

House File 610 - Reprinted

HOUSE FILE 610
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 22)

(As Amended and Passed by the House March 21, 2019)

A BILL FOR

- 1 An Act relating to the opening of guardianships for adults
- 2 and conservatorships for adults and minors and the
- 3 administration of guardianships and conservatorships.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 48A.2, subsection 4, Code 2019, is
2 amended to read as follows:

3 4. "*Person who is incompetent to vote*" means a person with an
4 intellectual disability who has been found to lack the mental
5 capacity to vote in a proceeding held pursuant to section
6 633.556 633.552.

7 Sec. 2. Section 229.27, subsection 3, unnumbered paragraph
8 1, Code 2019, is amended to read as follows:

9 A hearing limited to the question of the person's competence
10 and conducted in substantially the manner prescribed in
11 sections 633.552, to 633.556, 633.558, and 633.560 shall be
12 held when:

13 Sec. 3. Section 235B.18, subsections 4 and 5, Code 2019, are
14 amended to read as follows:

15 4. If, at the hearing, the judge finds by clear and
16 convincing evidence that the dependent adult is in need of
17 protective services and lacks the capacity to consent to the
18 receipt of protective services, the judge may issue an order
19 authorizing the provision of protective services. The order
20 may include the designation of a person to be responsible for
21 performing or obtaining protective services on behalf of the
22 dependent adult or otherwise consenting to the receipt of
23 protective services on behalf of the dependent adult. Within
24 sixty days of the appointment of such a person the court
25 shall conduct a review to determine if a petition shall be
26 initiated in accordance with section 633.552 633.556 for good
27 cause shown. The court may extend the sixty-day period for
28 an additional sixty days, at the end of which the court shall
29 conduct a review to determine if a petition shall be initiated
30 in accordance with section 633.552 633.556. A dependent adult
31 shall not be committed to a mental health facility under this
32 section.

33 5. A determination by the court that a dependent adult lacks
34 the capacity to consent to the receipt of protective services
35 under this chapter shall not affect incompetency proceedings

1 under sections 633.552, through 633.556, 633.558, and 633.560
2 or any other proceedings, and incompetency proceedings under
3 sections 633.552, through 633.556, 633.558, and 633.560 shall
4 not have a conclusive effect on the question of capacity to
5 consent to the receipt of protective services under this
6 chapter. A person previously adjudicated as incompetent under
7 the relevant provisions of **chapter 633** is entitled to the care,
8 protection, and services under **this chapter**.

9 Sec. 4. Section 235B.19, subsection 5, paragraph a,
10 unnumbered paragraph 1, Code 2019, is amended to read as
11 follows:

12 Notwithstanding sections 633.552 633.556 and 633.573
13 633.569, upon a finding that there is probable cause to believe
14 that the dependent adult abuse presents an immediate danger to
15 the health or safety of the dependent adult or is producing
16 irreparable harm to the physical or financial resources or
17 property of the dependent adult, and that the dependent adult
18 lacks capacity to consent to the receipt of services, the court
19 may order the appointment of a temporary guardian or temporary
20 conservator without notice to the dependent adult or the
21 dependent adult's attorney if all of the following conditions
22 are met:

23 Sec. 5. Section 622.10, subsection 3, paragraph f, Code
24 2019, is amended to read as follows:

25 f. The provisions of **this subsection** do not apply to actions
26 or claims brought pursuant to **chapter 85, 85A, or 85B, or to**
27 court orders issued pursuant to section 633.552.

28 Sec. 6. Section 633.3, Code 2019, is amended by adding the
29 following new subsections:

30 NEW SUBSECTION. 1A. *Assistance animal* — means an animal
31 that qualifies as a reasonable accommodation under the federal
32 Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, or
33 section 504 of the federal Rehabilitation Act of 1973, 29
34 U.S.C. §794, as amended.

35 NEW SUBSECTION. 1B. *Assistive animal* — means the same as

1 defined in section 216C.11, subsection 1.

2 NEW SUBSECTION. 27A. *Limited guardianship* — means a
3 guardianship that grants the guardian less than all powers
4 available under this chapter or otherwise restricts the powers
5 of the guardian.

6 NEW SUBSECTION. 32A. *Protected person* — means a person
7 subject to guardianship or a person subject to conservatorship,
8 or both.

9 NEW SUBSECTION. 32B. *Respondent* — means a person who
10 is alleged to be a person in need of a guardianship or
11 conservatorship, or both.

12 NEW SUBSECTION. 32C. *Service animal* — means a dog or
13 miniature horse as set forth in the implementing regulations
14 of Title II and Title III of the federal Americans with
15 Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

16 Sec. 7. Section 633.174, Code 2019, is amended to read as
17 follows:

18 **633.174 Guardians and conservators — bond.**

19 1. When the guardian appointed for a person is not the
20 conservator of the property of that person, no bond shall be
21 required of the guardian, unless the court for good cause finds
22 it proper to require one. If no bond is initially required,
23 the court may, nevertheless, for good cause, at any subsequent
24 time, require that a bond be given.

25 2. Every conservator shall execute and file with the clerk
26 a bond with sufficient surety or sureties except as provided
27 in section 633.175.

28 Sec. 8. Section 633.175, Code 2019, is amended to read as
29 follows:

30 **633.175 Waiver of bond by court.**

31 1. The court, for good cause shown, may exempt any fiduciary
32 from giving bond, if the court finds that the interests of
33 creditors and distributees will not thereby be prejudiced.

34 2. However, the court, except as provided in section
35 633.172, subsection 2, shall not exempt a conservator, other

1 than a financial institution with Iowa trust powers, from
2 giving bond in a conservatorship with total assets of more than
3 twenty-five thousand dollars, excluding real property, unless
4 it is a voluntary conservatorship in which the petitioner is
5 eighteen years of age or older and has waived bond in the
6 petition unless the court finds that there is an alternative to
7 a bond that will provide sufficient protection to the assets
8 of the protected person. The conservator shall submit a plan
9 for any proposed alternative to a bond for review and approval
10 by the court.

11 Sec. 9. Section 633.551, Code 2019, is amended to read as
12 follows:

13 ~~633.551 Guardianships and conservatorships — general General~~
14 provisions.

15 1. The determination of incompetency of the proposed ward or
16 ward and the determination of the need for the appointment of a
17 guardian or conservator or of the modification or termination
18 of a guardianship or conservatorship adult respondent to a
19 petition for guardianship or conservatorship or an adult
20 subject to guardianship or conservatorship shall be supported
21 by clear and convincing evidence.

22 2. The burden of persuasion is on the petitioner in an
23 initial proceeding to appoint a guardian or conservator.
24 In a proceeding to modify or terminate a guardianship or
25 conservatorship, if the guardian or conservator is the
26 petitioner, the burden of persuasion remains with the guardian
27 or conservator. In a proceeding to terminate a guardianship
28 or conservatorship, if the ward protected person is the
29 petitioner, the ward protected person shall make a prima facie
30 showing of some decision-making capacity. Once a prima facie
31 showing is made, the burden of persuasion is on the guardian or
32 conservator to show by clear and convincing evidence that the
33 ward protected person is incompetent.

