

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0573.01 Chelsea Princell x4335

HOUSE BILL 26-1100

HOUSE SPONSORSHIP

Stewart R. and Espenoza,

SENATE SPONSORSHIP

Snyder,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING UPDATES TO GUARDIANSHIP FOR INCAPACITATED
102 ADULTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill repeals provisions related to the guardianship of an incapacitated person and enacts provisions related to the guardianship of an incapacitated person drafted by the uniform law commission as part of the "Uniform Guardianship and Protective Proceedings Act".

The bill provides guidance for guardians and clarifies how appointees must make decisions on behalf of a person under

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

guardianship.

The bill encourages the use of protective arrangements and less restrictive alternatives instead of guardianship if a person's needs can be met with support services and technology.

The bill establishes a bill of rights for adults subject to guardianship and expands the procedural rights for respondents in guardianship proceedings.

The bill provides for visitation and communication rights for individuals subject to guardianship or conservatorship. This includes a limitation on a guardian's ability to prevent communication, visitation, or interactions between a person subject to guardianship and a third party.

The bill prohibits courts from establishing full guardianship if a limited guardianship would meet the respondent's needs, requires a petitioner seeking full guardianship to provide support to justify full guardianship, and requires courts to provide findings to support the imposition of full guardianship.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 15-14-102, **amend**
3 the introductory portion, (1), (4), (7.5), and (10.5); and **add** (1.3), (1.5),
4 (3.5), (4.5), (6.5), (7.3), (11.5), and (11.7) as follows:

5 **15-14-102. Definitions.**

6 In parts 1 to 4 AND PART 9 of this article 14:

7 (1) ~~"Claim", with respect to a protected person, includes a claim~~
8 ~~against an individual, whether arising in contract, tort, or otherwise, and~~
9 ~~a claim against an estate which arises at or after the appointment of a~~
10 ~~conservator, including expenses of administration~~ "ADULT" MEANS AN
11 INDIVIDUAL AT LEAST EIGHTEEN YEARS OLD OR AN EMANCIPATED
12 INDIVIDUAL UNDER EIGHTEEN YEARS OLD.

13 (1.3) "ADULT SUBJECT TO GUARDIANSHIP" MEANS AN ADULT FOR
14 WHOM A GUARDIAN HAS BEEN APPOINTED PURSUANT TO THIS ARTICLE 14.

15 (1.5) "CLAIM", WITH RESPECT TO A PROTECTED PERSON, INCLUDES
16 A CLAIM AGAINST AN INDIVIDUAL, WHETHER ARISING IN CONTRACT, TORT,

1 OR OTHERWISE, AND A CLAIM AGAINST AN ESTATE WHICH ARISES AT OR
2 AFTER THE APPOINTMENT OF A CONSERVATOR, INCLUDING EXPENSES OF
3 ADMINISTRATION.

4 (3.5) "FULL GUARDIANSHIP" MEANS A GUARDIANSHIP THAT
5 GRANTS THE GUARDIAN ALL POWERS AVAILABLE PURSUANT TO THIS
6 ARTICLE 14.

7 (4) "Guardian" means an individual at least twenty-one years of
8 ~~age~~ OLD, resident or non-resident, who has qualified as a guardian of a
9 minor or incapacitated person pursuant to appointment by a parent or by
10 the court. The term includes a limited, emergency, and temporary
11 substitute guardian but not a guardian ad litem.

12 (4.5) "GUARDIAN AD LITEM" MEANS A PERSON APPOINTED TO
13 INFORM THE COURT ABOUT, AND TO REPRESENT, THE NEEDS AND BEST
14 INTEREST OF AN INDIVIDUAL.

15 (6.5) "LESS RESTRICTIVE ALTERNATIVE" MEANS AN APPROACH TO
16 MEETING AN INDIVIDUAL'S NEEDS THAT RESTRICTS FEWER RIGHTS OF THE
17 INDIVIDUAL THAN WOULD THE APPOINTMENT OF A GUARDIAN OR
18 CONSERVATOR. THE TERM INCLUDES SUPPORTED DECISION-MAKING,
19 APPROPRIATE TECHNOLOGICAL ASSISTANCE, APPOINTMENT OF A
20 REPRESENTATIVE PAYEE, AND APPOINTMENT OF AN AGENT BY THE
21 INDIVIDUAL, INCLUDING APPOINTMENT UNDER A POWER OF ATTORNEY FOR
22 HEALTH CARE OR POWER OF ATTORNEY FOR FINANCES.

23 (7.3) "LIMITED GUARDIANSHIP" MEANS A GUARDIANSHIP THAT
24 GRANTS THE GUARDIAN LESS THAN ALL POWERS AVAILABLE PURSUANT TO
25 THIS ARTICLE 14 OR OTHERWISE RESTRICTS THE POWERS OF THE
26 GUARDIAN.

27 (7.5) "Member of the supportive community" means a person

1 whom the respondent, ward, or protected person has trusted for the
2 one-year period immediately preceding the filing of a petition pursuant to
3 ~~section 15-14-304~~ SECTION 15-14-302 or 15-14-403 to engage in
4 supported decision-making and who may have relevant information about
5 the respondent's, ward's, or protected person's desires and personal values.

6 (10.5) "Post-adjudication" means after appointment of a
7 permanent guardian or special or permanent conservator after a hearing
8 for which a respondent was provided notice pursuant to ~~section~~
9 ~~15-14-309~~ SECTION 15-14-303 or section 15-14-404, or both, and at which
10 the respondent had an opportunity to present evidence and be heard.

11 (11.5) "PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP"
12 MEANS A COURT ORDER ENTERED PURSUANT TO SECTION 15-14-902.

13 (11.7) "PROTECTIVE ARRANGEMENT PURSUANT TO PART 9 OF THIS
14 ARTICLE 14" MEANS A COURT ORDER ENTERED PURSUANT TO SECTION
15 15-14-902 OR 15-14-903.

16 **SECTION 2.** In Colorado Revised Statutes, **add** 15-14-103 as
17 follows:

18 **15-14-103. Guardianship bill of rights.**

- 19 (1) AN ADULT SUBJECT TO GUARDIANSHIP HAS THE RIGHT TO:
- 20 (a) BE TREATED WITH DIGNITY AND RESPECT;
 - 21 (b) BE FREE FROM ABUSE, NEGLECT, EXPLOITATION, AND
22 DISCRIMINATION;
 - 23 (c) REMAIN AS INDEPENDENT AS POSSIBLE;
 - 24 (d) EXPRESS AND PRACTICE THEIR OWN RELIGIOUS PREFERENCES;
 - 25 (e) PERSONAL PRIVACY;
 - 26 (f) HUMANE, SAFE, AND SANITARY LIVING, LEARNING, AND
27 WORKING ENVIRONMENTS;

1 (g) SEXUAL EXPRESSION AND TO HAVE THEIR GENDER IDENTITY
2 RESPECTED;

3 (h) A COMPETENT GUARDIAN WHO ADVOCATES FOR THEIR GOALS,
4 NEEDS, AND PREFERENCES AND RESPECTS THEIR DESIRES, INCLUDING
5 MEDICAL TREATMENT PREFERENCES, CULTURAL PRACTICES, AND
6 RELIGIOUS BELIEFS;

7 (i) A COMPETENT GUARDIAN WHO MAINTAINS FREQUENT CONTACT
8 WITH THE ADULT SUBJECT TO GUARDIANSHIP;

9 (j) FULLY PARTICIPATE IN ALL DECISIONS, ESPECIALLY THOSE
10 AFFECTING THEIR CARE, WHERE THEY LIVE, THEIR ACTIVITIES, AND THEIR
11 SOCIAL INTERACTIONS, TO THE EXTENT THEY WISH TO BE INVOLVED AND
12 ARE ABLE TO BE INVOLVED;

13 (k) RECEIVE NECESSARY SERVICES AND REHABILITATION, WITHIN
14 AVAILABLE RESOURCES, THAT PROTECT THEIR PERSONAL LIBERTY AND
15 ARE PROVIDED WITHIN THE LEAST RESTRICTIVE CONDITIONS;

16 (l) HAVE THE GUARDIAN PRUDENTLY MANAGE THEIR RESOURCES;

17 (m) FULLY PARTICIPATE IN DECISIONS ABOUT HOW THEIR
18 PROPERTY IS MANAGED, TO THE EXTENT THEY WISH TO BE INVOLVED AND
19 ARE ABLE TO BE INVOLVED;

20 (n) KEEP CONFIDENTIAL THOSE MATTERS THAT THEY WISH TO KEEP
21 CONFIDENTIAL UNLESS THE INFORMATION IS NECESSARY TO OBTAIN
22 SERVICES; TO PREVENT ABUSE, NEGLECT, OR EXPLOITATION; OR TO MODIFY
23 THE GUARDIANSHIP ORDER;

24 (o) KEEP ALL RIGHTS THAT THE COURT HAS NOT GRANTED TO
25 GUARDIAN OR CONSERVATOR;

26 (p) A LAWYER WHO ADVOCATES FOR THE OUTCOME THE ADULT
27 SUBJECT TO GUARDIANSHIP WANTS;

1 (q) BE PRESENT AND PARTICIPATE IN ALL COURT HEARINGS;

2 (r) LET THE COURT KNOW CONCERNS OR COMPLAINTS ABOUT THEIR
3 GUARDIANSHIP;

4 (s) ASK THE COURT TO REVIEW THE NEED FOR THEIR
5 GUARDIANSHIP TO CHANGE, CONTINUE, OR END AND WHETHER THEIR
6 GUARDIAN IS RIGHT FOR THEM;

7 (t) IF A QUESTION ARISES ABOUT THEIR CAPACITY TO EXERCISE A
8 SPECIFIC RIGHT, HAVE A QUALIFIED PERSON EVALUATE WHAT THEY CAN
9 DO AND WHETHER TO HAVE SOME OR ALL OF THEIR RIGHTS RESTORED;

10 (u) THE SUPPORT AND ACCOMMODATIONS THEY NEED TO BE ABLE
11 TO EFFECTIVELY COMMUNICATE WITH THE COURT AND TO UNDERSTAND
12 THE COURT PROCEEDINGS; AND

13 (v) HAVE THEIR RIGHTS EXPLAINED TO THEM IN THEIR PREFERRED
14 METHOD OF COMMUNICATION AND IN THE LANGUAGE THEY CHOOSE.

15 (2) THE COURT MAY RESTRICT THE FOLLOWING RIGHTS OF AN
16 ADULT SUBJECT TO GUARDIANSHIP WITHOUT DELEGATING THEM TO THE
17 GUARDIAN IF THE RESTRICTION IS CONSISTENT WITH THE ADULT SUBJECT
18 TO GUARDIANSHIP'S PREFERENCES AND VALUES:

19 (a) TO APPLY FOR OR MAINTAIN A DRIVER'S LICENSE;

20 (b) TO BE EDUCATED;

21 (c) TO BE EMPLOYED;

22 (d) TO COMMUNICATE AND INTERACT WITH OTHERS; AND

23 (e) TO TRAVEL.

24 (3) THE COURT MAY AUTHORIZE A GUARDIAN OR CONSERVATOR
25 TO MAKE DECISIONS FOR THE FOLLOWING RIGHTS ON BEHALF OF THE
26 ADULT SUBJECT TO GUARDIANSHIP IF THE AUTHORIZATION IS CONSISTENT
27 WITH THE ADULT SUBJECT TO GUARDIANSHIP'S PREFERENCES AND VALUES:

1 (a) TO ACQUIRE THE BENEFITS, SERVICES, AND SUPPORTS THE
2 ADULT SUBJECT TO GUARDIANSHIP NEEDS;

3 (b) TO CONSENT TO OR REFUSE MEDICAL AND MENTAL HEALTH
4 TREATMENT FOR THE ADULT SUBJECT TO GUARDIANSHIP;

5 (c) TO DETERMINE WHERE THE ADULT SUBJECT TO GUARDIANSHIP
6 LIVES;

7 (d) TO DETERMINE THE ADULT SUBJECT TO GUARDIANSHIP'S
8 SOCIAL ENVIRONMENT AND SOCIAL ASPECTS OF THEIR PERSONAL LIFE;

9 (e) TO FILE AND DEFEND LAWSUITS;

10 (f) TO MAKE CONTRACTS;

11 (g) TO MAKE GIFTS OF THE ADULT SUBJECT TO GUARDIANSHIP'S
12 MONEY; AND

13 (h) TO MANAGE THE ADULT SUBJECT TO GUARDIANSHIP'S MONEY
14 AND PROPERTY.

15 (4) THE COURT MAY RESTRICT THE FOLLOWING RIGHTS IN
16 ACCORDANCE WITH EXISTING LAW:

17 (a) TO VOTE;

18 (b) TO MAINTAIN THE ADULT SUBJECT TO GUARDIANSHIP'S
19 REPRODUCTIVE HEALTH AND ABILITY TO PROCREATE; AND

20 (c) TO CHANGE THE ADULT SUBJECT TO GUARDIANSHIP'S MARITAL
21 STATUS.

22 **SECTION 3.** In Colorado Revised Statutes, **repeal and reenact,**
23 **with amendments,** part 3 to article 14 of title 15 as follows:

24 PART 3

25 GUARDIANSHIP OF ADULT

26 **15-14-301. Basis for appointment of guardian for adult.**

27 (1) ON PETITION AND AFTER NOTICE AND HEARING, THE COURT

1 MAY:

2 (a) APPOINT A GUARDIAN FOR AN ADULT IF THE COURT FINDS BY
3 CLEAR AND CONVINCING EVIDENCE THAT:

4 (I) THE RESPONDENT LACKS THE ABILITY TO MEET ESSENTIAL
5 REQUIREMENTS FOR HEALTH, SAFETY, OR WELFARE BECAUSE THE
6 RESPONDENT IS UNABLE TO RECEIVE AND EVALUATE INFORMATION OR
7 MAKE OR COMMUNICATE DECISIONS, EVEN WITH APPROPRIATE SUPPORTIVE
8 SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
9 DECISION-MAKING; AND

10 (II) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
11 PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP OR OTHER LESS
12 RESTRICTIVE ALTERNATIVE; OR

13 (b) WITH APPROPRIATE FINDINGS, TREAT THE PETITION AS ONE FOR
14 A PROTECTIVE ARRANGEMENT PURSUANT TO PART 9 OF THIS ARTICLE 14,
15 ISSUE ANY APPROPRIATE ORDER, OR DISMISS THE PROCEEDING.

16 (2) THE COURT SHALL GRANT A GUARDIAN APPOINTED PURSUANT
17 TO SUBSECTION (1) OF THIS SECTION ONLY THOSE POWERS NECESSITATED
18 BY THE DEMONSTRATED NEEDS AND LIMITATIONS OF THE RESPONDENT
19 AND ISSUE ORDERS THAT WILL ENCOURAGE DEVELOPMENT OF THE
20 RESPONDENT'S MAXIMUM SELF-DETERMINATION AND INDEPENDENCE. THE
21 COURT SHALL NOT ESTABLISH A FULL GUARDIANSHIP IF A LIMITED
22 GUARDIANSHIP, PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP,
23 OR OTHER LESS RESTRICTIVE ALTERNATIVES WOULD MEET THE NEEDS OF
24 THE RESPONDENT.

