent or
27 person having legal custody of the child or ~~ward~~ protected
28 person.

29

EXPLANATION

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

32 This bill relates to the creation, administration,
33 and termination of adult and minor guardianships and
34 conservatorships.

35 Under current law, the juvenile court has exclusive

1 jurisdiction of guardianship proceedings. The bill provides
2 that the juvenile court also has exclusive jurisdiction over
3 guardianships of minors.

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

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

20 The bill requires that in addition to stating in the
21 guardianship for the minor petition why a limited guardianship
22 is appropriate, the petition must also state whether a
23 conservatorship for the minor is already in place. The
24 notice of a guardianship proceeding must be given to any
25 adult with whom the minor has lived for the six months
26 immediately preceding the filing of the petition. If a
27 minor's known parents have not consented to the appointment
28 of a guardian, the notice of the filing of a guardianship
29 petition shall inform the known parents that they are entitled
30 to representation if they meet the conditions in Code section
31 232D.304.

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

1 knowledge of guardianships to adequately perform the duties of
2 a court visitor.

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

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

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

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

21 The bill strikes and replaces Code section 633.642
22 (responsibilities of conservator). An order appointing a
23 conservator shall state the basis for the conservatorship,
24 and upon appointment the conservator may exercise the powers
25 relating to all fiduciaries, unless expressly modified by the
26 court, without prior court approval. These powers include but
27 are not limited to the following: making written requests for
28 the purpose of obtaining the property of the protected person,
29 or obtaining information about the property of the protected
30 person; designating and employing an attorney to assist in
31 the administration of the estate of the protected person;
32 holding investments in the name of a bank or trustee company;
33 and requiring a bank to show ownership of investments held in
34 nominee name and keep them separate from the assets of the
35 bank. Until the conservator files and the court approves an

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

13 The bill also strikes and replaces Code section 633.669
14 (reports by guardians), changing the information required to be
15 contained in a guardian's written verified reports including
16 the initial care plan and annual reports, and information
17 required to be included in reports by conservators including
18 the initial financial management plan, an inventory of the
19 protected person's assets and debts, the annual report, and the
20 final report.

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

25 The bill modifies reporting requirements for conservators.
26 The bill creates two tiers to which a conservator may be
27 assigned. The conservator must give notice of filing a plan,
28 and if no objection is made within 20 days, the conservator
29 must submit a proposed order to the court approving the initial
30 plan. If there are objections to the plan, the court must set
31 the matter for hearing.

32 The bill makes conforming changes throughout the Code by
33 changing the term "ward" to "protected person".