34 3. In determining whether a guardianship or conservatorship
35 is to be established, modified, or terminated, the

1 district court shall consider if a limited guardianship or
2 conservatorship pursuant to **section 633.635** or **633.637** is
3 appropriate. In making the determination, the court shall
4 make findings of fact to support the powers conferred on the
5 guardian or conservator.

6 4. In proceedings to establish, modify, or terminate a
7 guardianship or conservatorship, in determining if the proposed
8 ~~ward or ward respondent or protected person~~ is incompetent as
9 defined in **section 633.3**, the court shall consider credible
10 evidence ~~from any source to the effect of third-party~~
11 ~~assistance in meeting the needs of the proposed ward or ward~~
12 ~~as to whether there are other less restrictive alternatives,~~
13 ~~including third-party assistance, that would meet the needs of~~
14 ~~the respondent or the protected person.~~ However, neither party
15 to the action shall have the burden to produce such evidence
16 relating to ~~other less restrictive alternatives, including but~~
17 ~~not limited to third-party assistance.~~

18 5. Except as otherwise provided in **sections 633.672**
19 and **633.673**, in proceedings to establish a guardianship or
20 conservatorship, the costs, including attorney fees, court
21 visitor fees, and expert witness fees, shall be assessed
22 against the ~~ward or the ward's~~ respondent or the respondent's
23 estate unless the proceeding is dismissed either voluntarily
24 or involuntarily, in which case fees and costs may be assessed
25 against the petitioner for good cause shown.

26 6. Except as otherwise provided in this subchapter, the
27 rules of civil procedure shall govern proceedings to establish,
28 modify, or terminate a guardianship or conservatorship.

29 Sec. 10. NEW SECTION. 633.552 Basis for appointment of
30 guardian for an adult.

31 1. On petition and after notice and hearing, the court may
32 appoint a guardian for an adult if the court finds by clear and
33 convincing evidence that all of the following are true:

34 a. The decision-making capacity of the respondent is
35 so impaired that the respondent is unable to care for the

1 respondent's safety, or to provide for necessities such as
2 food, shelter, clothing, or medical care without which physical
3 injury or illness may occur.

4 b. The appointment of a guardian is in the best interest of
5 the respondent.

6 2. Section 633.551 applies to the appointment of a guardian
7 under subsection 1.

8 3. If the court appoints a guardian based upon the mental
9 incapacity of the protected person because the protected
10 person has an intellectual disability, as defined in section
11 4.1, the court shall make a separate determination as to the
12 protected person's competency to vote. The court shall find
13 a protected person incompetent to vote only upon determining
14 that the person lacks sufficient mental capacity to comprehend
15 and exercise the right to vote.

16 Sec. 11. NEW SECTION. 633.553 Basis for appointment of
17 conservator for an adult.

18 1. On petition and after notice and hearing, the court may
19 appoint a conservator for an adult if the court finds by clear
20 and convincing evidence that both of the following are true:

21 a. The decision-making capacity of the respondent is so
22 impaired that the respondent is unable to make, communicate,
23 or carry out important decisions concerning the respondent's
24 financial affairs.

25 b. The appointment of a conservator is in the best interest
26 of the respondent.

27 2. Section 633.551 applies to the appointment of a
28 conservatorship under subsection 1.

29 Sec. 12. NEW SECTION. 633.554 Basis for appointment of
30 conservator for a minor.

31 On petition and after notice, the court may appoint a
32 conservator for a minor if the court finds by a preponderance
33 of the evidence that the appointment is in the best interest of
34 the minor and any of the following is true:

35 1. The minor has funds or other property requiring

1 management or protection that otherwise cannot be provided.
2 2. The minor has or may have financial affairs that may be
3 put at unreasonable risk or hindered because of the minor's
4 age.

5 3. A conservator is needed to obtain or provide funds or
6 other property.

7 Sec. 13. NEW SECTION. 633.556 Petition for appointment of
8 guardian or conservator for an adult.

9 1. A formal judicial proceeding to determine whether
10 to appoint a guardian or conservator for an adult shall be
11 initiated by the filing of a verified petition by a person with
12 an interest in the welfare of the adult, which may include the
13 adult who is the subject of the petition.

14 2. The petition shall contain a concise statement of the
15 factual basis for the petition.

16 3. The petition shall contain a concise statement of why
17 there is no less restrictive alternative to the appointment of
18 a guardian or a conservator.

19 4. The petition shall list the name and address of the
20 petitioner and the petitioner's relationship to the respondent.

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

23 a. The name and address of the proposed guardian and the
24 reason the proposed guardian should be selected.

25 b. Any spouse of the respondent.

26 c. Any adult children of the respondent.

27 d. Any parents of the respondent.

28 e. Any adult, who has had the primary care of the respondent
29 or with whom the respondent has lived for at least six months
30 prior to the filing of the petition, or any institution or
31 facility where the respondent has resided for at least six
32 months prior to the filing of the petition.

33 f. Any legal representative or representative payee of the
34 respondent.

35 g. Any person designated as an attorney in fact in a durable

1 power of attorney for health care which is valid under chapter
2 144B, or any person designated as an agent in a durable power
3 of attorney which is valid under chapter 633B.

4 6. Any additional persons who may have an interest in
5 the proceeding may be listed in an affidavit attached to the
6 petition.

7 7. If the petition requests the appointment of a
8 conservator, the petition shall state the estimated present
9 value of the real estate owned or to be owned by the
10 respondent, the estimated value of the personal property owned
11 or to be owned by the respondent, and the estimated gross
12 annual income of the respondent.

13 8. The petition shall provide a brief description of
14 the respondent's alleged functional limitations that make
15 the respondent unable to communicate or carry out important
16 decisions concerning the respondent's financial affairs.

17 9. Any additional information relevant to the proceeding
18 may be included in an affidavit attached to the petition.

19 Sec. 14. NEW SECTION. 633.557 Petition for appointment of a
20 conservator for a minor.

21 1. A formal judicial proceeding to determine whether to
22 appoint a conservator for a minor shall be initiated by the
23 filing of a verified petition by a person with an interest in
24 the welfare of the minor.

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

27 3. The petition shall state the following to the extent
28 known:

29 a. The name, age, and address of the minor.

30 b. The name and address of the petitioner and the
31 petitioner's relationship to the minor.

32 c. The name and address of the proposed conservator and the
33 reason the proposed conservator should be selected.