25 **15-14-302. Petition for appointment of guardian for adult.**

26 (1) A PERSON INTERESTED IN THE WELFARE OF AN ADULT,
27 INCLUDING THE ADULT FOR WHOM THE ORDER IS SOUGHT, MAY PETITION

1 FOR APPOINTMENT OF A GUARDIAN FOR THE ADULT.

2 (2) A PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
3 SECTION MUST STATE THE PETITIONER'S NAME; PRINCIPAL RESIDENCE;
4 CURRENT STREET ADDRESS, IF DIFFERENT; RELATIONSHIP TO THE
5 RESPONDENT; INTEREST IN THE APPOINTMENT; THE NAME AND ADDRESS OF
6 ANY ATTORNEY REPRESENTING THE PETITIONER; THE REASON
7 GUARDIANSHIP IS NECESSARY; AND, TO THE EXTENT KNOWN, THE
8 FOLLOWING:

9 (a) THE RESPONDENT'S NAME; AGE; PRINCIPAL RESIDENCE;
10 CURRENT STREET ADDRESS, IF DIFFERENT; AND, IF DIFFERENT, THE
11 ADDRESS OF THE DWELLING WHERE THE RESPONDENT IS PROPOSED TO
12 RESIDE IF THE PETITION IS GRANTED;

13 (b) THE NAME AND ADDRESS OF THE RESPONDENT'S:

14 (I) SPOUSE OR DOMESTIC PARTNER OR, IF THE RESPONDENT HAS
15 NONE, ANY ADULT WITH WHOM THE RESPONDENT HAS SHARED
16 HOUSEHOLD RESPONSIBILITIES FOR MORE THAN SIX MONTHS IN THE
17 TWELVE-MONTH PERIOD IMMEDIATELY BEFORE THE FILING OF THE
18 PETITION;

19 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
20 SIBLING OF THE RESPONDENT; AND

21 (III) ADULT STEPCHILDREN WHOM THE RESPONDENT ACTIVELY
22 PARENTED DURING THE STEPCHILDREN'S MINOR YEARS AND WITH WHOM
23 THE RESPONDENT HAD AN ONGOING RELATIONSHIP IN THE TWO-YEAR
24 PERIOD IMMEDIATELY BEFORE THE FILING OF THE PETITION;

25 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
26 FOLLOWING, IF APPLICABLE:

27 (I) A PERSON RESPONSIBLE FOR CARE OF THE RESPONDENT;

- 1 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;
- 2 (III) ANY REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
- 3 SECURITY ADMINISTRATION FOR THE RESPONDENT;
- 4 (IV) A GUARDIAN OR CONSERVATOR ACTING FOR THE RESPONDENT
- 5 IN THIS STATE OR IN ANOTHER JURISDICTION;
- 6 (V) A TRUSTEE OR CUSTODIAN OF A TRUST OR CUSTODIANSHIP OF
- 7 WHICH THE RESPONDENT IS A BENEFICIARY;
- 8 (VI) ANY FIDUCIARY FOR THE RESPONDENT APPOINTED BY THE
- 9 DEPARTMENT OF VETERANS AFFAIRS;
- 10 (VII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
- 11 HEALTH CARE IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;
- 12 (VIII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
- 13 FINANCES IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;
- 14 (IX) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT;
- 15 (X) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT'S
- 16 PARENT OR SPOUSE OR DOMESTIC PARTNER IN A WILL OR OTHER SIGNED
- 17 RECORD;
- 18 (XI) A PROPOSED GUARDIAN AND THE REASON FOR SELECTING THE
- 19 PROPOSED GUARDIAN; AND
- 20 (XII) A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY;
- 21 (d) WHETHER THE PETITIONER SEEKS A LIMITED GUARDIANSHIP OR
- 22 FULL GUARDIANSHIP;
- 23 (e) IF THE PETITIONER SEEKS A FULL GUARDIANSHIP, THE REASON
- 24 A LIMITED GUARDIANSHIP OR PROTECTIVE ARRANGEMENT INSTEAD OF
- 25 GUARDIANSHIP IS NOT APPROPRIATE;
- 26 (f) IF A LIMITED GUARDIANSHIP IS REQUESTED, THE POWERS TO BE
- 27 GRANTED TO THE GUARDIAN;

1 (g) THE NAME AND CURRENT ADDRESS, IF KNOWN, OF ANY PERSON
2 WITH WHOM THE PETITIONER SEEKS TO LIMIT THE RESPONDENT'S
3 CONTACT;

4 (h) IF THE RESPONDENT HAS PROPERTY OTHER THAN PERSONAL
5 EFFECTS, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH
6 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
7 THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS;
8 AND

9 (i) WHETHER THE RESPONDENT NEEDS AN INTERPRETER,
10 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE
11 EFFECTIVELY WITH THE COURT OR TO UNDERSTAND COURT PROCEEDINGS.

12 (3) THE REASON FOR WHY GUARDIANSHIP IS NECESSARY THAT IS
13 INCLUDED IN THE PETITION PURSUANT TO SUBSECTION (2) OF THIS SECTION
14 MUST INCLUDE A BRIEF DESCRIPTION OF:

15 (a) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
16 NEED;

17 (b) ANY PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP
18 OR OTHER LESS RESTRICTIVE ALTERNATIVES FOR MEETING THE
19 RESPONDENT'S ALLEGED NEED THAT HAVE BEEN CONSIDERED OR
20 IMPLEMENTED;

21 (c) IF NO PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP
22 OR OTHER LESS RESTRICTIVE ALTERNATIVES HAVE BEEN CONSIDERED OR
23 IMPLEMENTED, THE REASON THEY HAVE NOT BEEN CONSIDERED OR
24 IMPLEMENTED; AND

25 (d) THE REASON A PROTECTIVE ARRANGEMENT INSTEAD OF
26 GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE IS INSUFFICIENT
27 TO MEET THE RESPONDENT'S ALLEGED NEED.

1 **15-14-303. Notice of hearing for appointment of guardian for**
2 **adult.**

3 (1) ON FILING OF A PETITION PURSUANT TO SECTION 15-14-302 FOR
4 APPOINTMENT OF A GUARDIAN FOR AN ADULT, THE COURT SHALL SET A
5 DATE, TIME, AND PLACE FOR HEARING THE PETITION WITHIN SIXTY DAYS
6 OF RECEIPT OF THE PETITION.

7 (2) A COPY OF A PETITION DESCRIBED IN SECTION 15-14-302 AND
8 NOTICE OF A HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON
9 THE RESPONDENT. THE NOTICE MUST INFORM THE RESPONDENT OF THE
10 RESPONDENT'S RIGHTS AT THE HEARING, INCLUDING THE RIGHT TO AN
11 ATTORNEY AND TO ATTEND THE HEARING. THE NOTICE MUST INCLUDE A
12 DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF
13 GRANTING THE PETITION. THE COURT SHALL NOT GRANT THE PETITION IF
14 NOTICE SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (2) IS NOT
15 SERVED ON THE RESPONDENT.

16 (3) IN A PROCEEDING ON A PETITION DESCRIBED IN SECTION
17 15-14-302, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
18 SECTION MUST BE GIVEN TO THE PERSONS REQUIRED TO BE LISTED IN THE
19 PETITION PURSUANT TO SECTION 15-14-302 (2)(a) TO (2)(c), IF KNOWN,
20 AND ANY OTHER PERSON INTERESTED IN THE WELFARE OF THE
21 RESPONDENT THAT THE COURT DETERMINES. FAILURE TO GIVE NOTICE
22 PURSUANT TO THIS SUBSECTION (3) DOES NOT PRECLUDE THE COURT FROM
23 APPOINTING A GUARDIAN.

24 (4) IF A PETITION FILED PURSUANT TO SECTION 15-14-302 DOES
25 NOT INCLUDE THE NAME OF AT LEAST ONE PERSON DESCRIBED IN SECTION
26 15-14-302 (2), THE PETITIONER MUST SEARCH WITH REASONABLE
27 DILIGENCE FOR AN ADULT RELATIVE OF THE RESPONDENT AND, IF AN

1 ADULT RELATIVE IS FOUND, GIVE THE ADULT RELATIVE NOTICE IN
2 ACCORDANCE WITH SECTION 15-10-401 THAT A PETITION FOR
3 GUARDIANSHIP OF THE RESPONDENT HAS BEEN FILED AND GIVE NOTICE OF
4 A HEARING ON THE PETITION. THE NOTICE SENT TO THE ADULT RELATIVE
5 OF THE RESPONDENT MUST NOT INCLUDE A COPY OF THE PETITION.
6 FAILURE TO GIVE NOTICE PURSUANT TO THIS SUBSECTION (4) DOES NOT
7 PRECLUDE THE COURT FROM APPOINTING A GUARDIAN.

8 (5) AFTER THE APPOINTMENT OF A GUARDIAN, NOTICE OF A
9 HEARING ON A PETITION FOR AN ORDER ISSUED PURSUANT TO THIS PART 3,
10 TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO:

- 11 (a) THE ADULT SUBJECT TO GUARDIANSHIP;
- 12 (b) THE GUARDIAN; AND
- 13 (c) ANY OTHER PERSON THE COURT DETERMINES.

14 **15-14-304. Appointment and role of visitor.**

15 (1) ON RECEIPT OF A PETITION DESCRIBED IN SECTION 15-14-302
16 FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT, THE COURT SHALL
17 APPOINT A VISITOR. THE COURT SHALL DISCLOSE IN THE ORDER
18 APPOINTING THE VISITOR THE SPECIFIC TRAINING OR EXPERIENCE THE
19 VISITOR HAS WITH RESPECT TO THE TYPES OF ABILITIES, LIMITATIONS, AND
20 NEEDS OF THE RESPONDENT ALLEGED IN THE PETITION AND THE BASIS FOR
21 FEES TO BE PAID TO THE VISITOR.

22 (2) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
23 SECTION SHALL INTERVIEW THE RESPONDENT IN PERSON AND, IN A
24 MANNER THE RESPONDENT IS BEST ABLE TO UNDERSTAND:

- 25 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE
26 PETITION; THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING; THE
27 RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION; AND THE

1 GENERAL POWERS AND DUTIES OF A GUARDIAN;

2 (b) DETERMINE THE RESPONDENT'S VIEWS ABOUT THE
3 APPOINTMENT SOUGHT BY THE PETITIONER, INCLUDING VIEWS ABOUT A
4 PROPOSED GUARDIAN, THE GUARDIAN'S PROPOSED POWERS AND DUTIES,
5 AND THE SCOPE AND DURATION OF THE PROPOSED GUARDIANSHIP;

6 (c) INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHT TO
7 EMPLOY AND CONSULT WITH AN ATTORNEY AT THE RESPONDENT'S
8 EXPENSE AND THE RIGHT TO REQUEST A COURT-APPOINTED ATTORNEY;
9 AND

10 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF
11 THE PROCEEDING, INCLUDING THE RESPONDENT'S ATTORNEY FEES, MAY BE
12 PAID FROM THE RESPONDENT'S ASSETS.

13 (3) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
14 SECTION SHALL:

15 (a) INTERVIEW THE PETITIONER AND PROPOSED GUARDIAN, IF ANY;

16 (b) VISIT THE RESPONDENT'S PRESENT DWELLING AND ANY
17 DWELLING WHERE THE RESPONDENT IS PROPOSED TO RESIDE IF THE
18 APPOINTMENT IS MADE;

19 (c) OBTAIN INFORMATION FROM ANY PHYSICIAN OR OTHER PERSON
20 KNOWN TO HAVE TREATED, ADVISED, OR ASSESSED THE RESPONDENT'S
21 RELEVANT PHYSICAL OR MENTAL CONDITION; AND

22 (d) INVESTIGATE THE ALLEGATIONS IN THE PETITION AND ANY
23 OTHER MATTER RELATING TO THE PETITION THAT THE COURT DIRECTS THE
24 VISITOR MUST INVESTIGATE.

25 (4) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
26 SECTION PROMPTLY SHALL FILE A REPORT IN A RECORD WITH THE COURT,
27 WHICH MUST INCLUDE:

1 (a) A RECOMMENDATION WHETHER TO APPOINT AN ATTORNEY TO
2 REPRESENT THE RESPONDENT IF AN ATTORNEY HAS NOT ALREADY BEEN
3 APPOINTED PURSUANT TO SECTION 15-14-305;

4 (b) A SUMMARY OF SELF-CARE AND INDEPENDENT-LIVING TASKS
5 THE RESPONDENT CAN MANAGE WITHOUT ASSISTANCE OR WITH EXISTING
6 SUPPORTS; COULD MANAGE WITH THE ASSISTANCE OF APPROPRIATE
7 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
8 DECISION-MAKING; AND CANNOT MANAGE;

9 (c) A RECOMMENDATION REGARDING THE APPROPRIATENESS OF
10 GUARDIANSHIP, INCLUDING WHETHER A PROTECTIVE ARRANGEMENT
11 INSTEAD OF GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE
12 FOR MEETING THE RESPONDENT'S NEEDS IS AVAILABLE, AND:

13 (I) IF A GUARDIANSHIP IS RECOMMENDED, WHETHER IT SHOULD BE
14 FULL OR LIMITED; AND

15 (II) IF A LIMITED GUARDIANSHIP IS RECOMMENDED, THE POWERS
16 TO BE GRANTED TO THE GUARDIAN;

17 (d) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED
18 GUARDIAN AND WHETHER THE RESPONDENT APPROVES OR DISAPPROVES
19 OF THE PROPOSED GUARDIAN;

20 (e) A STATEMENT WHETHER THE PROPOSED DWELLING MEETS THE
21 RESPONDENT'S NEEDS AND WHETHER THE RESPONDENT HAS EXPRESSED A
22 PREFERENCE AS TO RESIDENCE;

23 (f) A RECOMMENDATION WHETHER A PROFESSIONAL EVALUATION
24 ORDERED PURSUANT TO SECTION 15-14-306 IS NECESSARY;

25 (g) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO ATTEND
26 A HEARING AT THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD;

27 (h) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO

1 PARTICIPATE IN A HEARING AND A STATEMENT THAT IDENTIFIES ANY
2 TECHNOLOGY OR OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE
3 RESPONDENT'S ABILITY TO PARTICIPATE; AND

4 (i) ANY OTHER MATTER THE COURT DETERMINES.

5 **15-14-305. Appointment and role of attorney for adult.**

6 (1) THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT THE
7 RESPONDENT IN A PROCEEDING FOR APPOINTMENT OF A GUARDIAN FOR AN
8 ADULT IF THE RESPONDENT DOES NOT HIRE AN ATTORNEY TO REPRESENT
9 THEM AND:

10 (a) THE RESPONDENT REQUESTS AN APPOINTMENT;

11 (b) THE VISITOR RECOMMENDS AN APPOINTMENT; OR

12 (c) THE COURT DETERMINES THE RESPONDENT NEEDS
13 REPRESENTATION.

14 (2) AN ATTORNEY REPRESENTING THE RESPONDENT IN A
15 PROCEEDING FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT SHALL:

16 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
17 WISHES;

18 (b) ADVOCATE FOR THE RESPONDENT'S WISHES TO THE EXTENT
19 REASONABLY ASCERTAINABLE; AND

20 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
21 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
22 RESTRICTIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT WITH THE
23 RESPONDENT'S INTERESTS.