34 d. If the petitioner, or the proposed conservator, is not
35 the parent or parents having legal custody of the minor, the

1 name and address, to the extent known, of the following:

2 (1) The parent or parents having legal custody of the minor.
3 (2) Any adult who has had the primary care of the minor or
4 with whom the minor has lived for at least six months prior
5 to the filing of the petition, or any institution or facility
6 where the minor has resided for at least six months prior to
7 the filing of the petition.

8 Sec. 15. NEW SECTION. 633.558 Notice to adult respondent.

9 1. The filing of a petition filed pursuant to section
10 633.556 shall be served upon the adult respondent in the
11 manner of an original notice in accordance with the Iowa rules
12 of civil procedure governing such notice. Notice to the
13 attorney representing the respondent, if any, is notice to the
14 respondent.

15 2. Notice shall be served upon other known persons listed in
16 the petition in the manner prescribed by the court, which may
17 be notice by mail in accordance with the Iowa rules of civil
18 procedure. Failure of such persons to receive actual notice
19 does not constitute a jurisdictional defect precluding the
20 appointment of a guardian or conservator by the court.

21 3. Notice of the filing of a petition given to persons under
22 subsections 2 and 3 shall include a statement that such persons
23 may register to receive notice of the hearing on the petition
24 and other proceedings and the manner of such registration.

25 Sec. 16. NEW SECTION. 633.559 Notice to minor respondent.

26 1. The filing of a petition pursuant to section 633.557
27 shall be served upon a minor respondent in the manner of an
28 original notice in accordance with the Iowa rules of civil
29 procedure governing such notice. Notice to the attorney
30 representing the minor, if any, is notice to the minor.

31 2. Notice shall also be served upon the known parent or
32 parents listed in the petition in accordance with the Iowa
33 rules of civil procedure.

34 3. Notice shall be served upon other known persons listed in
35 the petition in the manner prescribed by the court, which may

1 be notice by mail in accordance with the Iowa rules of civil
2 procedure. Failure of such persons to receive actual notice
3 does not constitute a jurisdictional defect precluding the
4 appointment of a conservator by the court.

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

10 Sec. 17. NEW SECTION. 633.560 Hearing.

11 1. The court shall fix the time and place of hearing on a
12 petition and shall prescribe a time not less than twenty days
13 after the date the notice is served unless the court finds
14 there is good cause shown to shorten the time period to less
15 than twenty days pursuant to section 633.40. The court shall
16 also prescribe the manner of service of the notice of such
17 hearing pursuant to section 633.40.

18 2. The respondent shall be entitled to attend the hearing on
19 the petition and all other proceedings. The court shall make
20 reasonable accommodations to enable the respondent to attend
21 the hearing and all other proceedings. The court may waive the
22 respondent's attendance for good cause shown. The court shall
23 make a record of the reason for a respondent's nonattendance.

24 3. The court shall require the proposed guardian or
25 conservator to attend the hearing on the petition but the court
26 may excuse the proposed guardian's attendance for good cause
27 shown.

28 4. The court shall require the court visitor as described in
29 section 633.562, if any, to attend the hearing but the court
30 may excuse the court visitor's attendance for good cause shown.

31 5. Any person with an interest in the welfare of the
32 respondent may submit a written application to the court
33 requesting permission to participate in the hearing on the
34 petition and other proceedings. The court may grant the
35 request if the court finds that the person's participation is

1 in the best interest of the respondent. The court may impose
2 appropriate conditions on the person's participation.

3 6. A complete record of the hearing shall be made.

4 Sec. 18. Section 633.560, Code 2019, is amended to read as
5 follows:

6 **633.560 Appointment of guardian for an adult on a standby
7 basis.**

8 A petition for the appointment of a guardian for an adult
9 on a standby basis may be filed by any person under the same
10 procedure and requirements as provided in sections 633.591
11 to 633.597, for appointment of standby conservator, insofar
12 as applicable. In all proceedings to appoint a guardian,
13 the court shall consider whether a limited guardianship, as
14 authorized in **section 633.635**, is appropriate.

15 Sec. 19. NEW SECTION. **633.560A Mediation.**

16 1. The district court may, on its own motion or on the
17 motion of any party, order the parties to participate in
18 mediation in any guardianship or conservatorship action.
19 Mediation performed under this section shall comply with the
20 provisions of chapter 679C. The court shall, upon application
21 of a party, grant a waiver from any court-ordered mediation
22 under this section if the party demonstrates that a history
23 of domestic abuse exists similarly as considered in section
24 598.41, subsection 3, paragraph "j". The court may, upon
25 application of a party, grant a waiver from any court-ordered
26 mediation if the action involves elder abuse pursuant to
27 chapter 235F.

28 2. Mediation shall comply with all of the following
29 standards:

30 a. The parties will participate in good faith.

31 Participation in mediation shall include attendance at
32 a mediation session with the mediator and the parties to
33 the action, listening to the mediator's explanation of the
34 mediation process, presentation of one party's view of the
35 case, and listening to the response of the other party.

1 Participation in mediation does not require that the parties
2 reach an agreement.

3 b. Unless the parties agree upon a mediator, the court shall
4 appoint a mediator. Any mediator appointed by the court shall
5 meet the qualifications established in this section.

6 c. Parties to the mediation shall have the right to
7 representation by an attorney at all times.

8 d. The parties to the mediation shall present any agreement
9 reached through the mediation to their attorneys, if any.

10 A mediation agreement reached by the parties shall not be
11 enforceable until approved by the court.

12 e. The costs of mediation shall be borne by the parties, as
13 agreed to by the parties, or as ordered by the court, and may
14 be taxed as court costs.

15 3. A mediator appointed by the court acting pursuant to this
16 section shall have the following qualifications:

17 a. Completed a one-hour internet seminar or live session
18 regarding the external resources available to a respondent with
19 particular focus on resources for older persons.

20 b. A minimum of twenty-five hours of general mediation
21 training.

22 c. Either of the following:

23 (1) Fifteen hours of probate-specific or elder-specific
24 mediation training.

25 (2) Ten continuous years of practice in Iowa as a licensed
26 attorney with the greater of four hundred hours or forty
27 percent of the total hours of law practice per year being
28 devoted to matters concerning wills, trusts, and estate work
29 for each of the ten continuous years.

30 Sec. 20. Section 633.561, Code 2019, is amended to read as
31 follows:

32 633.561 Representation Appointment and role of attorney for
33 respondent.

34 1. In a proceeding for the appointment of a guardian or
35 conservator for an adult or a conservator for a minor:

1 a. If the ~~proposed ward respondent~~ is an adult and is
2 not the petitioner, the ~~proposed ward respondent~~ is entitled
3 to representation by an attorney. Upon the filing of the
4 petition, the court shall appoint an attorney to represent the
5 ~~proposed ward respondent~~, set a hearing on the petition, and
6 provide for notice of the appointment of counsel and the date
7 for hearing.

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

21 c. The court may take action under paragraph "a" or "b"
22 prior to the service of the original notice upon the ~~proposed~~
23 ward respondent.

24 d. The court may reconsider the determination regarding
25 representation upon application by any interested person.

26 e. The court may discharge the attorney appointed by the
27 court if it appears upon the application of the ~~proposed~~
28 ward respondent or any other interested person that the ~~ward~~
29 respondent has privately retained an attorney who has filed an
30 appearance on behalf of the ~~proposed ward respondent~~.

31 2. The court shall ensure that all ~~proposed wards~~
32 respondents entitled to representation have been provided
33 with notice of the right to representation and right to be
34 personally present at all proceedings and shall make findings
35 of fact in any order of disposition setting out the manner in

1 which notification was provided.

2 3. If the proposed ward respondent is entitled to
3 representation and is indigent or incapable of requesting
4 counsel, the court shall appoint an attorney to represent the
5 proposed ward respondent. The cost of court appointed counsel
6 for indigents shall be assessed against the county in which the
7 proceedings are pending. For the purposes of this subsection,
8 the court shall find a person is indigent if the person's
9 income and resources do not exceed one hundred fifty percent of
10 the federal poverty level or the person would be unable to pay
11 such costs without prejudicing the person's financial ability
12 to provide economic necessities for the person or the person's
13 dependents.

14 4. An attorney appointed pursuant to this section shall:

15 a. Ensure that the proposed ward respondent has been
16 properly advised of the nature and purpose of the proceeding.

17 b. Advocate for the wishes of the respondent to the extent
18 those wishes are reasonably ascertainable. If the respondent's
19 wishes are not reasonably ascertainable, the attorney shall
20 advocate for the least restrictive alternative consistent with
21 the respondent's best interests.

22 b. c. Ensure that the proposed ward respondent has been
23 properly advised of the ward's respondent's rights in a
24 guardianship proceeding.

25 e. d. Personally interview the proposed ward respondent.

26 d. e. File a written report stating whether there is a
27 return on file showing that proper service on the proposed
28 ward respondent has been made and also stating that specific
29 compliance with paragraphs "a" through "c" "d" has been made
30 or stating the inability to comply by reason of the proposed
31 ward's respondent's condition.

32 e. Represent the proposed ward.

33 f. Ensure that the guardianship procedures conform to the
34 statutory and due process requirements of Iowa law.

35 5. In the event that an order of appointment is entered,

1 the attorney appointed pursuant to **this section**, to the extent
2 possible, shall:

3 a. Inform the ~~proposed ward~~ respondent of the effects of the
4 order entered for appointment of guardian.

5 b. Advise the ~~ward~~ respondent of the ~~ward's~~ respondent's
6 rights to petition for modification or termination of the
7 guardianship.

8 c. Advise the ~~ward~~ respondent of the rights retained by the
9 ~~ward~~ respondent.

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

19 7. If the court determines upon application that it
20 is appropriate or necessary, the court may order that the
21 attorney appointed pursuant to **this section** be given copies
22 of and access to the ~~proposed ward's~~ respondent's health
23 information by describing with reasonable specificity the
24 health information to be disclosed or accessed, for the purpose
25 of fulfilling the attorney's responsibilities pursuant to this
26 section.

27 Sec. 21. NEW SECTION. 633.562 Appointment and role of court
28 visitor.

29 1. If the court determines that the appointment of a court
30 visitor would be in the best interest of the respondent, the
31 court shall appoint a court visitor at the expense of the
32 respondent or the respondent's estate, or, if the respondent
33 is indigent, the cost of the court visitor shall be assessed
34 against the county in which the proceedings are pending. The
35 court may appoint any qualified person as a court visitor in a

1 guardianship or conservatorship proceeding.

2 2. The same person shall not serve both as the attorney
3 representing the respondent and as court visitor.

4 3. Unless otherwise enlarged or circumscribed by the court,
5 the duties of a court visitor with respect to the respondent
6 shall include all of the following:

7 a. Conducting an initial in-person interview with the
8 respondent.

9 b. Explaining to the respondent the substance of the
10 petition, the purpose and effect of the guardianship or
11 conservatorship proceeding, the rights of the respondent at
12 the hearing, and the general powers and duties of a guardian
13 or conservator.

14 c. Determining the views of the respondent regarding the
15 proposed guardian or conservator, the proposed guardian's or
16 conservator's powers and duties, and the scope and duration of
17 the proposed guardianship or conservatorship.

18 4. In addition, if directed by the court, the court visitor
19 shall:

20 a. Interview the petitioner, and if the petitioner is not
21 the proposed guardian or conservator, interview the proposed
22 guardian or conservator.

23 b. Visit, to the extent feasible, the residence where it
24 is reasonably believed that the respondent will live if the
25 appointment of a guardian or conservator is made.

26 c. Make any other investigation the court directs including
27 but not limited to interviewing any persons providing medical,
28 mental health, educational, social, and other services to the
29 respondent.

30 5. The court visitor shall submit a written report to the
31 court that shall contain all of the following:

32 a. A recommendation regarding the appropriateness of a
33 limited guardianship for the respondent, including whether less
34 restrictive alternatives are available.

35 b. A statement of the qualifications of the guardian

1 together with a statement of whether the respondent has
2 expressed agreement with the appointment of the proposed
3 guardian or conservator.

4 c. Any other matters the court visitor deems relevant to
5 the petition for guardianship or conservatorship and the best
6 interests of the respondent.

7 d. Any other matters the court directs.

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

10 Sec. 22. **NEW SECTION.** **633.563 Court-ordered professional**
11 **evaluation.**

12 1. At or before a hearing on petition for the appointment of
13 a guardian or conservator or the modification or termination
14 of a guardianship or conservatorship, the court shall order a
15 professional evaluation of the respondent unless one of the
16 following criteria are met:

17 a. The court finds it has sufficient information to
18 determine whether the criteria for a guardianship or
19 conservatorship are met.

20 b. The petitioner or respondent has filed a professional
21 evaluation.

22 2. Notwithstanding subsection 1, if the respondent has
23 filed a professional evaluation and the court determines an
24 additional professional evaluation will assist the court in
25 understanding the decision-making capacity and functional
26 abilities and limitations of the respondent, the court may
27 order a professional evaluation of the respondent.

28 3. If the court orders an evaluation, the evaluation shall
29 be conducted by a licensed physician, psychologist, social
30 worker, or other individual who is qualified to conduct an
31 evaluation appropriate for the respondent being assessed.

32 4. Unless otherwise directed by the court, the report must
33 contain all of the following:

34 a. A description of the nature, type, and extent of the
35 respondent's cognitive and functional abilities and limitation.

1 b. An evaluation of the respondent's mental and physical
2 condition and, if appropriate, educational potential, adaptive
3 behavior, and social skills.

4 c. A prognosis for improvement and recommendation for the
5 appropriate treatment, support, or habilitation plan.