24 **15-14-306. Professional evaluation.**

25 (1) AT OR BEFORE A HEARING ON A PETITION FOR A GUARDIANSHIP
26 FOR AN ADULT, THE COURT SHALL ORDER A PROFESSIONAL EVALUATION
27 OF THE RESPONDENT:

1 (a) IF THE RESPONDENT REQUESTS THE EVALUATION; OR

2 (b) IF THE COURT FINDS THAT ADDITIONAL INFORMATION MAY
3 ASSIST THE COURT IN DETERMINING THE RESPONDENT'S NEEDS AND
4 ABILITIES.

5 (2) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
6 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED
7 BY A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
8 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE
9 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND
10 LIMITATIONS AND IS NOT ADVANTAGED OR DISADVANTAGED BY A
11 DECISION TO GRANT THE PETITION OR OTHERWISE DOES NOT HAVE A
12 CONFLICT OF INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION
13 PROMPTLY SHALL FILE A REPORT IN A RECORD WITH THE COURT. UNLESS
14 OTHERWISE DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

15 (a) A DESCRIPTION OF THE NATURE, TYPE, AND EXTENT OF THE
16 RESPONDENT'S COGNITIVE AND FUNCTIONAL ABILITIES AND LIMITATIONS;

17 (b) AN EVALUATION OF THE RESPONDENT'S MENTAL AND PHYSICAL
18 CONDITION AND, IF APPROPRIATE, EDUCATIONAL POTENTIAL, ADAPTIVE
19 BEHAVIOR, AND SOCIAL SKILLS;

20 (c) A PROGNOSIS FOR IMPROVEMENT AND A RECOMMENDATION
21 FOR THE APPROPRIATE TREATMENT, SUPPORT, OR HABILITATION PLAN; AND

22 (d) THE DATE OF THE EXAMINATION ON WHICH THE REPORT IS
23 BASED.

24 (3) THE RESPONDENT MAY DECLINE TO PARTICIPATE IN AN
25 EVALUATION ORDERED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

26 **15-14-307. Attendance and rights at hearing.**

27 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS

1 SECTION, A HEARING HELD PURSUANT TO SECTION 15-14-303 MUST NOT
2 PROCEED UNLESS THE RESPONDENT ATTENDS THE HEARING. IF IT IS NOT
3 REASONABLY FEASIBLE FOR THE RESPONDENT TO ATTEND A HEARING AT
4 THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD, THE COURT
5 SHALL HOLD A HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY
6 OR, AT THE COURT'S DISCRETION, HOLD THE HEARING AT AN ALTERNATIVE
7 LOCATION WHERE THE RESPONDENT CAN ATTEND USING REAL-TIME
8 AUDIO-VISUAL TECHNOLOGY.

9 (2) A HEARING HELD PURSUANT TO SECTION 15-14-303 MAY
10 PROCEED WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS
11 BY CLEAR AND CONVINCING EVIDENCE THAT:

12 (a) THE RESPONDENT HAS REFUSED TO ATTEND THE HEARING
13 AFTER HAVING BEEN FULLY INFORMED OF THE RIGHT TO ATTEND AND THE
14 POTENTIAL CONSEQUENCES OF FAILING TO DO SO; OR

15 (b) THERE IS NO PRACTICABLE WAY FOR THE RESPONDENT TO
16 ATTEND AND PARTICIPATE IN THE HEARING EVEN WITH APPROPRIATE
17 SUPPORTIVE SERVICES AND TECHNOLOGICAL ASSISTANCE.

18 (3) THE RESPONDENT MAY BE ASSISTED IN A HEARING HELD
19 PURSUANT TO SECTION 15-14-303 BY A PERSON OR PERSONS OF THE
20 RESPONDENT'S CHOOSING, ASSISTIVE TECHNOLOGY, OR AN INTERPRETER
21 OR TRANSLATOR, OR A COMBINATION OF THESE SUPPORTS. IF ASSISTANCE
22 WOULD FACILITATE THE RESPONDENT'S PARTICIPATION IN THE HEARING
23 BUT IS NOT OTHERWISE AVAILABLE TO THE RESPONDENT, THE COURT
24 SHALL MAKE REASONABLE EFFORTS TO PROVIDE THE ASSISTANCE.

25 (4) THE RESPONDENT HAS A RIGHT TO CHOOSE AN ATTORNEY TO
26 REPRESENT THE RESPONDENT AT A HEARING HELD PURSUANT TO SECTION
27 15-14-303.

1 (5) AT A HEARING HELD PURSUANT TO SECTION 15-14-303, THE
2 RESPONDENT MAY:

3 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
4 DOCUMENTS;

5 (b) EXAMINE WITNESSES, INCLUDING ANY COURT-APPOINTED
6 EVALUATOR AND THE VISITOR; AND

7 (c) OTHERWISE PARTICIPATE IN THE HEARING.

8 (6) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, A
9 PROPOSED GUARDIAN SHALL ATTEND A HEARING HELD PURSUANT TO
10 SECTION 15-14-303.

11 (7) A HEARING HELD PURSUANT TO SECTION 15-14-303 MUST BE
12 CLOSED ON REQUEST OF THE RESPONDENT OR ON A SHOWING OF GOOD
13 CAUSE.

14 (8) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING
15 HELD PURSUANT TO SECTION 15-14-303. THE COURT MAY GRANT THE
16 REQUEST, WITH OR WITHOUT A HEARING, ON DETERMINING THAT THE BEST
17 INTEREST OF THE RESPONDENT WILL BE SERVED. THE COURT SHALL
18 CONSIDER THE PREFERENCES AND OPINIONS OF THE RESPONDENT PRIOR TO
19 GRANTING A REQUEST TO PARTICIPATE IN THE HEARING. THE COURT MAY
20 IMPOSE APPROPRIATE CONDITIONS ON THE PERSON'S PARTICIPATION.

21 **15-14-308. Confidentiality of records.**

22 THE COURT SHALL COMPLY WITH THE ADMINISTRATIVE RULES
23 ADOPTED BY THE JUDICIAL DEPARTMENT CONCERNING THE
24 CONFIDENTIALITY OF COURT RECORDS.

25 **15-14-309. Who may be guardian for adult - order of priority.**

26 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
27 SECTION, THE COURT, IN APPOINTING A GUARDIAN FOR AN ADULT, SHALL

1 CONSIDER PERSONS QUALIFIED TO BE A GUARDIAN IN THE FOLLOWING
2 ORDER OF PRIORITY:

3 (a) A GUARDIAN, OTHER THAN A TEMPORARY OR EMERGENCY
4 GUARDIAN, CURRENTLY ACTING FOR THE RESPONDENT IN ANOTHER
5 JURISDICTION;

6 (b) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT,
7 INCLUDING THE RESPONDENT'S MOST RECENT NOMINATION MADE IN A
8 POWER OF ATTORNEY;

9 (c) AN AGENT APPOINTED BY THE RESPONDENT UNDER A POWER OF
10 ATTORNEY FOR HEALTH CARE;

11 (d) A SPOUSE OR DOMESTIC PARTNER OF THE RESPONDENT; AND

12 (e) A FAMILY MEMBER OR OTHER INDIVIDUAL WHO HAS SHOWN
13 SPECIAL CARE AND CONCERN FOR THE RESPONDENT.

14 (2) IF TWO OR MORE PERSONS HAVE EQUAL PRIORITY PURSUANT TO
15 SUBSECTION (1) OF THIS SECTION, THE COURT SHALL SELECT AS GUARDIAN
16 THE PERSON THE COURT CONSIDERS BEST QUALIFIED. IN DETERMINING THE
17 BEST QUALIFIED PERSON, THE COURT SHALL CONSIDER THE PERSON'S
18 RELATIONSHIP WITH THE RESPONDENT, THE PERSON'S SKILLS, THE
19 EXPRESSED WISHES OF THE RESPONDENT, THE EXTENT TO WHICH THE
20 PERSON AND THE RESPONDENT HAVE SIMILAR VALUES AND PREFERENCES,
21 AND THE LIKELIHOOD THE PERSON IS ABLE TO PERFORM THE DUTIES OF A
22 GUARDIAN SUCCESSFULLY.

23 (3) THE COURT, ACTING IN THE BEST INTEREST OF THE
24 RESPONDENT, MAY DECLINE TO APPOINT AS GUARDIAN A PERSON HAVING
25 PRIORITY PURSUANT TO SUBSECTION (1) OF THIS SECTION AND APPOINT A
26 PERSON HAVING A LOWER PRIORITY OR NO PRIORITY.

27 (4) UNLESS THE PERSON HAS PRIORITY TO SERVE PURSUANT TO

1 SUBSECTION (1) OF THIS SECTION, A PERSON WHO PROVIDES PAID SERVICES
2 TO THE RESPONDENT, OR AN INDIVIDUAL WHO IS EMPLOYED BY A PERSON
3 WHO PROVIDES PAID SERVICES TO THE RESPONDENT OR IS THE SPOUSE,
4 DOMESTIC PARTNER, PARENT, OR CHILD OF AN INDIVIDUAL WHO PROVIDES
5 OR IS EMPLOYED TO PROVIDE PAID SERVICES TO THE RESPONDENT, MUST
6 NOT BE APPOINTED AS GUARDIAN UNLESS:

7 (a) THE INDIVIDUAL IS RELATED TO THE RESPONDENT BY BLOOD,
8 MARRIAGE, OR ADOPTION; OR

9 (b) THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
10 THE PERSON IS THE BEST QUALIFIED PERSON AVAILABLE FOR APPOINTMENT
11 AND THE APPOINTMENT IS IN THE BEST INTEREST OF THE RESPONDENT.

12 (5) AN OWNER, OPERATOR, OR EMPLOYEE OF A LONG-TERM CARE
13 FACILITY AT WHICH THE RESPONDENT IS RECEIVING CARE MAY NOT BE
14 APPOINTED AS GUARDIAN UNLESS THE OWNER, OPERATOR, OR EMPLOYEE
15 IS RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR ADOPTION.

16 (6) AN INDIVIDUAL WHO HAS A FINANCIAL OR PROPERTY INTEREST
17 IN THE RESPONDENT'S ESTATE MUST NOT BE APPOINTED AS A GUARDIAN,
18 UNLESS THE INDIVIDUAL MEETS THE REQUIREMENTS SET FORTH IN
19 SUBSECTION (4) OF THIS SECTION.

20 **15-14-310. Order of appointment for guardian.**

21 (1) A COURT ORDER APPOINTING A GUARDIAN FOR AN ADULT
22 MUST:

23 (a) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
24 EVIDENCE ESTABLISHED THAT THE IDENTIFIED NEEDS OF THE RESPONDENT
25 CANNOT BE MET BY A PROTECTIVE ARRANGEMENT INSTEAD OF
26 GUARDIANSHIP OR OTHER LESS RESTRICTIVE ALTERNATIVE, INCLUDING
27 USE OF APPROPRIATE SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE,

1 OR SUPPORTED DECISION-MAKING;

2 (b) INCLUDE A SPECIFIC FINDING THAT CLEAR AND CONVINCING
3 EVIDENCE ESTABLISHED THE RESPONDENT WAS GIVEN PROPER NOTICE OF
4 THE HEARING ON THE PETITION;

5 (c) STATE WHETHER THE ADULT SUBJECT TO GUARDIANSHIP
6 RETAINS THE RIGHT TO VOTE AND, IF THE ADULT DOES NOT RETAIN THE
7 RIGHT TO VOTE, INCLUDE FINDINGS THAT SUPPORT REMOVING THAT RIGHT,
8 WHICH MUST INCLUDE A FINDING THAT THE ADULT CANNOT
9 COMMUNICATE, WITH OR WITHOUT SUPPORT, A SPECIFIC DESIRE TO
10 PARTICIPATE IN THE VOTING PROCESS; AND

11 (d) STATE WHETHER THE ADULT SUBJECT TO GUARDIANSHIP
12 RETAINS THE RIGHT TO MARRY AND, IF THE ADULT DOES NOT RETAIN THE
13 RIGHT TO MARRY, INCLUDE FINDINGS THAT SUPPORT REMOVING THAT
14 RIGHT.

15 (2) AN ADULT SUBJECT TO GUARDIANSHIP RETAINS THE RIGHT TO
16 VOTE UNLESS THE ORDER DESCRIBED IN SUBSECTION (1) OF THIS SECTION
17 INCLUDES THE STATEMENT REQUIRED BY SUBSECTION (1)(c) OF THIS
18 SECTION. AN ADULT SUBJECT TO GUARDIANSHIP RETAINS THE RIGHT TO
19 MARRY UNLESS THE ORDER DESCRIBED IN SUBSECTION (1) OF THIS SECTION
20 INCLUDES THE FINDINGS REQUIRED BY SUBSECTION (1)(d) OF THIS
21 SECTION.

22 (3) A COURT ORDER ESTABLISHING A FULL GUARDIANSHIP FOR AN
23 ADULT MUST STATE THE BASIS FOR GRANTING A FULL GUARDIANSHIP AND
24 INCLUDE SPECIFIC FINDINGS THAT SUPPORT THE CONCLUSION THAT A
25 LIMITED GUARDIANSHIP WOULD NOT MEET THE FUNCTIONAL NEEDS OF THE
26 ADULT SUBJECT TO GUARDIANSHIP.

27 (4) A COURT ORDER ESTABLISHING A LIMITED GUARDIANSHIP FOR

1 AN ADULT MUST STATE THE SPECIFIC POWERS GRANTED TO THE GUARDIAN.

2 (5) THE COURT, AS PART OF AN ORDER ESTABLISHING A
3 GUARDIANSHIP FOR AN ADULT, SHALL IDENTIFY ANY PERSON THAT
4 SUBSEQUENTLY IS ENTITLED TO:

5 (a) NOTICE OF THE RIGHTS OF THE ADULT GIVEN PURSUANT TO
6 SECTION 15-14-311 (2);

7 (b) NOTICE OF A CHANGE IN THE PRIMARY DWELLING OF THE
8 ADULT;

9 (c) NOTICE THAT THE GUARDIAN HAS DELEGATED:

10 (I) THE POWER TO MANAGE THE CARE OF THE ADULT;

11 (II) THE POWER TO MAKE DECISIONS ABOUT WHERE THE ADULT
12 LIVES;

13 (III) THE POWER TO MAKE MAJOR MEDICAL DECISIONS ON BEHALF
14 OF THE ADULT;

15 (IV) THE POWER THAT REQUIRES COURT APPROVAL PURSUANT TO
16 SECTION 15-14-315; OR

17 (V) SUBSTANTIALLY ALL POWERS OF THE GUARDIAN;

18 (d) NOTICE WHEN THE GUARDIAN IS UNAVAILABLE TO VISIT THE
19 ADULT FOR MORE THAN TWO MONTHS OR UNAVAILABLE TO PERFORM THE
20 GUARDIAN'S DUTIES FOR MORE THAN ONE MONTH;

21 (e) A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN SECTION
22 15-14-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
23 15-14-317;

24 (f) ACCESS TO COURT RECORDS RELATING TO THE GUARDIANSHIP;

25 (g) NOTICE OF THE DEATH OR SIGNIFICANT CHANGE IN THE
26 CONDITION OF THE ADULT;

27 (h) NOTICE THAT THE COURT HAS LIMITED OR MODIFIED THE

1 POWERS OF THE GUARDIAN; AND

2 (i) NOTICE OF THE REMOVAL OF THE GUARDIAN.

3 (6) A SPOUSE, DOMESTIC PARTNER, AND ADULT CHILD OF AN
4 ADULT SUBJECT TO GUARDIANSHIP ARE ENTITLED TO NOTICE PURSUANT TO
5 SUBSECTION (5) OF THIS SECTION UNLESS THE COURT DETERMINES NOTICE
6 IS CONTRARY TO THE PREFERENCES OR PRIOR DIRECTIONS OF THE ADULT
7 SUBJECT TO GUARDIANSHIP OR NOT IN THE BEST INTEREST OF THE ADULT.

8 **15-14-311. Notice of order of appointment - rights.**

9 (1) A GUARDIAN APPOINTED PURSUANT TO SECTION 15-14-309
10 SHALL GIVE THE ADULT SUBJECT TO GUARDIANSHIP AND ALL OTHER
11 PERSONS GIVEN NOTICE PURSUANT TO SECTION 15-14-303 A COPY OF THE
12 ORDER OF APPOINTMENT, TOGETHER WITH NOTICE OF THE RIGHT TO
13 REQUEST TERMINATION OR MODIFICATION. THE ORDER AND NOTICE MUST
14 BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE APPOINTMENT.

15 (2) NOT LATER THAN THIRTY DAYS AFTER APPOINTING A
16 GUARDIAN PURSUANT TO SECTION 15-14-309, THE COURT SHALL GIVE TO
17 THE ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN, AND ANY OTHER
18 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-310 (5) OR A
19 SUBSEQUENT ORDER A STATEMENT OF THE RIGHTS OF THE ADULT SUBJECT
20 TO GUARDIANSHIP AND PROCEDURES TO SEEK RELIEF IF THE ADULT IS
21 DENIED THOSE RIGHTS. THE STATEMENT MUST BE IN AT LEAST
22 SIXTEEN-POINT FONT, IN PLAIN LANGUAGE, AND, TO THE EXTENT FEASIBLE,
23 IN A LANGUAGE IN WHICH THE ADULT SUBJECT TO GUARDIANSHIP IS
24 PROFICIENT. THE STATEMENT MUST NOTIFY THE ADULT SUBJECT TO
25 GUARDIANSHIP OF THE RIGHT TO:

26 (a) SEEK TERMINATION OR MODIFICATION OF THE GUARDIANSHIP,
27 OR REMOVAL OF THE GUARDIAN, AND CHOOSE AN ATTORNEY TO

1 REPRESENT THE ADULT IN THESE MATTERS OR USE AN ATTORNEY
2 APPOINTED BY THE COURT;

3 (b) BE INVOLVED IN DECISIONS AFFECTING THE ADULT, INCLUDING
4 DECISIONS ABOUT THE ADULT'S CARE, DWELLING, ACTIVITIES, OR SOCIAL
5 INTERACTIONS, TO THE EXTENT REASONABLY FEASIBLE;

6 (c) BE INVOLVED IN HEALTH-CARE DECISION-MAKING TO THE
7 EXTENT REASONABLY FEASIBLE AND BE SUPPORTED IN UNDERSTANDING
8 THE RISKS AND BENEFITS OF HEALTH-CARE OPTIONS TO THE EXTENT
9 REASONABLY FEASIBLE;

10 (d) BE NOTIFIED AT LEAST THIRTY DAYS BEFORE A CHANGE IN THE
11 ADULT'S PRIMARY DWELLING OR PERMANENT MOVE TO A NURSING HOME,
12 MENTAL HEALTH INSTITUTION, OR OTHER FACILITY THAT PLACES
13 RESTRICTIONS ON THE INDIVIDUAL'S ABILITY TO LEAVE OR HAVE VISITORS,
14 UNLESS THE CHANGE OR MOVE IS PROPOSED IN THE GUARDIAN'S PLAN
15 PURSUANT TO SECTION 15-14-316 OR AUTHORIZED BY THE COURT BY
16 SPECIFIC ORDER;

17 (e) OBJECT TO A CHANGE OR MOVE DESCRIBED IN SUBSECTION
18 (2)(d) OF THIS SECTION AND THE PROCESS FOR OBJECTING;

19 (f) COMMUNICATE, VISIT, OR INTERACT WITH OTHERS, INCLUDING
20 RECEIVING VISITORS, HAVING PRIVATE CONVERSATIONS WITH OTHERS,
21 AND MAKING OR RECEIVING TELEPHONE CALLS, PERSONAL MAIL, OR
22 ELECTRONIC COMMUNICATIONS, INCLUDING THROUGH SOCIAL MEDIA,
23 UNLESS:

24 (I) THE GUARDIAN HAS BEEN AUTHORIZED BY THE COURT BY
25 SPECIFIC ORDER TO RESTRICT COMMUNICATIONS, VISITS, OR
26 INTERACTIONS;

27 (II) A PROTECTIVE ORDER OR PROTECTIVE ARRANGEMENT INSTEAD

1 OF GUARDIANSHIP IS IN EFFECT THAT LIMITS CONTACT BETWEEN THE
2 ADULT AND A PERSON; OR

3 (III) THE GUARDIAN HAS GOOD CAUSE TO BELIEVE RESTRICTION IS
4 NECESSARY BECAUSE INTERACTION WITH A SPECIFIED PERSON POSES A
5 RISK OF SIGNIFICANT PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM TO
6 THE ADULT, AND THE RESTRICTION IS:

7 (A) FOR A PERIOD OF NOT MORE THAN SEVEN BUSINESS DAYS IF
8 THE PERSON HAS A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH
9 THE ADULT; OR

10 (B) FOR A PERIOD OF NOT MORE THAN SIXTY DAYS IF THE PERSON
11 DOES NOT HAVE A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH
12 THE ADULT;

13 (g) RECEIVE A COPY OF THE GUARDIAN'S PLAN DESCRIBED IN
14 SECTION 15-14-316 AND THE GUARDIAN'S REPORT DESCRIBED IN SECTION
15 15-14-317; AND

16 (h) OBJECT TO THE GUARDIAN'S PLAN OR REPORT.

17 (3) IF A RESTRICTION IS IMPOSED PURSUANT TO SUBSECTION
18 (2)(f)(III) OF THIS SECTION, THE GUARDIAN MUST SUBMIT NOTICE OF THE
19 RESTRICTION TO THE COURT.

20 **15-14-312. Emergency guardian for adult.**

21 (1) ON ITS OWN AFTER A PETITION HAS BEEN FILED PURSUANT TO
22 SECTION 15-14-302, OR ON PETITION BY A PERSON INTERESTED IN THE
23 WELFARE OF AN ADULT, THE COURT MAY APPOINT AN EMERGENCY
24 GUARDIAN FOR THE ADULT IF THE COURT FINDS:

25 (a) APPOINTMENT OF AN EMERGENCY GUARDIAN IS LIKELY TO
26 PREVENT SUBSTANTIAL HARM TO THE ADULT'S HEALTH, SAFETY, OR
27 WELFARE;

1 (b) NO OTHER PERSON APPEARS TO HAVE AUTHORITY AND
2 WILLINGNESS TO ACT IN THE CIRCUMSTANCES; AND

3 (c) THERE IS REASON TO BELIEVE THAT A BASIS FOR APPOINTING
4 A GUARDIAN PURSUANT TO SECTION 15-14-301 EXISTS.

5 (2) THE DURATION OF AUTHORITY OF AN EMERGENCY GUARDIAN
6 FOR AN ADULT MAY NOT EXCEED SIXTY DAYS, AND THE EMERGENCY
7 GUARDIAN MAY EXERCISE ONLY THE POWERS SPECIFIED IN THE ORDER OF
8 APPOINTMENT. THE EMERGENCY GUARDIAN'S AUTHORITY MAY BE
9 EXTENDED ONCE FOR NOT MORE THAN SIXTY DAYS IF THE COURT FINDS
10 THAT THE CONDITIONS FOR APPOINTMENT OF AN EMERGENCY GUARDIAN
11 DESCRIBED IN SUBSECTION (1) OF THIS SECTION CONTINUE.

12 (3) IMMEDIATELY ON FILING OF A PETITION FOR APPOINTMENT OF
13 AN EMERGENCY GUARDIAN FOR AN ADULT, THE COURT SHALL APPOINT AN
14 ATTORNEY TO REPRESENT THE RESPONDENT IN THE PROCEEDING. EXCEPT
15 AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION,
16 REASONABLE NOTICE OF THE DATE, TIME, AND PLACE OF A HEARING ON
17 THE PETITION MUST BE GIVEN TO THE RESPONDENT, THE RESPONDENT'S
18 ATTORNEY, AND ANY OTHER PERSON THE COURT DETERMINES.

19 (4) THE COURT MAY APPOINT AN EMERGENCY GUARDIAN FOR AN
20 ADULT WITHOUT NOTICE TO THE ADULT AND AN ATTORNEY FOR THE
21 ADULT ONLY IF THE COURT FINDS FROM AN AFFIDAVIT OR TESTIMONY
22 THAT THE RESPONDENT'S HEALTH, SAFETY, OR WELFARE MAY BE
23 SUBSTANTIALLY HARMED BEFORE A HEARING WITH NOTICE ON THE
24 APPOINTMENT CAN BE HELD. IF THE COURT APPOINTS AN EMERGENCY
25 GUARDIAN WITHOUT REASONABLE NOTICE TO THE RESPONDENT OR THE
26 RESPONDENT'S ATTORNEY AND THE RESPONDENT IS NOT PRESENT AT THE
27 HEARING, THE COURT MUST:

1 (a) PERSONALLY SERVE NOTICE OF THE APPOINTMENT NOT LATER
2 THAN FORTY-EIGHT HOURS AFTER THE APPOINTMENT TO:

3 (I) THE RESPONDENT;

4 (II) THE RESPONDENT'S ATTORNEY; AND

5 (III) ANY OTHER PERSON THE COURT DETERMINES; AND

6 (b) HOLD A HEARING ON THE APPROPRIATENESS OF THE
7 APPOINTMENT NOT LATER THAN SEVEN DAYS AFTER THE APPOINTMENT
8 UPON THE REQUEST OF THE RESPONDENT, THE RESPONDENT'S ATTORNEY,
9 A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY, OR A PERSON
10 INTERESTED IN THE WELFARE OF AN ADULT SUBJECT TO GUARDIANSHIP.

11 (5) APPOINTING OF AN EMERGENCY GUARDIAN PURSUANT TO THIS
12 SECTION IS NOT A DETERMINATION THAT A BASIS EXISTS FOR APPOINTMENT
13 OF A GUARDIAN PURSUANT TO SECTION 15-14-301.

14 (6) THE COURT MAY TERMINATE THE APPOINTMENT OF AN
15 EMERGENCY GUARDIAN APPOINTED PURSUANT TO THIS SECTION AT ANY
16 TIME. THE EMERGENCY GUARDIAN SHALL MAKE ANY REPORT THE COURT
17 REQUIRES.

18 **15-14-313. Duties of guardian for adult.**

19 (1) A GUARDIAN FOR AN ADULT IS A FIDUCIARY. EXCEPT AS
20 OTHERWISE LIMITED BY THE COURT, A GUARDIAN FOR AN ADULT SHALL
21 MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH,
22 AND WELFARE OF THE ADULT SUBJECT TO GUARDIANSHIP TO THE EXTENT
23 NECESSITATED BY THE ADULT'S LIMITATIONS.

24 (2) A GUARDIAN FOR AN ADULT SHALL PROMOTE THE
25 SELF-DETERMINATION OF THE ADULT AND, TO THE EXTENT REASONABLY
26 FEASIBLE, ENCOURAGE THE ADULT TO PARTICIPATE IN DECISIONS, ACT ON
27 THE ADULT'S OWN BEHALF, AND DEVELOP OR REGAIN THE CAPACITY TO

1 MANAGE THE ADULT'S PERSONAL AFFAIRS. IN FURTHERANCE OF THIS DUTY,
2 THE GUARDIAN SHALL:

3 (a) BECOME OR REMAIN PERSONALLY ACQUAINTED WITH THE
4 ADULT AND MAINTAIN SUFFICIENT CONTACT WITH THE ADULT, INCLUDING
5 THROUGH REGULAR VISITATION, TO KNOW THE ADULT'S ABILITIES,
6 LIMITATIONS, NEEDS, OPPORTUNITIES, AND PHYSICAL AND MENTAL
7 HEALTH;

8 (b) TO THE EXTENT REASONABLY FEASIBLE, IDENTIFY THE VALUES
9 AND PREFERENCES OF THE ADULT AND INVOLVE THE ADULT IN DECISIONS
10 AFFECTING THE ADULT, INCLUDING DECISIONS ABOUT THE ADULT'S CARE,
11 DWELLING, ACTIVITIES, OR SOCIAL INTERACTIONS; AND

12 (c) MAKE REASONABLE EFFORTS TO IDENTIFY AND FACILITATE
13 SUPPORTIVE RELATIONSHIPS AND SERVICES FOR THE ADULT.

14 (3) A GUARDIAN FOR AN ADULT AT ALL TIMES SHALL EXERCISE
15 REASONABLE CARE, DILIGENCE, AND PRUDENCE WHEN ACTING ON BEHALF
16 OF OR MAKING DECISIONS FOR THE ADULT. IN FURTHERANCE OF THIS DUTY,
17 THE GUARDIAN SHALL:

18 (a) TAKE REASONABLE CARE OF THE PERSONAL EFFECTS, PETS, AND
19 SERVICE OR SUPPORT ANIMALS OF THE ADULT AND BRING A PROCEEDING
20 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP IF
21 NECESSARY TO PROTECT THE ADULT'S PROPERTY;

22 (b) EXPEND FUNDS AND OTHER PROPERTY OF THE ADULT RECEIVED
23 BY THE GUARDIAN FOR THE ADULT'S CURRENT NEEDS FOR SUPPORT, CARE,
24 EDUCATION, HEALTH, AND WELFARE;

25 (c) CONSERVE ANY FUNDS AND OTHER PROPERTY OF THE ADULT
26 NOT EXPENDED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION FOR THE
27 ADULT'S FUTURE NEEDS, BUT IF A CONSERVATOR HAS BEEN APPOINTED FOR

1 THE ADULT, PAY THE FUNDS AND OTHER PROPERTY AT LEAST QUARTERLY
2 TO THE CONSERVATOR TO BE CONSERVED FOR THE ADULT'S FUTURE
3 NEEDS;

4 (d) ACCOUNT FOR ANY EXPENDITURES OF THE ADULT'S FUNDS AND
5 PROVIDE THE ACCOUNTING TO THE ADULT ON A MONTHLY BASIS;

6 (e) MONITOR THE QUALITY OF SERVICES, INCLUDING LONG-TERM
7 CARE SERVICES, PROVIDED TO THE ADULT; AND

8 (f) NOTIFY THE COURT IF THE GUARDIAN IS UNABLE TO DEVELOP
9 OR MAINTAIN A SUPPORTIVE WORKING RELATIONSHIP WITH THE ADULT.