6 d. The evaluator's qualifications to evaluate the
7 respondent's cognitive and functional abilities limitations and
8 lack of conflict of interest.

9 e. The date of examination on which the report is based.

10 5. The cost of the professional evaluation shall be paid by
11 the respondent unless the respondent is indigent as defined in
12 section 633.561, subsection 3, in which case the costs shall
13 be paid by the county in which the proceedings are pending or
14 unless the court orders otherwise.

15 6. At the request of the respondent, the court shall seal
16 the record of the results of the evaluation ordered by the
17 court subject to the exceptions in subsection 7.

18 7. The results of the evaluation ordered by the court shall
19 be made available to the court and the following:

20 a. The respondent and the respondent's attorney.

21 b. The petitioner and the petitioner's attorney.

22 c. A court visitor as described in section 633.562.

23 d. Other persons for good cause shown for such purposes as
24 the court may order.

25 Sec. 23. NEW SECTION. 633.564 Background check of proposed
26 guardian or conservator.

27 1. The court shall request criminal record checks and
28 checks of the child abuse, dependent adult abuse, and sexual
29 offender registries in this state for all proposed guardians
30 and conservators, other than financial institutions with Iowa
31 trust powers.

32 2. The court shall review the results of background checks
33 in determining the suitability of a proposed guardian or
34 conservator for appointment.

35 3. The judicial branch, in conjunction with the department

1 of public safety, the department of human services, and the
2 state chief information officer, shall establish procedures for
3 electronic access to the single contact repository established
4 pursuant to section 135C.33 necessary to conduct background
5 checks requested under subsection 1.

6 4. The person who files a petition for appointment of
7 guardian or conservator shall be responsible for paying the fee
8 for the background check conducted through the single contact
9 repository established pursuant to section 135C.33.

10 Sec. 24. NEW SECTION. 633.565 Qualifications and selection
11 of guardian or conservator for an adult.

12 The court shall appoint as guardian or conservator any
13 qualified and suitable person who is willing to serve as
14 guardian or conservator.

15 Sec. 25. NEW SECTION. 633.567 Appointment of guardian or
16 conservator for minor approaching majority on a standby basis.

17 Any adult with an interest in the welfare of a minor who
18 is at least seventeen years and six months of age may file
19 a verified petition pursuant to section 633.552 or section
20 633.553 to initiate a proceeding to appoint a guardian or
21 conservator for the minor to take effect on the minor's
22 eighteenth birthday.

23 Sec. 26. NEW SECTION. 633.569 Emergency appointment of
24 temporary guardian or conservator.

25 1. A person authorized to file a petition under section
26 633.552, 633.553, or 633.554 may file an application for the
27 emergency appointment of a temporary guardian or conservator.

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

29 a. The name and address of the respondent.

30 b. The name and address of the proposed guardian or
31 conservator and the reason the proposed guardian or conservator
32 should be selected.

33 c. The reason the emergency appointment of a temporary
34 guardian is sought.

35 3. The court may enter an ex parte order appointing a

1 temporary guardian on an emergency basis under this section if
2 the court finds that all of the following conditions are met:

3 a. There is not sufficient time to file a petition and hold
4 a hearing pursuant to section 633.552, 633.553, or 633.554.

5 b. The appointment of a temporary guardian or conservator
6 is necessary to avoid immediate or irreparable harm to the
7 respondent.

8 c. There is reason to believe that the basis for appointment
9 of guardian or conservator exists under section 633.552,
10 633.553, or 633.554.

11 4. Notice of a petition for the appointment of a temporary
12 guardian or conservator and the issuance of an ex parte
13 order appointing a temporary guardian or conservator shall be
14 provided to the respondent, the respondent's attorney, and any
15 other person the court determines should receive notice.

16 5. Upon the issuance of an ex parte order, if the respondent
17 is an adult, the respondent may file a request for a hearing.
18 If the respondent is a minor, the respondent, a parent having
19 legal custody of the respondent, or any other person having
20 legal custody of the respondent may file a written request for
21 a hearing. Such hearing shall be held no later than seven days
22 after the filing of a written request.

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

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

29 Sec. 27. NEW SECTION. 633.570 Notification of guardianship
30 and conservatorship powers.

31 1. In a proceeding for the appointment of a guardian, the
32 respondent shall be given written notice which advises the
33 respondent of the powers that a guardian may exercise without
34 court approval pursuant to section 633.635, subsection 2, and
35 the powers that the guardian may exercise only with court

1 approval pursuant to section 633.635, subsection 3.

2 2. In a proceeding for the appointment of a conservator,
3 the respondent shall be given written notice which advises
4 the respondent of the powers that a conservator may exercise
5 without court approval pursuant to section 633.646 and the
6 powers that the guardian may exercise only with court approval
7 pursuant to section 633.647.

8 3. If the respondent is an adult, the notice shall
9 clearly advise the respondent of the respondent's rights to
10 representation by an attorney and the potential deprivation of
11 the respondent's civil rights. The notice shall also state
12 that the respondent may be represented by the respondent's own
13 attorney rather than an attorney appointed by the court. If
14 the respondent is an adult, notice shall be served upon the
15 respondent with the notice of the filing of the petition as
16 provided in section 633.558. If the respondent is a minor,
17 notice shall be served upon the respondent with the notice of
18 the filing of a petition as provided in section 633.559.

19 Sec. 28. Section 633.574, Code 2019, is amended to read as
20 follows:

21 **633.574 Procedure in lieu of conservatorship for a minor.**

22 If a conservator has not been appointed for a minor, money
23 due a minor or other property to which a minor is entitled,
24 not exceeding in the aggregate twenty-five thousand dollars
25 in value, shall be paid or delivered to a custodian under any
26 uniform transfers to minors Act. The written receipt of the
27 custodian constitutes an acquittance of the person making the
28 payment of money or delivery of property.

29 Sec. 29. Section 633.591, Code 2019, is amended to read as
30 follows:

31 **633.591 Voluntary petition for appointment of conservator —
32 standby basis.**

33 Any person of full age and sound mind may execute a verified
34 petition for the voluntary appointment of a conservator of the
35 person's property upon the express condition that such petition

1 shall be acted upon by the court only upon the occurrence of an
2 event specified or the existence of a described condition of
3 the mental or physical health of the petitioner, the occurrence
4 of which event, or the existence of which condition, shall
5 be established in the manner directed in the petition. The
6 petition, if executed on or after January 1, 1991, shall advise
7 the ~~proposed~~ ward respondent of a conservator's powers as
8 provided in section 633.576 633.570.

9 Sec. 30. Section 633.634, Code 2019, is amended to read as
10 follows:

11 **633.634 Combination of voluntary and standby petitions with
12 involuntary petition for hearing.**

13 If prior to the time of hearing on a petition for the
14 appointment of a guardian or a conservator, a petition is filed
15 under the provisions of section 633.556, 633.557, 633.572 or
16 633.591, the court shall combine the hearing on such petitions
17 and determine who shall be appointed guardian or conservator,
18 and such petition shall be triable to the court.