10 (4) IN MAKING A DECISION FOR AN ADULT SUBJECT TO
11 GUARDIANSHIP, THE GUARDIAN SHALL MAKE THE DECISION THE GUARDIAN
12 REASONABLY BELIEVES THE ADULT WOULD MAKE IF THE ADULT WERE
13 ABLE, UNLESS DOING SO WOULD UNREASONABLY HARM OR ENDANGER THE
14 WELFARE OR PERSONAL OR FINANCIAL INTERESTS OF THE ADULT. TO
15 DETERMINE THE DECISION THE ADULT SUBJECT TO GUARDIANSHIP WOULD
16 MAKE IF ABLE, THE GUARDIAN SHALL CONSIDER THE ADULT'S PREVIOUS OR
17 CURRENT DIRECTIONS, PREFERENCES, OPINIONS, VALUES, AND ACTIONS, TO
18 THE EXTENT ACTUALLY KNOWN OR REASONABLY ASCERTAINABLE BY THE
19 GUARDIAN.

20 (5) IF A GUARDIAN FOR AN ADULT CANNOT MAKE A DECISION
21 PURSUANT TO SUBSECTION (4) OF THIS SECTION BECAUSE THE GUARDIAN
22 DOES NOT KNOW AND CANNOT REASONABLY DETERMINE THE DECISION
23 THE ADULT PROBABLY WOULD MAKE IF ABLE, OR THE GUARDIAN
24 REASONABLY BELIEVES THE DECISION THE ADULT WOULD MAKE WOULD
25 UNREASONABLY HARM OR ENDANGER THE WELFARE OR PERSONAL OR
26 FINANCIAL INTERESTS OF THE ADULT, THE GUARDIAN SHALL ACT IN
27 ACCORDANCE WITH THE BEST INTEREST OF THE ADULT. IN DETERMINING

1 THE BEST INTEREST OF THE ADULT, THE GUARDIAN SHALL CONSIDER:

2 (a) INFORMATION RECEIVED FROM PROFESSIONALS AND PERSONS
3 WHO DEMONSTRATE SUFFICIENT INTEREST IN THE WELFARE OF THE ADULT;

4 (b) OTHER INFORMATION THE GUARDIAN BELIEVES THE ADULT
5 WOULD HAVE CONSIDERED IF THE ADULT WERE ABLE TO ACT; AND

6 (c) OTHER FACTORS A REASONABLE PERSON IN THE
7 CIRCUMSTANCES OF THE ADULT WOULD CONSIDER, INCLUDING
8 CONSEQUENCES FOR OTHERS.

9 (6) A GUARDIAN FOR AN ADULT IMMEDIATELY SHALL NOTIFY THE
10 COURT IF THE CONDITION OF THE ADULT HAS CHANGED SO THAT THE
11 ADULT IS CAPABLE OF EXERCISING RIGHTS PREVIOUSLY REMOVED.

12 **15-14-314. Powers of guardian for adult.**

13 (1) EXCEPT AS LIMITED BY COURT ORDER, A GUARDIAN FOR AN
14 ADULT MAY:

15 (a) APPLY FOR AND RECEIVE FUNDS AND BENEFITS FOR THE
16 SUPPORT OF THE ADULT, UNLESS A CONSERVATOR IS APPOINTED FOR THE
17 ADULT AND THE APPLICATION OR RECEIPT IS WITHIN THE POWERS OF THE
18 CONSERVATOR;

19 (b) UNLESS INCONSISTENT WITH A COURT ORDER, ESTABLISH THE
20 ADULT'S PLACE OF DWELLING THAT IS CONSISTENT WITH THE
21 REQUIREMENTS SET FORTH IN SUBSECTION (5) OF THIS SECTION;

22 (c) CONSENT TO HEALTH OR OTHER CARE, TREATMENT, OR SERVICE
23 FOR THE ADULT;

24 (d) IF A CONSERVATOR FOR THE ADULT HAS NOT BEEN APPOINTED,
25 COMMENCE A PROCEEDING, INCLUDING AN ADMINISTRATIVE PROCEEDING,
26 OR TAKE OTHER APPROPRIATE ACTION TO COMPEL ANOTHER PERSON TO
27 SUPPORT THE ADULT OR PAY FUNDS FOR THE ADULT'S BENEFIT;

1 (e) TO THE EXTENT REASONABLE, DELEGATE TO THE ADULT
2 RESPONSIBILITY FOR A DECISION AFFECTING THE ADULT'S WELL-BEING;
3 AND

4 (f) RECEIVE PERSONALLY IDENTIFIABLE HEALTH-CARE
5 INFORMATION REGARDING THE ADULT.

6 (2) THE COURT BY SPECIFIC ORDER MAY AUTHORIZE A GUARDIAN
7 FOR AN ADULT TO CONSENT TO THE ADOPTION OF THE ADULT.

8 (3) THE COURT BY SPECIFIC ORDER MAY AUTHORIZE A GUARDIAN
9 FOR AN ADULT TO:

10 (a) CONSENT OR WITHHOLD CONSENT TO THE MARRIAGE OF THE
11 ADULT IF THE ADULT'S RIGHT TO MARRY HAS BEEN REMOVED PURSUANT
12 TO SECTION 15-14-310;

13 (b) PETITION FOR DIVORCE, DISSOLUTION, OR ANNULMENT OF
14 MARRIAGE OF THE ADULT OR A DECLARATION OF INVALIDITY OF THE
15 ADULT'S MARRIAGE; OR

16 (c) SUPPORT OR OPPOSE A PETITION FOR DIVORCE, DISSOLUTION,
17 OR ANNULMENT OF MARRIAGE OF THE ADULT OR A DECLARATION OF
18 INVALIDITY OF THE ADULT'S MARRIAGE.

19 (4) IN DETERMINING WHETHER TO AUTHORIZE A POWER PURSUANT
20 TO SUBSECTION (2) OR (3) OF THIS SECTION, THE COURT SHALL CONSIDER
21 WHETHER THE UNDERLYING ACT WOULD BE IN ACCORDANCE WITH THE
22 ADULT'S PREFERENCES, VALUES, AND PRIOR OR CURRENT DIRECTIONS AND
23 WHETHER THE UNDERLYING ACT WOULD BE IN THE ADULT'S BEST
24 INTEREST.

25 (5) IN EXERCISING A GUARDIAN'S POWER PURSUANT TO
26 SUBSECTION (1)(b) OF THIS SECTION TO ESTABLISH THE ADULT'S PLACE OF
27 DWELLING, THE GUARDIAN SHALL:

1 (a) SELECT A RESIDENTIAL SETTING THE GUARDIAN BELIEVES THE
2 ADULT WOULD SELECT IF THE ADULT WERE ABLE, IN ACCORDANCE WITH
3 THE DECISION-MAKING STANDARD DESCRIBED IN SECTION 15-14-313. IF
4 THE GUARDIAN DOES NOT KNOW AND CANNOT REASONABLY DETERMINE
5 WHAT SETTING THE ADULT SUBJECT TO GUARDIANSHIP PROBABLY WOULD
6 CHOOSE IF ABLE, OR THE GUARDIAN REASONABLY BELIEVES THE DECISION
7 THE ADULT WOULD MAKE WOULD UNREASONABLY HARM OR ENDANGER
8 THE WELFARE OR PERSONAL OR FINANCIAL INTERESTS OF THE ADULT, THE
9 GUARDIAN SHALL CHOOSE IN ACCORDANCE WITH SECTION 15-14-313 A
10 RESIDENTIAL SETTING THAT IS CONSISTENT WITH THE ADULT'S BEST
11 INTEREST AND IS THE LEAST RESTRICTIVE RESIDENTIAL ENVIRONMENT
12 NECESSARY TO MEET THE ADULT'S NEEDS.

13 (b) IN SELECTING AMONG RESIDENTIAL SETTINGS, GIVE PRIORITY
14 TO A RESIDENTIAL SETTING IN A LOCATION THAT ALLOWS THE ADULT TO
15 INTERACT WITH PERSONS IMPORTANT TO THE ADULT AND MEETS THE
16 ADULT'S NEEDS AS DESCRIBED IN SECTION 15-14-313;

17 (c) NOT LATER THAN THIRTY DAYS AFTER A CHANGE IN THE
18 DWELLING OF THE ADULT:

19 (I) GIVE NOTICE, PURSUANT TO SECTION 15-10-401, OF THE
20 CHANGE TO THE COURT, THE ADULT, AND ANY PERSON IDENTIFIED AS
21 ENTITLED TO THE NOTICE IN THE COURT ORDER APPOINTING THE
22 GUARDIAN OR A SUBSEQUENT ORDER; AND

23 (II) INCLUDE IN THE NOTICE THE ADDRESS AND NATURE OF THE
24 NEW DWELLING AND STATE WHETHER THE ADULT RECEIVED ADVANCE
25 NOTICE OF THE CHANGE AND WHETHER THE ADULT OBJECTED TO THE
26 CHANGE;

27 (d) ESTABLISH OR MOVE THE PERMANENT PLACE OF DWELLING OF

1 THE ADULT TO A NURSING HOME, MENTAL HEALTH INSTITUTION, OR OTHER
2 FACILITY THAT PLACES RESTRICTIONS ON THE ADULT'S ABILITY TO LEAVE
3 OR HAVE VISITORS ONLY IF:

4 (I) THE ESTABLISHMENT OR MOVE IS IN THE GUARDIAN'S PLAN
5 DESCRIBED IN SECTION 15-14-316;

6 (II) THE COURT AUTHORIZES THE ESTABLISHMENT OR MOVE; OR

7 (III) THE GUARDIAN GIVES NOTICE OF THE ESTABLISHMENT OR
8 MOVE AT LEAST FOURTEEN DAYS BEFORE THE ESTABLISHMENT OR MOVE
9 TO THE ADULT AND ALL PERSONS ENTITLED TO NOTICE PURSUANT TO
10 SECTION 15-14-310 (5)(b) OR A SUBSEQUENT ORDER, AND NO OBJECTION
11 IS FILED; AND

12 (e) ESTABLISH OR MOVE THE PLACE OF DWELLING OF THE ADULT
13 OUTSIDE THIS STATE ONLY IF CONSISTENT WITH THE GUARDIAN'S PLAN AND
14 AUTHORIZED BY THE COURT BY SPECIFIC ORDER.

15 (6) IN EXERCISING A GUARDIAN'S POWER PURSUANT TO
16 SUBSECTION (1)(c) OF THIS SECTION TO MAKE HEALTH-CARE DECISIONS,
17 THE GUARDIAN SHALL:

18 (a) INVOLVE THE ADULT IN DECISION-MAKING TO THE EXTENT
19 REASONABLY FEASIBLE, INCLUDING, WHEN PRACTICABLE, BY
20 ENCOURAGING AND SUPPORTING THE ADULT IN UNDERSTANDING THE
21 RISKS AND BENEFITS OF HEALTH-CARE OPTIONS;

22 (b) DEFER TO A DECISION BY AN AGENT ACTING UNDER A POWER
23 OF ATTORNEY FOR HEALTH CARE EXECUTED BY THE ADULT AND
24 COOPERATE TO THE EXTENT FEASIBLE WITH THE AGENT MAKING THE
25 DECISION; AND

26 (c) TAKE INTO ACCOUNT:

27 (I) THE RISKS AND BENEFITS OF TREATMENT OPTIONS; AND

1 (II) THE CURRENT AND PREVIOUS WISHES AND VALUES OF THE
2 ADULT, IF KNOWN OR REASONABLY ASCERTAINABLE BY THE GUARDIAN.

3 **15-14-315. Special limitations on guardian's power.**

4 (1) UNLESS AUTHORIZED BY THE COURT BY SPECIFIC ORDER, A
5 GUARDIAN FOR AN ADULT DOES NOT HAVE THE POWER TO REVOKE OR
6 AMEND A POWER OF ATTORNEY FOR HEALTH CARE OR POWER OF
7 ATTORNEY FOR FINANCES EXECUTED BY THE ADULT PRIOR TO THE
8 APPOINTMENT OF THE GUARDIAN. IF A POWER OF ATTORNEY FOR HEALTH
9 CARE IS IN EFFECT, UNLESS THERE IS A COURT ORDER TO THE CONTRARY,
10 A HEALTH-CARE DECISION OF AN AGENT TAKES PRECEDENCE OVER THAT
11 OF THE GUARDIAN AND THE GUARDIAN SHALL COOPERATE WITH THE
12 AGENT TO THE EXTENT FEASIBLE. IF A POWER OF ATTORNEY FOR FINANCES
13 IS IN EFFECT, UNLESS THERE IS A COURT ORDER TO THE CONTRARY, A
14 DECISION BY THE AGENT WHICH THE AGENT IS AUTHORIZED TO MAKE
15 UNDER THE POWER OF ATTORNEY FOR FINANCES TAKES PRECEDENCE OVER
16 THAT OF THE GUARDIAN AND THE GUARDIAN SHALL COOPERATE WITH THE
17 AGENT TO THE EXTENT FEASIBLE.

18 (2) A GUARDIAN FOR AN ADULT MAY NOT INITIATE THE
19 COMMITMENT OF THE ADULT TO A MENTAL HEALTH INSTITUTION EXCEPT
20 IN ACCORDANCE WITH THE STATE'S PROCEDURE FOR INVOLUNTARY
21 TREATMENT AND EVALUATION OF A MENTAL HEALTH DISORDER AS
22 DESCRIBED IN ARTICLE 65 OF TITLE 27.

23 (3) A GUARDIAN FOR AN ADULT MAY NOT RESTRICT THE ABILITY
24 OF THE ADULT TO COMMUNICATE, VISIT, OR INTERACT WITH OTHERS,
25 INCLUDING RECEIVING VISITORS AND MAKING OR RECEIVING TELEPHONE
26 CALLS, PERSONAL MAIL, OR ELECTRONIC COMMUNICATIONS, INCLUDING
27 THROUGH SOCIAL MEDIA, OR PARTICIPATING IN SOCIAL ACTIVITIES,

1 UNLESS:

2 (a) AUTHORIZED BY THE COURT BY SPECIFIC ORDER;

3 (b) A PROTECTIVE ORDER OR A PROTECTIVE ARRANGEMENT
4 INSTEAD OF GUARDIANSHIP IS IN EFFECT THAT LIMITS CONTACT BETWEEN
5 THE ADULT AND A PERSON; OR

6 (c) THE GUARDIAN HAS GOOD CAUSE TO BELIEVE RESTRICTION IS
7 NECESSARY BECAUSE INTERACTION WITH A SPECIFIED PERSON POSES A
8 RISK OF SUBSTANTIAL PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM TO
9 THE ADULT AND THE RESTRICTION IS:

10 (I) FOR A PERIOD OF NOT MORE THAN SEVEN BUSINESS DAYS IF THE
11 PERSON HAS A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH THE
12 ADULT; OR

13 (II) FOR A PERIOD OF NOT MORE THAN SIXTY DAYS IF THE PERSON
14 DOES NOT HAVE A FAMILY OR PRE-EXISTING SOCIAL RELATIONSHIP WITH
15 THE ADULT.

16 (4) A GUARDIAN FOR AN ADULT SHALL NOT TAKE ANY ACTION
17 THAT WOULD RESULT IN THE SALE OR SURRENDER OF THE LEASE TO THE
18 ADULT'S PRIMARY DWELLING WITHOUT PRIOR APPROVAL FROM THE COURT.

19 **15-14-316. Guardian's plan.**

20 (1) A GUARDIAN FOR AN ADULT, NOT LATER THAN SIXTY DAYS
21 AFTER APPOINTMENT AND WHEN THERE IS A SIGNIFICANT CHANGE IN
22 CIRCUMSTANCES, OR THE GUARDIAN SEEKS TO DEVIATE SIGNIFICANTLY
23 FROM THE GUARDIAN'S PLAN, SHALL FILE WITH THE COURT A PLAN FOR THE
24 CARE OF THE ADULT, TOGETHER WITH THE GUARDIAN'S REPORT AS
25 REQUIRED PURSUANT TO SECTION 15-14-317. THE PLAN MUST BE BASED
26 ON THE NEEDS OF THE ADULT AND TAKE INTO ACCOUNT THE BEST
27 INTEREST OF THE ADULT AS WELL AS THE ADULT'S PREFERENCES, VALUES,

1 AND PRIOR DIRECTIONS, TO THE EXTENT KNOWN TO OR REASONABLY
2 ASCERTAINABLE BY THE GUARDIAN. THE GUARDIAN SHALL INCLUDE IN
3 THE PLAN:

4 (a) THE LIVING ARRANGEMENT, SERVICES, AND SUPPORTS THE
5 GUARDIAN EXPECTS TO ARRANGE, FACILITATE, OR CONTINUE FOR THE
6 ADULT;

7 (b) SOCIAL AND EDUCATIONAL ACTIVITIES THE GUARDIAN EXPECTS
8 TO FACILITATE ON BEHALF OF THE ADULT;

9 (c) ANY PERSON WITH WHOM THE ADULT HAS A CLOSE PERSONAL
10 RELATIONSHIP OR RELATIONSHIP INVOLVING REGULAR VISITATION AND
11 ANY PLAN THE GUARDIAN HAS FOR FACILITATING VISITS WITH THE PERSON;

12 (d) THE ANTICIPATED NATURE AND FREQUENCY OF THE
13 GUARDIAN'S VISITS AND COMMUNICATION WITH THE ADULT;

14 (e) GOALS FOR THE ADULT, INCLUDING ANY GOAL RELATED TO THE
15 RESTORATION OF THE ADULT'S RIGHTS, AND HOW THE GUARDIAN
16 ANTICIPATES ACHIEVING THE GOALS;

17 (f) WHETHER THE ADULT HAS AN EXISTING PLAN AND, IF SO,
18 WHETHER THE GUARDIAN'S PLAN IS CONSISTENT WITH THE ADULT'S PLAN;
19 AND

20 (g) A STATEMENT OR LIST OF THE AMOUNT THE GUARDIAN
21 PROPOSES TO CHARGE FOR EACH SERVICE THE GUARDIAN ANTICIPATES
22 PROVIDING TO THE ADULT.

23 (2) A GUARDIAN SHALL GIVE NOTICE, PURSUANT TO SECTION
24 15-10-401, OF THE FILING OF THE GUARDIAN'S PLAN PURSUANT TO
25 SUBSECTION (1) OF THIS SECTION, TOGETHER WITH A COPY OF THE PLAN,
26 TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON ENTITLED TO NOTICE
27 PURSUANT TO SECTION 15-14-310 OR A SUBSEQUENT ORDER, AND ANY

1 OTHER PERSON THE COURT DETERMINES. THE NOTICE MUST INCLUDE A
2 STATEMENT OF THE RIGHT TO OBJECT TO THE PLAN AND BE GIVEN NOT
3 LATER THAN FOURTEEN DAYS AFTER THE FILING.

4 (3) AN ADULT SUBJECT TO GUARDIANSHIP AND ANY PERSON
5 ENTITLED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO RECEIVE
6 NOTICE AND A COPY OF THE GUARDIAN'S PLAN MAY OBJECT TO THE PLAN.

7 (4) THE COURT SHALL REVIEW THE GUARDIAN'S PLAN FILED
8 PURSUANT TO SUBSECTION (1) OF THIS SECTION AND DETERMINE WHETHER
9 TO APPROVE THE PLAN OR REQUIRE A NEW PLAN. IN DECIDING WHETHER
10 TO APPROVE THE PLAN, THE COURT SHALL CONSIDER AN OBJECTION MADE
11 PURSUANT TO SUBSECTION (3) OF THIS SECTION AND DECIDE WHETHER THE
12 PLAN IS CONSISTENT WITH THE GUARDIAN'S DUTIES AND POWERS
13 PURSUANT TO SECTIONS 15-14-313 AND 15-14-314. THE COURT MUST NOT
14 APPROVE THE PLAN UNTIL THIRTY DAYS AFTER ITS FILING.

15 (5) AFTER THE GUARDIAN'S PLAN FILED PURSUANT TO THIS
16 SECTION IS APPROVED BY THE COURT, THE GUARDIAN SHALL PROVIDE A
17 COPY OF THE PLAN TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON
18 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-310 OR A SUBSEQUENT
19 ORDER, AND ANY OTHER PERSON THE COURT DETERMINES.

20 **15-14-317. Guardian's report - monitoring of guardianship.**

21 (1) A GUARDIAN FOR AN ADULT, NOT LATER THAN SIXTY DAYS
22 AFTER APPOINTMENT AND AT LEAST ANNUALLY THEREAFTER, SHALL FILE
23 WITH THE COURT A REPORT IN A RECORD REGARDING THE CONDITION OF
24 THE ADULT AND ACCOUNTING FOR FUNDS AND OTHER PROPERTY IN THE
25 GUARDIAN'S POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL,
26 TOGETHER WITH THE GUARDIAN'S PLAN AS REQUIRED PURSUANT TO
27 SECTION 15-14-316.

1 (2) A REPORT FILED PURSUANT TO SUBSECTION (1) OF THIS
2 SECTION MUST STATE OR CONTAIN:

3 (a) THE MENTAL, PHYSICAL, AND SOCIAL CONDITION OF THE
4 ADULT;

5 (b) THE LIVING ARRANGEMENTS OF THE ADULT DURING THE
6 REPORTING PERIOD;

7 (c) A SUMMARY OF THE SUPPORTED DECISION-MAKING,
8 TECHNOLOGICAL ASSISTANCE, MEDICAL SERVICES, EDUCATIONAL AND
9 VOCATIONAL SERVICES, AND OTHER SUPPORTS AND SERVICES PROVIDED
10 TO THE ADULT AND THE GUARDIAN'S OPINION AS TO THE ADEQUACY OF
11 THE ADULT'S CARE;

12 (d) A SUMMARY OF THE GUARDIAN'S VISITS WITH THE ADULT,
13 INCLUDING THE DATES OF THE VISITS;

14 (e) ACTION TAKEN ON BEHALF OF THE ADULT;

15 (f) THE EXTENT TO WHICH THE ADULT HAS PARTICIPATED IN
16 DECISION-MAKING;

17 (g) IF THE ADULT IS LIVING IN A MENTAL HEALTH INSTITUTION OR
18 LIVING IN A FACILITY THAT PROVIDES THE ADULT WITH HEALTH-CARE OR
19 OTHER PERSONAL SERVICES, WHETHER THE GUARDIAN CONSIDERS THE
20 FACILITY'S CURRENT PLAN FOR SUPPORT, CARE, TREATMENT, OR
21 HABILITATION CONSISTENT WITH THE ADULT'S PREFERENCES, VALUES,
22 PRIOR DIRECTIONS, AND BEST INTEREST;

23 (h) ANYTHING OF MORE THAN DE MINIMIS VALUE WHICH THE
24 GUARDIAN, ANY INDIVIDUAL WHO RESIDES WITH THE GUARDIAN, OR THE
25 SPOUSE, DOMESTIC PARTNER, PARENT, CHILD, OR SIBLING OF THE
26 GUARDIAN HAS RECEIVED FROM AN INDIVIDUAL PROVIDING GOODS OR
27 SERVICES TO THE ADULT;

1 (i) IF THE GUARDIAN DELEGATED A POWER TO AN AGENT, THE
2 POWER DELEGATED AND THE REASON FOR THE DELEGATION;

3 (j) ANY BUSINESS RELATION THE GUARDIAN HAS WITH A PERSON
4 THE GUARDIAN HAS PAID OR WHO HAS BENEFITTED FROM THE PROPERTY
5 OF THE ADULT;

6 (k) A COPY OF THE GUARDIAN'S MOST RECENTLY APPROVED PLAN
7 DESCRIBED IN SECTION 15-14-316 AND A STATEMENT WHETHER THE
8 GUARDIAN HAS DEVIATED FROM THE PLAN AND, IF SO, HOW THE GUARDIAN
9 HAS DEVIATED AND WHY;

10 (l) PLANS FOR FUTURE CARE AND SUPPORT OF THE ADULT, IF NOT
11 OTHERWISE PROVIDED IN THE GUARDIAN'S MOST RECENT PLAN APPROVED
12 PURSUANT TO SECTION 15-14-316;

13 (m) A RECOMMENDATION AS TO THE NEED FOR CONTINUED
14 GUARDIANSHIP AND ANY RECOMMENDED CHANGE IN THE SCOPE OF THE
15 GUARDIANSHIP;

16 (n) WHETHER ANY CO-GUARDIAN OR SUCCESSOR GUARDIAN
17 APPOINTED TO SERVE WHEN A DESIGNATED EVENT OCCURS IS ALIVE AND
18 ABLE TO SERVE; AND

19 (o) THE ADULT'S EXPRESS WISHES REGARDING ANY OF THE ITEMS
20 LISTED IN THIS SUBSECTION (2), EVEN IF THE ADULT'S EXPRESS WISHES ARE
21 CONTRARY TO THE GUARDIAN'S ACTIONS.

22 (3) THE COURT MAY APPOINT A VISITOR TO REVIEW A REPORT
23 SUBMITTED PURSUANT TO THIS SECTION OR A GUARDIAN'S PLAN
24 SUBMITTED PURSUANT TO SECTION 15-14-316, INTERVIEW THE GUARDIAN
25 OR ADULT SUBJECT TO GUARDIANSHIP, OR INVESTIGATE ANY OTHER
26 MATTER INVOLVING THE GUARDIANSHIP.

27 (4) NOTICE OF THE FILING OF A GUARDIAN'S REPORT GIVEN

1 PURSUANT TO THIS SECTION, TOGETHER WITH A COPY OF THE REPORT,
2 MUST BE GIVEN TO THE ADULT SUBJECT TO GUARDIANSHIP, A PERSON
3 ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-310 OR A SUBSEQUENT
4 ORDER, AND ANY OTHER PERSON THE COURT DETERMINES. THE NOTICE
5 AND REPORT MUST BE GIVEN NOT LATER THAN FOURTEEN DAYS AFTER THE
6 FILING.

7 (5) THE COURT SHALL ESTABLISH PROCEDURES FOR MONITORING
8 A REPORT SUBMITTED PURSUANT TO THIS SECTION AND REVIEW EACH
9 REPORT AT LEAST ANNUALLY TO DETERMINE WHETHER:

10 (a) THE REPORT PROVIDES SUFFICIENT INFORMATION TO ESTABLISH
11 THE GUARDIAN HAS COMPLIED WITH THE GUARDIAN'S DUTIES;

12 (b) THE GUARDIANSHIP NEEDS TO CONTINUE; AND

13 (c) THE GUARDIAN'S REQUESTED FEES, IF ANY, ARE REASONABLE
14 PURSUANT TO SECTION 15-10-603.

15 (6) IF THE COURT DETERMINES THERE IS REASON TO BELIEVE A
16 GUARDIAN FOR AN ADULT HAS NOT COMPLIED WITH THE GUARDIAN'S
17 DUTIES OR THE GUARDIANSHIP REQUIRES MODIFICATION OR TERMINATION,
18 THE COURT:

19 (a) SHALL NOTIFY THE ADULT, THE GUARDIAN, AND ANY OTHER
20 PERSON ENTITLED TO NOTICE PURSUANT TO SECTION 15-14-310 OR A
21 SUBSEQUENT ORDER;

22 (b) MAY REQUIRE ADDITIONAL INFORMATION FROM THE
23 GUARDIAN;

24 (c) MAY APPOINT A VISITOR TO INTERVIEW THE ADULT OR
25 GUARDIAN OR INVESTIGATE ANY MATTER INVOLVING THE GUARDIANSHIP;
26 AND

27 (d) CONSISTENT WITH SECTIONS 15-14-318 AND 15-14-319, MAY

1 HOLD A HEARING TO CONSIDER REMOVAL OF THE GUARDIAN, TERMINATION
2 OF THE GUARDIANSHIP, OR A CHANGE IN THE POWERS GRANTED TO THE
3 GUARDIAN OR TERMS OF THE GUARDIANSHIP.

4 (7) IF THE COURT HAS REASON TO BELIEVE FEES REQUESTED BY A
5 GUARDIAN FOR AN ADULT ARE NOT REASONABLE, THE COURT SHALL HOLD
6 A HEARING, PURSUANT TO SECTION 15-10-604, TO DETERMINE WHETHER
7 TO ADJUST THE REQUESTED FEES.

8 (8) A GUARDIAN FOR AN ADULT MAY PETITION THE COURT FOR
9 APPROVAL OF A REPORT FILED PURSUANT TO THIS SECTION. THE COURT,
10 AFTER REVIEW, MAY APPROVE THE REPORT. IF THE COURT APPROVES THE
11 REPORT, THERE IS A REBUTTABLE PRESUMPTION THE REPORT IS ACCURATE
12 AS TO A MATTER ADEQUATELY DISCLOSED IN THE REPORT.

13 (9) IF A GUARDIAN DOES NOT COMPLY WITH THE REQUIREMENTS
14 OF SUBSECTION (1) OF THIS SECTION, THE COURT MAY:

- 15 (a) HOLD THE GUARDIAN IN CONTEMPT OF COURT;
- 16 (b) ISSUE SANCTIONS AGAINST THE GUARDIAN;
- 17 (c) ISSUE A SUMMONS TO SHOW CAUSE FOR NOT SUBMITTING A
18 REPORT AS REQUIRED BY SUBSECTION (1) OF THIS SECTION; OR
- 19 (d) REMOVE THE GUARDIAN.

20 **15-14-318. Removal of guardian for adult - appointment of**
21 **successor.**

22 (1) THE COURT MAY REMOVE A GUARDIAN FOR AN ADULT FOR
23 FAILURE TO PERFORM THE GUARDIAN'S DUTIES OR FOR OTHER GOOD CAUSE
24 AND APPOINT A SUCCESSOR GUARDIAN TO ASSUME THE DUTIES OF A
25 GUARDIAN AS DESCRIBED IN SECTION 15-14-313.