19 Sec. 31. Section 633.635, Code 2019, is amended to read as
20 follows:

21 **633.635 Responsibilities of guardian.**

22 1. The order by the court appointing a guardian shall state
23 the basis for the guardianship pursuant to section 633.552.

24 1. 2. Based upon the evidence produced at the hearing, the
25 court may grant a guardian the following powers and duties with
26 respect to a protected person which may be exercised without
27 prior court approval:

28 a. Providing for the care, comfort and maintenance of the
29 ward, including the appropriate training and education to
30 maximize the ward's potential Making decisions regarding the
31 care, maintenance, health, education, welfare, and safety of
32 the protected person except as otherwise limited by the court.

33 b. Establishing the protected person's permanent residence
34 except as limited by subsection 3.

35 b. c. Taking reasonable care of the ward's protected

1 person's clothing, furniture, vehicle, and other personal
2 effects, and companion animals, assistive animals, assistance
3 animals, and service animals.

4 e. d. Assisting the ward protected person in developing
5 maximum self-reliance and independence.

6 d. Ensuring the ward receives necessary emergency medical
7 services.

8 e. Ensuring the ward receives professional care, counseling,
9 treatment, or services as needed. If necessitated by the
10 physical or mental disability of the ward, the provision of
11 professional care, counseling, treatment, or services limited
12 to the provision of routine physical and dental examinations
13 and procedures under anesthesia is included, if the anesthesia
14 is provided within the scope of the health care practitioner's
15 scope of practice Consenting to and arranging for medical,
16 dental, and other health care treatment and services for the
17 protected person except as otherwise limited by subsection 3.

18 f. Consenting to and arranging for other needed professional
19 services for the protected person.

20 g. Consenting to and arranging for appropriate training,
21 educational, and vocational services for the protected person.

22 h. Maintaining contact, including through regular visitation
23 with the protected person if the protected person does not
24 reside with the guardian.

25 i. Placing Making reasonable efforts to identify and
26 facilitate supportive relationships and interactions of the
27 protected person with family members and significant other
28 persons. The guardian may place reasonable time, place,
29 or manner restrictions on communication, visitation, or
30 interaction between the adult ward protected person and another
31 person except as otherwise limited by subsection 3.

32 j. Any other powers or duties the court may specify.

33 2. 3. A guardian may be granted the following powers which
34 may only be exercised upon court approval:

35 a. Changing, at the guardian's request, the ward's permanent

1 ~~residence if the proposed new residence is more restrictive of~~
2 ~~the ward's liberties than the current residence~~ the protected
3 person's permanent residence to a nursing home, other secure
4 facility, or secure portion of a facility that restricts the
5 protected person's ability to leave or have visitors, unless
6 advance notice of the change was included in the guardian's
7 initial care plan that was approved by the court. In an
8 emergency situation, the court shall review the request for
9 approval on an expedited basis.

10 b. Arranging the provision of major elective surgery or any
11 other nonemergency major medical procedure. For the purposes
12 of this paragraph, "major elective surgery" and "nonemergency
13 major medical procedure" do not include the provision to the
14 ward of professional care, counseling, treatment, or services
15 limited to the provision of routine physical and dental
16 examinations and procedures under anesthesia, if the use of
17 anesthesia is necessitated by the physical or mental disability
18 of the ward, and if the anesthesia is provided within the scope
19 of the health care practitioner's scope of practice.

20 Consenting to the following:

21 (1) The withholding or withdrawal of life-sustaining
22 procedures from the protected person in accordance with chapter
23 144A or 144D.

24 (2) The performance of an abortion on the protected person.

25 (3) The sterilization of the protected person.

26 c. Consent to the withholding or withdrawal of

27 life-sustaining procedures in accordance with chapter 144A.

28 d. c. Denying all communication, visitation, or interaction
29 by an adult ward a protected person with a person with whom
30 the adult ward protected person has expressed a desire to
31 communicate, visit, or interact or with a person who seeks to
32 communicate, visit, or interact with the adult ward protected
33 person. A court shall approve the denial of all communication,
34 visitation, or interaction with another person only upon a
35 showing of good cause by the guardian.

1 3. For the purposes of this section:

2 a. "Routine dental examinations and procedures" includes
3 preventive services, diagnostic services, restorative services,
4 periodontal services, endodontic services, oral surgery,
5 prosthetic services, and orthodontic procedures.

6 b. "Routine physical examinations and procedures" includes
7 examinations and procedures performed for the purpose of
8 general treatment or diagnosis or for the purpose of treatment
9 or diagnosis related to a specific illness, symptom, complaint,
10 or injury.

11 4. The court may take into account all available information
12 concerning the capabilities of the ward respondent or
13 the protected person and any additional evaluation deemed
14 necessary, including the availability of third-party assistance
15 to meet the needs of the ward or proposed ward respondent or
16 the protected person, and may direct that the guardian have
17 only a specially limited responsibility for the ward protected
18 person. In that event, the court shall state those areas of
19 responsibility which shall be supervised by the guardian and
20 all others shall be retained by the ward protected person. The
21 court may make a finding that the ward protected person lacks
22 the capacity to contract a valid marriage.

23 5. From time to time, upon a proper showing, the court may
24 modify the respective responsibilities of the guardian and
25 the ward protected person, after notice to the ward protected
26 person and an opportunity to be heard. Any modification that
27 would be more restrictive or burdensome for the ward protected
28 person shall be based on clear and convincing evidence that the
29 ward protected person continues to fall within the categories
30 of meet the basis for the appointment of a guardian pursuant
31 to section 633.552, subsection 2, paragraph "a" or "b", and
32 that the facts justify a modification of the guardianship.
33 Section 633.551 applies to the modification proceedings. Any
34 modification that would be less restrictive for the ward
35 protected person shall be based upon proof in accordance with

1 the requirements of **section 633.675.**

2 Sec. 32. Section 633.641, Code 2019, is amended by striking
3 the section and inserting in lieu thereof the following:

4 **633.641 Duties of conservator.**

5 1. A conservator is a fiduciary and has duties of prudence
6 and loyalty to the protected person.

7 2. In investing and selecting specific property for
8 distribution, a conservator shall consider any estate plan or
9 other donative, nominative, or appointive instrument of the
10 protected person, known to the conservator.

11 3. If a protected person has executed a valid power of
12 attorney under chapter 633B, the conservator shall act in
13 accordance with the applicable provisions of chapter 633B.

14 4. The conservator shall report to the department of human
15 services the protected person's assets and income, if the
16 protected person is receiving medical assistance under chapter
17 249A. Such reports shall be made upon establishment of a
18 conservatorship for an individual applying for or receiving
19 medical assistance, upon application for benefits on behalf
20 of the protected person, upon annual or semiannual review of
21 continued medical assistance eligibility, when any significant
22 change in the protected person's assets or income occurs, or
23 as otherwise requested by the department of human services.
24 Written reports shall be provided to the department of human
25 services office for the county in which the protected person
26 resides or the office in which the protected person's medical
27 assistance is administered.

28 **Sec. 33. NEW SECTION. 633.642 Responsibilities of
29 conservator.**

30 Except as otherwise ordered by the court, a conservator
31 must give notice to persons entitled to notice and receive
32 specific prior authorization by the court before the
33 conservator may take any other action on behalf of the
34 protected person. These other powers requiring court approval
35 include the authority of the conservator to:

1 1. Invest the protected person's assets consistent with
2 section 633.123.

3 2. Make gifts on the protected person's behalf from
4 conservatorship assets to persons or religious, educational,
5 scientific, charitable, or other nonprofit organizations to
6 whom or to which such gifts were regularly made prior to the
7 conservator's appointment; or on a showing that such gifts
8 would benefit the protected person from the perspective of
9 gift, estate, inheritance, or other taxes. No gift shall be
10 allowed which would foreseeably prevent adequate provision for
11 the protected person's best interest.

12 3. Make payments consistent with the conservator's plan
13 described above directly to the protected person or to others
14 for the protected person's education and training needs.

15 4. Use the protected person's income or assets to provide
16 for any person that the protected person is legally obligated
17 to support.

18 5. Compromise, adjust, arbitrate, or settle any claim by or
19 against the protected person or the conservator.

20 6. Make elections for a protected person who is the
21 surviving spouse as provided in sections 633.236 and 633.240.

22 7. Exercise the right to disclaim on behalf of the protected
23 person as provided in section 633E.5.

24 8. Sell, mortgage, exchange, pledge, or lease the protected
25 person's real and personal property consistent with subchapter
26 VII, part 6 of this chapter regarding sale of property from a
27 decedent's estate.

28 Sec. 34. Section 633.648, Code 2019, is amended to read as
29 follows:

30 **633.648 Appointment of attorney in compromise of personal
31 injury settlements.**

32 Notwithstanding the provisions of **section 633.647** **633.642**
33 prior to authorizing a compromise of a claim for damages on
34 account of personal injuries to the ward, the court may order
35 an independent investigation by an attorney other than by the

1 attorney for the conservator. The cost of such investigation,
2 including a reasonable attorney fee, shall be taxed as part of
3 the cost of the conservatorship.

4 Sec. 35. Section 633.669, Code 2019, is amended to read as
5 follows:

6 **633.669 Reporting requirements — assistance by clerk.**

7 1. A guardian appointed by the court under **this chapter**
8 shall file with the court the following written verified
9 reports which shall not be waived by the court:

10 a. An initial report within sixty days of the guardian's
11 appointment care plan filed within sixty days of appointment.
12 The information in the initial care plan shall include but not
13 be limited to the following information:

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

16 (2) The guardian's plan for payment of the protected
17 person's living expenses and other expenses.

18 (3) The protected person's health status and health care
19 needs, and the guardian's plan for meeting the protected
20 person's needs for medical, dental, and other health care
21 needs.

22 (4) If applicable, the guardian's plan for other
23 professional services needed by the protected person.

24 (5) If applicable, the guardian's plan for meeting the
25 educational, training, and vocational needs of the protected
26 person.

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

29 (7) The guardian's plan for facilitating contacts between
30 the protected person and the protected person's family members
31 and other significant persons.

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

34 b. An annual report, filed within ninety sixty days of
35 the close of the reporting period, unless the court otherwise

1 orders on good cause shown. The information in the annual
2 report shall include but not be limited to the following
3 information:

4 (1) The current living arrangements of the protected
5 person.

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

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

9 (a) The protected person's physical and mental health
10 status and the medical, dental, and other professional services
11 provided to the protected person.

12 (b) If applicable, the protected person's employment status
13 and the educational, training, and vocational services provided
14 to the protected person.

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

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

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

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

22 (6) The need of the guardian for assistance in providing or
23 arranging for the provision of the care and protection of the
24 protected person.

25 c. A final report within thirty days of the termination
26 of the guardianship under **section 633.675** unless that time is
27 extended by the court.

28 2. Reports required by **this section** must include:

29 a. The current mental and physical condition of the ward.

30 b. The present living arrangement of the ward, including a
31 description of each residence where the ward has resided during
32 the reporting period.

33 c. A summary of the medical, educational, vocational and
34 technical, and other professional services provided for the
35 ward.

1 d. A description of the guardian's visits with and
2 activities on behalf of the ward.

3 e. A recommendation as to the need for continued
4 guardianship.

5 f. Other information requested by the court or useful in the
6 opinion of the guardian.

7 3. 2. The court shall develop a simplified uniform
8 reporting form for use in filing the required reports.

9 4. 3. The clerk of the court shall notify the guardian
10 in writing of the reporting requirements and shall provide
11 information and assistance to the guardian in filing the
12 reports.

13 5. 4. Reports of guardians shall be reviewed and approved
14 by a district court judge or referee.

15 6. Reports required by this section shall, if requested, be
16 served on the attorney appointed to represent the ward in the
17 guardianship proceeding and all other parties appearing in the
18 proceeding.

19 Sec. 36. Section 633.670, Code 2019, is amended by striking
20 the section and inserting in lieu thereof the following:

21 **633.670 Reports by conservators.**

22 1. A conservator shall file an initial plan for protecting,
23 managing, investing, expending, and distributing the assets
24 of the conservatorship estate within ninety days after
25 appointment. The plan must be based on the needs of the
26 protected person and take into account the best interest of the
27 protected person as well as the protected person's preference,
28 values, and prior directions to the extent known to, or
29 reasonably ascertainable by, the conservator.

30 a. The initial plan shall include all of the following:

31 (1) A budget containing projected expenses and resources,
32 including an estimate of the total amount of fees the
33 conservator anticipates charging per year and a statement or
34 list of the amount the conservator proposes to charge for each
35 service the conservator anticipates providing to the protected

1 person.

2 (2) A statement as to how the conservator will involve
3 the protected person in decisions about management of the
4 conservatorship estate.

5 (3) If ordered by the court, any step the conservator plans
6 to take to develop or restore the ability of the protected
7 person to manage the conservatorship estate.

8 (4) An estimate of the duration of the conservatorship.

9 b. Within two days after filing the initial plan, the
10 conservator shall give notice of the filing of the initial plan
11 with a copy of the plan to the protected person, the protected
12 person's attorney and court advisor, if any, and others as
13 directed by the court. The notice must state that any person
14 entitled to a copy of the plan must file any objections to the
15 plan not later than fifteen days after it is filed.