26 (2) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
27 TO REMOVE A GUARDIAN FOR AN ADULT AND APPOINT A SUCCESSOR

1 GUARDIAN ON:

2 (a) PETITION OF THE ADULT, GUARDIAN, OR PERSON INTERESTED
3 IN THE WELFARE OF THE ADULT, WHICH CONTAINS ALLEGATIONS THAT, IF
4 TRUE, WOULD SUPPORT A REASONABLE BELIEF THAT REMOVAL OF THE
5 GUARDIAN AND APPOINTMENT OF A SUCCESSOR GUARDIAN MAY BE
6 APPROPRIATE, BUT THE COURT MAY DECLINE TO HOLD A HEARING IF A
7 PETITION BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS WAS
8 FILED DURING THE PRECEDING SIX MONTHS;

9 (b) FILING, FROM THE ADULT, GUARDIAN, OR PERSON INTERESTED
10 IN THE WELFARE OF THE ADULT THAT SUPPORTS A REASONABLE BELIEF
11 THAT REMOVAL OF THE GUARDIAN AND APPOINTMENT OF A SUCCESSOR
12 GUARDIAN IS APPROPRIATE; OR

13 (c) DETERMINATION BY THE COURT THAT A HEARING IS IN THE
14 BEST INTEREST OF THE ADULT.

15 (3) NOTICE OF A HEARING GIVEN PURSUANT TO SUBSECTION (2) OF
16 THIS SECTION MUST BE PERSONALLY SERVED ON THE ADULT SUBJECT TO
17 GUARDIANSHIP, AND GIVEN PURSUANT TO SECTION 15-10-401 TO THE
18 GUARDIAN, AND ANY OTHER PERSON THE COURT DETERMINES.

19 (4) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO REMOVE
20 THE GUARDIAN AND HAVE A SUCCESSOR GUARDIAN APPOINTED HAS THE
21 RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THIS
22 MATTER. IF THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT
23 SHALL APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS AS IN
24 SECTION 15-14-305.

25 (5) IN SELECTING A SUCCESSOR GUARDIAN FOR AN ADULT, THE
26 COURT SHALL FOLLOW THE PRIORITIES DESCRIBED IN SECTION 15-14-309.

27 (6) NOT LATER THAN THIRTY DAYS AFTER APPOINTING A

1 SUCCESSOR GUARDIAN, THE COURT SHALL GIVE NOTICE, PURSUANT TO
2 SECTION 15-10-401, OF THE APPOINTMENT TO THE ADULT SUBJECT TO
3 GUARDIANSHIP AND ANY PERSON ENTITLED TO NOTICE PURSUANT TO
4 SECTION 15-14-310 (5) OR A SUBSEQUENT ORDER.

5 **15-14-319. Termination or modification of guardianship for**
6 **adult.**

7 (1) AN ADULT SUBJECT TO GUARDIANSHIP, THE GUARDIAN FOR THE
8 ADULT, OR A PERSON INTERESTED IN THE WELFARE OF THE ADULT MAY
9 FILE A PETITION FOR:

10 (a) TERMINATION OF THE GUARDIANSHIP ON THE GROUNDS THAT
11 A BASIS FOR APPOINTMENT DESCRIBED IN SECTION 15-14-301 DOES NOT
12 EXIST OR TERMINATION IS IN THE BEST INTEREST OF THE ADULT OR FOR
13 OTHER GOOD CAUSE; OR

14 (b) MODIFICATION OF THE GUARDIANSHIP ON THE GROUNDS THAT
15 THE EXTENT OF PROTECTION OR ASSISTANCE GRANTED IS NOT
16 APPROPRIATE OR FOR OTHER GOOD CAUSE.

17 (2) ON FILING A PETITION PURSUANT TO SUBSECTION (1) OF THIS
18 SECTION, THE COURT SHALL SET A DATE, TIME, AND PLACE FOR HEARING
19 THE PETITION WITHIN SIXTY DAYS AFTER RECEIPT OF THE PETITION.

20 (3) THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER
21 TERMINATION OR MODIFICATION OF A GUARDIANSHIP FOR AN ADULT IS
22 APPROPRIATE ON:

23 (a) PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION THAT
24 CONTAINS ALLEGATIONS THAT, IF TRUE, WOULD SUPPORT A REASONABLE
25 BELIEF THAT TERMINATION OR MODIFICATION OF THE GUARDIANSHIP IS
26 APPROPRIATE, BUT THE COURT MAY DECLINE TO HOLD A HEARING IF A
27 PETITION BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS WAS

1 FILED DURING THE PRECEDING SIX MONTHS;

2 (b) FILING, FROM THE ADULT, GUARDIAN, OR PERSON INTERESTED
3 IN THE WELFARE OF THE ADULT THAT SUPPORTS A REASONABLE BELIEF
4 THAT TERMINATION OR MODIFICATION OF THE GUARDIANSHIP IS
5 APPROPRIATE, INCLUDING BECAUSE THE FUNCTIONAL NEEDS OF THE ADULT
6 OR SUPPORTS OR SERVICES AVAILABLE TO THE ADULT HAVE CHANGED;

7 (c) A REPORT FROM A GUARDIAN OR CONSERVATOR THAT
8 INDICATES THAT TERMINATION OR MODIFICATION IS APPROPRIATE
9 BECAUSE THE FUNCTIONAL NEEDS OF THE ADULT OR SUPPORTS OR
10 SERVICES AVAILABLE TO THE ADULT HAVE CHANGED OR A PROTECTIVE
11 ARRANGEMENT INSTEAD OF GUARDIANSHIP OR OTHER LESS RESTRICTIVE
12 ALTERNATIVE FOR MEETING THE ADULT'S NEEDS IS AVAILABLE; OR

13 (d) A DETERMINATION BY THE COURT THAT A HEARING IS IN THE
14 BEST INTEREST OF THE ADULT.

15 (4) NOTICE OF A PETITION FILED PURSUANT TO SUBSECTION (3)(a)
16 OF THIS SECTION MUST BE GIVEN TO THE ADULT SUBJECT TO
17 GUARDIANSHIP, THE GUARDIAN, AND ANY OTHER PERSON THE COURT
18 DETERMINES.

19 (5) ON PRESENTATION OF PRIMA FACIE EVIDENCE FOR
20 TERMINATION OF A GUARDIANSHIP FOR AN ADULT, THE COURT SHALL
21 ORDER TERMINATION UNLESS IT IS PROVEN THAT A BASIS FOR
22 APPOINTMENT OF A GUARDIAN PURSUANT TO SECTION 15-14-301 EXISTS.

23 (6) THE COURT SHALL MODIFY THE POWERS GRANTED TO A
24 GUARDIAN FOR AN ADULT IF THE POWERS ARE EXCESSIVE OR INADEQUATE
25 DUE TO A CHANGE IN THE ABILITIES OR LIMITATIONS OF THE ADULT, THE
26 ADULT'S SUPPORTS, OR OTHER CIRCUMSTANCES.

27 (7) UNLESS THE COURT OTHERWISE ORDERS FOR GOOD CAUSE,

1 BEFORE TERMINATING OR MODIFYING A GUARDIANSHIP FOR AN ADULT,
2 THE COURT SHALL FOLLOW THE SAME PROCEDURES TO SAFEGUARD THE
3 RIGHTS OF THE ADULT THAT APPLY TO A PETITION FOR GUARDIANSHIP.

4 (8) AN ADULT SUBJECT TO GUARDIANSHIP WHO SEEKS TO
5 TERMINATE OR MODIFY THE TERMS OF THE GUARDIANSHIP HAS THE RIGHT
6 TO CHOOSE AN ATTORNEY TO REPRESENT THE ADULT IN THE MATTER. IF
7 THE ADULT IS NOT REPRESENTED BY AN ATTORNEY, THE COURT SHALL
8 APPOINT AN ATTORNEY PURSUANT TO THE SAME CONDITIONS SET FORTH
9 IN SECTION 15-14-305.

10 (9) THE FOLLOWING PROVISIONS APPLY IN A CONTESTED
11 TERMINATION PROCEEDING:

12 (a) THE GUARDIAN MAY FILE A WRITTEN REPORT TO THE COURT
13 REGARDING ANY MATTER RELEVANT TO THE TERMINATION PROCEEDING,
14 AND THE GUARDIAN MAY FILE A MOTION FOR INSTRUCTIONS REGARDING
15 ANY RELEVANT MATTER, INCLUDING, BUT NOT LIMITED TO:

16 (I) WHETHER AN ATTORNEY, GUARDIAN AD LITEM, OR VISITOR
17 MUST BE APPOINTED FOR THE ADULT SUBJECT TO GUARDIANSHIP;

18 (II) WHETHER ANY FURTHER INVESTIGATION OR PROFESSIONAL
19 EVALUATION OF THE ADULT SUBJECT TO GUARDIANSHIP MUST BE
20 CONDUCTED, THE SCOPE OF THE INVESTIGATION OR PROFESSIONAL
21 EVALUATION, AND WHEN THE INVESTIGATION OR PROFESSIONAL
22 EVALUATION MUST BE COMPLETED; AND

23 (III) WHETHER THE GUARDIAN MUST BE INVOLVED IN THE
24 TERMINATION PROCEEDINGS AND, IF SO, TO WHAT EXTENT;

25 (b) IF THE GUARDIAN ELECTS TO FILE A WRITTEN REPORT OR A
26 MOTION FOR INSTRUCTIONS, THE GUARDIAN MUST FILE INITIAL PLEADINGS
27 WITHIN TWENTY-ONE DAYS AFTER THE PETITION TO TERMINATE IS FILED

1 AND SEND A COPY OF THE WRITTEN REPORT TO THE ADULT SUBJECT TO
2 GUARDIANSHIP. ANY PERSON INTERESTED IN THE WELFARE OF THE ADULT
3 SUBJECT TO GUARDIANSHIP HAS FOURTEEN DAYS AFTER THE INITIAL
4 PLEADINGS ARE FILED TO FILE A RESPONSE. IF A RESPONSE IS FILED, THE
5 GUARDIAN HAS SEVEN DAYS AFTER THE RESPONSE IS FILED TO FILE A
6 REPLY. IF A MOTION FOR INSTRUCTIONS IS FILED BY THE GUARDIAN AS THE
7 GUARDIAN'S INITIAL PLEADING, THE COURT MUST RULE ON THE MOTION
8 BEFORE THE PETITION FOR TERMINATION OF THE GUARDIANSHIP IS SET FOR
9 HEARING. UNLESS A HEARING ON THE MOTION FOR INSTRUCTIONS IS
10 REQUESTED BY THE COURT, THE COURT MAY RULE ON THE PLEADINGS
11 WITHOUT A HEARING AFTER THE TIME PERIOD FOR THE FILING OF THE LAST
12 RESPONSIVE PLEADING HAS EXPIRED. AFTER THE FILING OF THE
13 GUARDIAN'S INITIAL MOTION FOR INSTRUCTIONS, THE GUARDIAN MAY FILE
14 SUBSEQUENT MOTIONS FOR INSTRUCTION, AS APPROPRIATE.

15 (c) EXCEPT FOR THE ACTIONS AUTHORIZED IN SUBSECTIONS (9)(a),
16 (9)(b), AND (10) OF THIS SECTION, OR AS OTHERWISE ORDERED BY THE
17 COURT, THE GUARDIAN SHALL NOT TAKE ANY ACTION TO OPPOSE OR
18 INTERFERE IN THE TERMINATION PROCEEDING. THE FILING OF THE INITIAL
19 OR SUBSEQUENT MOTION FOR INSTRUCTIONS BY THE GUARDIAN MUST NOT
20 ALONE BE DEEMED OPPOSITION OR INTERFERENCE.

21 (d) UNLESS ORDERED BY THE COURT, THE GUARDIAN DOES NOT
22 HAVE A DUTY TO PARTICIPATE IN THE TERMINATION PROCEEDING, AND THE
23 GUARDIAN DOES NOT INCUR LIABILITY FOR FILING THE REPORT OR MOTION
24 FOR INSTRUCTION OR FOR FAILING TO PARTICIPATE IN THE PROCEEDING;
25 AND

26 (e) ANY INDIVIDUAL WHO HAS BEEN APPOINTED AS A GUARDIAN,
27 AND IS ALSO A PERSON INTERESTED IN THE WELFARE OF THE ADULT

1 SUBJECT TO GUARDIANSHIP, AND WHO WANTS TO PARTICIPATE IN THE
2 TERMINATION PROCEEDING IN THE INDIVIDUAL'S INDIVIDUAL CAPACITY
3 AND NOT IN THE INDIVIDUAL'S FIDUCIARY CAPACITY MAY DO SO WITHOUT
4 RESTRICTION OR LIMITATION. THE PAYMENT OF ANY FEES AND COSTS TO
5 THAT INDIVIDUAL RELATED TO THE INDIVIDUAL'S DECISION TO
6 PARTICIPATE IN THE TERMINATION PROCEEDING IS GOVERNED BY SECTION
7 15-10-602 (7) AND NOT BY SECTION 15-10-602 (1).

8 (10) NOTHING IN SUBSECTION (8) OF THIS SECTION PREVENTS:

9 (a) THE COURT, ON ITS OWN MOTION, AND REGARDLESS OF
10 WHETHER THE GUARDIAN HAS FILED A REPORT OR MOTION FOR
11 INSTRUCTIONS, FROM ORDERING THE GUARDIAN TO TAKE ANY ACTION
12 THAT THE COURT DEEMS APPROPRIATE OR FROM APPOINTING AN
13 ATTORNEY, GUARDIAN AD LITEM, VISITOR, OR PROFESSIONAL EVALUATOR;

14 (b) THE COURT FROM ORDERING THE GUARDIAN TO APPEAR AT THE
15 TERMINATION PROCEEDING AND GIVE TESTIMONY; OR

16 (c) ANY PERSON INTERESTED IN THE WELFARE OF THE ADULT
17 SUBJECT TO GUARDIANSHIP FROM CALLING THE GUARDIAN AS A WITNESS
18 IN THE TERMINATION PROCEEDING.

19 **SECTION 4.** In Colorado Revised Statutes, **add** part 9 to article
20 14 of title 15 as follows:

21 PART 9

22 OTHER PROTECTIVE ARRANGEMENTS

23 **15-14-901. Authority for protective arrangement.**

24 (1) PURSUANT TO THIS ARTICLE 14, A COURT, ON RECEIVING A
25 PETITION FOR A GUARDIANSHIP FOR AN ADULT MAY ORDER A PROTECTIVE
26 ARRANGEMENT INSTEAD OF GUARDIANSHIP AS A LESS RESTRICTIVE
27 ALTERNATIVE TO GUARDIANSHIP.

1 (2) A PERSON INTERESTED IN THE WELFARE OF AN ADULT,
2 INCLUDING THE ADULT OR A CONSERVATOR FOR THE ADULT, MAY PETITION
3 PURSUANT TO THIS PART 14 FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
4 GUARDIANSHIP.

5 **15-14-902. Basis for protective arrangement instead of**
6 **guardianship for adult.**

7 (1) AFTER THE HEARING ON A PETITION HELD PURSUANT TO
8 SECTION 15-14-302 FOR A GUARDIANSHIP OR HELD PURSUANT TO SECTION
9 15-14-901(2) FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
10 GUARDIANSHIP, THE COURT MAY ISSUE AN ORDER PURSUANT TO
11 SUBSECTION (2) OF THIS SECTION FOR A PROTECTIVE ARRANGEMENT
12 INSTEAD OF GUARDIANSHIP IF THE COURT FINDS BY CLEAR AND
13 CONVINCING EVIDENCE THAT:

14 (a) THE RESPONDENT LACKS THE ABILITY TO MEET ESSENTIAL
15 REQUIREMENTS FOR HEALTH, SAFETY, OR WELFARE BECAUSE THE
16 RESPONDENT IS UNABLE TO RECEIVE AND EVALUATE INFORMATION OR
17 MAKE OR COMMUNICATE DECISIONS, EVEN WITH APPROPRIATE SUPPORTIVE
18 SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED DECISION-
19 MAKING; AND

20 (b) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY A
21 LESS RESTRICTIVE ALTERNATIVE.