16 c. At least twenty days after the plan has been filed, the
17 court shall review and determine whether the plan should be
18 approved or revised, after considering objections filed and
19 whether the plan is consistent with the conservator's powers
20 and duties.

21 d. After approval by the court, the conservator shall
22 provide a copy of the approved plan and order approving the
23 plan to the protected person, the protected person's attorney
24 and court advisor, if any, and others as directed by the court.

25 e. The conservator shall file an amended plan when there has
26 been a significant change in circumstances or the conservator
27 seeks to deviate significantly from the plan. Before the
28 amended plan is implemented, the provisions for court approval
29 of the plan shall be followed as provided in paragraphs "b",
30 "c", and "d".

31 2. A conservator shall file an inventory of the protected
32 person's assets within ninety days after appointment which
33 includes an oath or affirmation that the inventory is believed
34 to be complete and accurate as far as information permits.

35 Copies of the inventory shall be provided to the protected

1 person, the protected person's attorney and court advisor, if
2 any, and others as directed by the court. When the conservator
3 receives additional property of the protected person, or
4 becomes aware of its existence, a description of the property
5 shall be included in the conservator's next annual report.

6 3. A conservator shall file a written and verified report
7 for the period since the end of the preceding report period.
8 The court shall not waive these reports.

9 a. These reports shall include all of the following:

10 (1) Balance of funds on hand at the beginning and end of the
11 period.

12 (2) Disbursements made.

13 (3) Changes in the conservator's plan.

14 (4) List of assets as of the end of the period.

15 (5) Bond amount and surety's name.

16 (6) Residence and physical location of the protected
17 person.

18 (7) General physical and mental condition of the protected
19 person.

20 (8) Other information reflecting the condition of the
21 conservatorship estate.

22 b. These reports shall be filed:

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

26 (2) Within thirty days following removal of the
27 conservator.

28 (3) Upon the conservator's filing of a resignation and
29 before the resignation is accepted by the court.

30 (4) Within sixty days following the termination of the
31 conservatorship.

32 (5) At other times as ordered by the court.

33 c. Reports required by this section shall be served on the
34 protected person's attorney and court advisor, if any, and the
35 veterans administration if the protected person is receiving

1 veterans benefits.

2 Sec. 37. Section 633.675, Code 2019, is amended to read as
3 follows:

4 **633.675 Cause for termination.**

5 1. A guardianship ~~shall cease,~~ and a conservatorship
6 shall terminate, upon the occurrence of any of the following
7 circumstances:

8 a. If the ~~ward~~ protected person is a minor, when the ~~ward~~
9 protected person reaches full age.

10 b. The death of the ~~ward~~ protected person.

11 c. A determination by the court that the ~~ward~~ is no longer
12 a person whose decision-making capacity is so impaired as
13 to bring the ~~ward~~ within the categories of section 633.552,
14 subsection 2, paragraph "a", or ~~section 633.566, subsection 2,~~
15 paragraph "a". In a proceeding to terminate a guardianship or
16 a conservatorship, the ~~ward~~ shall make a *prima facie* showing
17 that the ~~ward~~ has some decision-making capacity. Once the
18 ~~ward~~ has made that showing, the guardian or conservator has
19 the burden to prove by clear and convincing evidence that the
20 ~~ward's~~ decision-making capacity is so impaired, as provided
21 in ~~section 633.552, subsection 2, paragraph "a", or section~~
22 ~~633.566, subsection 2, paragraph "a", that the guardianship or~~
23 ~~conservatorship should not be terminated.~~

24 d. c. Upon determination by the court that the
25 conservatorship or guardianship is no longer necessary for any
26 other reason.

27 2. Notwithstanding ~~subsection 1~~, paragraphs "a" through
28 "d", if the court appointed a guardian for a minor child for
29 whom the court's jurisdiction over the child's guardianship
30 was established pursuant to transfer of the child's case in
31 accordance with section ~~232.101A or 232.104~~, the court shall
32 not enter an order terminating the guardianship before the
33 child becomes age eighteen unless the court finds by clear
34 and convincing evidence that the best interests of the child
35 warrant a return of custody to the child's parent. The

1 court shall terminate a guardianship if it finds by clear and
2 convincing evidence that the basis for appointing a guardian
3 pursuant to section 633.552 is not satisfied.

4 3. The court shall terminate a conservatorship if the court
5 finds by clear and convincing evidence that the basis for
6 appointing a conservator pursuant to section 633.553 or 633.554
7 is not satisfied.

8 4. The standard of proof and the burden of proof to be
9 applied in a termination proceeding shall be the same as set
10 forth in section 633.551, subsection 2.

11 Sec. 38. Section 633.717, subsection 8, Code 2019, is
12 amended to read as follows:

13 8. The denial by a court of this state of a petition to
14 accept a guardianship or conservatorship transferred from
15 another state does not affect the ability of the guardian or
16 conservator to seek appointment as guardian or conservator in
17 this state under section 633.551, 633.552, or 633.566 633.556,
18 if the court has jurisdiction to make an appointment other than
19 by reason of the provisional order of transfer.

20 Sec. 39. Section 633B.102, subsections 2 and 6, Code 2019,
21 are amended to read as follows:

22 2. "*Conservator*" or "*conservatorship*" means a conservator
23 appointed or conservatorship established pursuant to sections
24 633.570 and 633.572 section 633.553, 633.554, or 633.567 or a
25 similar provision of the laws of another state.

26 6. "*Guardian*" or "*guardianship*" means a guardian appointed
27 or a guardianship established pursuant to sections 633.556
28 633.552 and 633.560 633.568 or a similar provision of the laws
29 of another state.

30 Sec. 40. Section 633B.108, subsection 1, Code 2019, is
31 amended to read as follows:

32 1. Under a power of attorney, a principal may nominate
33 a conservator of the principal's estate or guardian of
34 the principal's person for consideration by the court if
35 proceedings for the principal's estate or person are begun

1 after the principal executes the power of attorney. Except
2 for good cause shown or disqualification, the court shall make
3 its appointment in accordance with the principal's most recent
4 nomination. **This section** does not prohibit an individual
5 from executing a petition for the voluntary appointment of a
6 guardian or conservator on a standby basis pursuant to sections
7 **633.560** 633.568 and **633.591**.

8 Sec. 41. REPEAL. Sections 633.552, 633.554, 633.555,
9 633.556, 633.557, 633.558, 633.559, 633.562, 633.566, 633.568,
10 633.569, 633.570, 633.572, 633.573, 633.575, 633.576, 633.646,
11 633.647, 633.649, 633.650, and 633.652, Code 2019, are
12 repealed.

13 Sec. 42. CODE EDITOR'S DIRECTIVE.

14 The Code editor is directed to make the following transfers:
15 1. Section 633.560 to 633.568.
16 2. Section 633.571 to 633.566.
17 3. Section 633.574 to 633.555.