22 (2) IF THE COURT MAKES THE FINDINGS PURSUANT TO SUBSECTION
23 (1) OF THIS SECTION, THE COURT, INSTEAD OF APPOINTING A GUARDIAN,
24 MAY:

25 (a) AUTHORIZE OR DIRECT A TRANSACTION NECESSARY TO MEET
26 THE RESPONDENT'S NEED FOR HEALTH, SAFETY, OR CARE, INCLUDING:

27 (I) A PARTICULAR MEDICAL TREATMENT OR REFUSAL OF A

1 PARTICULAR MEDICAL TREATMENT;
2 (II) A MOVE TO A SPECIFIED PLACE OF DWELLING; OR
3 (III) VISITATION OR SUPERVISED VISITATION BETWEEN THE
4 RESPONDENT AND ANOTHER PERSON;
5 (b) RESTRICT ACCESS TO THE RESPONDENT BY A SPECIFIED PERSON
6 WHOSE ACCESS PLACES THE RESPONDENT AT SUBSTANTIAL RISK OF
7 PHYSICAL, PSYCHOLOGICAL, OR FINANCIAL HARM; AND
8 (c) ORDER OTHER ARRANGEMENTS ON A LIMITED BASIS THAT ARE
9 APPROPRIATE.

10 (3) IN DECIDING WHETHER TO ISSUE AN ORDER PURSUANT TO THIS
11 SECTION, THE COURT SHALL CONSIDER THE FACTORS DESCRIBED IN
12 SECTIONS 15-14-313 AND 15-14-314 THAT A GUARDIAN MUST CONSIDER
13 WHEN MAKING A DECISION ON BEHALF OF AN ADULT SUBJECT TO
14 GUARDIANSHIP.

15 **15-14-903. Petition for protective arrangement.**

16 (1) A PETITION FOR A PROTECTIVE ARRANGEMENT INSTEAD OF
17 GUARDIANSHIP MUST STATE THE PETITIONER'S NAME; PRINCIPAL
18 RESIDENCE; CURRENT STREET ADDRESS, IF DIFFERENT; RELATIONSHIP TO
19 THE RESPONDENT; INTEREST IN THE PROTECTIVE ARRANGEMENT; THE
20 NAME AND ADDRESS OF ANY ATTORNEY REPRESENTING THE PETITIONER;
21 AND, TO THE EXTENT KNOWN, THE FOLLOWING:

22 (a) THE RESPONDENT'S NAME; AGE; PRINCIPAL RESIDENCE;
23 CURRENT STREET ADDRESS, IF DIFFERENT; AND, IF DIFFERENT, ADDRESS OF
24 THE DWELLING IN WHICH IT IS PROPOSED THE RESPONDENT WILL RESIDE IF
25 THE PETITION IS GRANTED;

26 (b) THE NAME AND ADDRESS OF THE RESPONDENT'S:

27 (I) SPOUSE OR DOMESTIC PARTNER OR, IF THE RESPONDENT HAS

1 NONE, AN ADULT WITH WHOM THE RESPONDENT HAS SHARED HOUSEHOLD
2 RESPONSIBILITIES FOR MORE THAN SIX MONTHS IN THE TWELVE-MONTH
3 PERIOD BEFORE THE FILING OF THE PETITION;

4 (II) ADULT CHILDREN OR, IF NONE, EACH PARENT AND ADULT
5 SIBLING OF THE RESPONDENT; AND

6 (III) ADULT STEPCHILDREN WHOM THE RESPONDENT ACTIVELY
7 PARENTED DURING THE STEPCHILDREN'S MINOR YEARS AND WITH WHOM
8 THE RESPONDENT HAD AN ONGOING RELATIONSHIP IN THE TWO YEAR
9 PERIOD IMMEDIATELY BEFORE THE FILING OF THE PETITION;

10 (c) THE NAME AND CURRENT ADDRESS OF EACH OF THE
11 FOLLOWING, IF APPLICABLE:

12 (I) A PERSON RESPONSIBLE FOR THE CARE OR CUSTODY OF THE
13 RESPONDENT;

14 (II) ANY ATTORNEY CURRENTLY REPRESENTING THE RESPONDENT;

15 (III) THE REPRESENTATIVE PAYEE APPOINTED BY THE SOCIAL
16 SECURITY ADMINISTRATION FOR THE RESPONDENT;

17 (IV) A GUARDIAN OR CONSERVATOR ACTING FOR THE RESPONDENT
18 IN THIS STATE OR ANOTHER JURISDICTION;

19 (V) A TRUSTEE OR CUSTODIAN OF A TRUST OR CUSTODIANSHIP OF
20 WHICH THE RESPONDENT IS A BENEFICIARY;

21 (VI) THE FIDUCIARY APPOINTED FOR THE RESPONDENT BY THE
22 DEPARTMENT OF VETERANS AFFAIRS;

23 (VII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
24 HEALTH CARE IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;

25 (VIII) AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY FOR
26 FINANCES IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL;

27 (IX) A PERSON NOMINATED AS GUARDIAN OR CONSERVATOR BY

1 THE RESPONDENT IF THE RESPONDENT IS TWELVE YEARS OLD OR OLDER;

2 (X) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT'S
3 PARENT, SPOUSE, OR DOMESTIC PARTNER IN A WILL OR OTHER SIGNED
4 RECORD;

5 (XI) A MEMBER OF THE RESPONDENT'S SUPPORTIVE COMMUNITY;
6 AND

7 (XII) IF THE RESPONDENT IS A MINOR:

8 (A) AN ADULT NOT OTHERWISE LISTED WITH WHOM THE
9 RESPONDENT RESIDES; AND

10 (B) EACH PERSON NOT OTHERWISE LISTED THAT HAD PRIMARY
11 CARE OR CUSTODY OF THE RESPONDENT FOR AT LEAST SIXTY DAYS DURING
12 THE TWO YEARS IMMEDIATELY BEFORE THE FILING OF THE PETITION OR
13 FOR AT LEAST SEVEN HUNDRED AND THIRTY DAYS DURING THE FIVE YEARS
14 IMMEDIATELY BEFORE THE FILING OF THE PETITION;

15 (d) THE NATURE OF THE PROTECTIVE ARRANGEMENT SOUGHT;

16 (e) THE REASON THE PROTECTIVE ARRANGEMENT SOUGHT IS
17 NECESSARY, INCLUDING A BRIEF DESCRIPTION OF:

18 (I) THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED
19 NEED;

20 (II) ANY LESS RESTRICTIVE ALTERNATIVE FOR MEETING THE
21 RESPONDENT'S ALLEGED NEED WHICH HAS BEEN CONSIDERED OR
22 IMPLEMENTED;

23 (III) IF NO LESS RESTRICTIVE ALTERNATIVE HAS BEEN CONSIDERED
24 OR IMPLEMENTED, THE REASON LESS RESTRICTIVE ALTERNATIVES HAVE
25 NOT BEEN CONSIDERED OR IMPLEMENTED; AND

26 (IV) THE REASON OTHER LESS RESTRICTIVE ALTERNATIVES ARE
27 INSUFFICIENT TO MEET THE RESPONDENT'S ALLEGED NEED;

1 (f) THE NAME AND CURRENT ADDRESS, IF KNOWN, OF ANY PERSON
2 WITH WHOM THE PETITIONER SEEKS TO LIMIT THE RESPONDENT'S
3 CONTACT;

4 (g) WHETHER THE RESPONDENT NEEDS AN INTERPRETER,
5 TRANSLATOR, OR OTHER FORM OF SUPPORT TO COMMUNICATE
6 EFFECTIVELY WITH THE COURT OR TO UNDERSTAND COURT PROCEEDINGS;
7 AND

8 (h) IF A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP IS
9 SOUGHT AND THE RESPONDENT HAS PROPERTY OTHER THAN PERSONAL
10 EFFECTS, A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH
11 AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND
12 THE SOURCE AND AMOUNT OF ANY OTHER ANTICIPATED INCOME OR
13 RECEIPTS.

14 **15-14-904. Notice and hearing.**

15 (1) ON FILING OF A PETITION PURSUANT TO SECTION 15-14-901,
16 THE COURT SHALL SET A DATE, TIME, AND PLACE FOR A HEARING ON THE
17 PETITION.

18 (2) A COPY OF A PETITION DESCRIBED IN SECTION 15-14-901 AND
19 NOTICE OF A HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON
20 THE RESPONDENT. THE NOTICE MUST INFORM THE RESPONDENT OF THE
21 RESPONDENT'S RIGHTS AT THE HEARING, INCLUDING THE RIGHT TO AN
22 ATTORNEY AND TO ATTEND THE HEARING. THE NOTICE MUST INCLUDE A
23 DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF
24 GRANTING THE PETITION. THE COURT SHALL NOT GRANT THE PETITION IF
25 NOTICE SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (2) IS NOT
26 SERVED ON THE RESPONDENT.

27 (3) IN A PROCEEDING ON A PETITION HELD PURSUANT TO SECTION

1 15-14-901, THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
2 SECTION MUST BE GIVEN, PURSUANT TO SECTION 15-10-401, TO THE
3 PERSONS REQUIRED TO BE LISTED IN THE PETITION PURSUANT TO SECTION
4 15-14-903 (1) TO (3) AND ANY OTHER PERSON INTERESTED IN THE
5 WELFARE OF THE RESPONDENT THE COURT DETERMINES. FAILURE TO GIVE
6 NOTICE, AS DESCRIBED IN SECTION 15-10-401, PURSUANT TO THIS
7 SUBSECTION (3) DOES NOT PRECLUDE THE COURT FROM GRANTING THE
8 PETITION.

9 (4) IF A PETITION FILED PURSUANT TO SECTION 15-14-904 DOES
10 NOT INCLUDE THE NAME OF AT LEAST ONE PERSON DESCRIBED IN SECTION
11 15-14-904 (1)(b), THE PETITIONER MUST SEARCH WITH REASONABLE
12 DILIGENCE FOR AN ADULT RELATIVE OF THE RESPONDENT AND, IF AN
13 ADULT RELATIVE IS FOUND, GIVE THE ADULT RELATIVE NOTICE, IN
14 ACCORDANCE WITH SECTION 15-10-401, THAT A PETITION FOR A
15 PROTECTIVE ARRANGEMENT OF THE RESPONDENT HAS BEEN FILED AND
16 GIVE NOTICE OF A HEARING ON THE PETITION. THE NOTICE SENT TO THE
17 ADULT RELATIVE OF THE RESPONDENT MUST NOT INCLUDE A COPY OF THE
18 PETITION. FAILURE TO GIVE NOTICE PURSUANT TO THIS SUBSECTION (4)
19 DOES NOT PRECLUDE THE COURT FROM APPOINTING A PROTECTIVE
20 ARRANGEMENT.

21 (5) AFTER THE COURT HAS ORDERED A PROTECTIVE ARRANGEMENT
22 PURSUANT TO THIS PART 9, NOTICE OF A HEARING ON A PETITION FILED
23 PURSUANT TO THIS ARTICLE 14, TOGETHER WITH A COPY OF THE PETITION,
24 MUST BE GIVEN TO THE RESPONDENT AND ANY OTHER PERSON THE COURT
25 DETERMINES.

26 **15-14-905. Appointment and role of visitor.**

27 (1) ON FILING OF A PETITION PURSUANT TO SECTION 15-14-901 FOR

1 A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP, THE COURT
2 SHALL APPOINT A VISITOR. THE COURT SHALL DISCLOSE IN THE ORDER
3 APPOINTING THE VISITOR THE SPECIFIC TRAINING OR EXPERIENCE THE
4 VISITOR HAS WITH RESPECT TO THE TYPE OF ABILITIES, LIMITATIONS, AND
5 NEEDS OF THE RESPONDENT ALLEGED IN THE PETITION AND THE BASIS FOR
6 FEES TO BE PAID TO THE VISITOR.

7 (2) A VISITOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
8 SECTION SHALL INTERVIEW THE RESPONDENT IN PERSON AND, IN A
9 MANNER THE RESPONDENT IS BEST ABLE TO UNDERSTAND:

10 (a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE
11 PETITION, THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING AND
12 THE RESPONDENT'S RIGHTS AT THE HEARING ON THE PETITION;

13 (b) DETERMINE THE RESPONDENT'S VIEWS WITH RESPECT TO THE
14 ORDER SOUGHT;

15 (c) INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHT TO
16 EMPLOY AND CONSULT WITH AN ATTORNEY AT THE RESPONDENT'S
17 EXPENSE AND THE RIGHT TO REQUEST A COURT-APPOINTED ATTORNEY;

18 (d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF
19 THE PROCEEDING, INCLUDING RESPONDENT'S ATTORNEY FEES, MAY BE
20 PAID FROM THE RESPONDENT'S ASSETS;

21 (e) IF THE PETITIONER SEEKS AN ORDER RELATED TO THE
22 DWELLING OF THE RESPONDENT, VISIT THE RESPONDENT'S PRESENT
23 DWELLING AND ANY DWELLING IN WHICH IT IS REASONABLY BELIEVED THE
24 RESPONDENT IS PROPOSED TO RESIDE IF THE ORDER IS GRANTED;

25 (f) IF A PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP IS
26 SOUGHT, OBTAIN INFORMATION FROM ANY PHYSICIAN OR OTHER PERSON
27 KNOWN TO HAVE TREATED, ADVISED, OR ASSESSED THE RESPONDENT'S

1 RELEVANT PHYSICAL OR MENTAL CONDITION; AND

2 (g) INVESTIGATE THE ALLEGATIONS IN THE PETITION AND ANY
3 OTHER MATTER RELATING TO THE PETITION THE COURT DETERMINES.

4 (3) A VISITOR DESCRIBED IN THIS SECTION PROMPTLY SHALL FILE
5 A REPORT IN A RECORD WITH THE COURT, WHICH MUST INCLUDE:

6 (a) A RECOMMENDATION WHETHER AN ATTORNEY MUST BE
7 APPOINTED TO REPRESENT THE RESPONDENT;

8 (b) TO THE EXTENT RELEVANT TO THE ORDER SOUGHT, A
9 SUMMARY OF SELF-CARE, INDEPENDENT-LIVING TASKS, AND FINANCIAL
10 MANAGEMENT TASKS THE RESPONDENT:

11 (I) CAN MANAGE WITHOUT ASSISTANCE OR WITH EXISTING
12 SUPPORTS;

13 (II) COULD MANAGE WITH THE ASSISTANCE OF APPROPRIATE
14 SUPPORTIVE SERVICES, TECHNOLOGICAL ASSISTANCE, OR SUPPORTED
15 DECISION-MAKING; AND

16 (III) CANNOT MANAGE;

17 (c) A RECOMMENDATION REGARDING THE APPROPRIATENESS OF
18 THE PROTECTIVE ARRANGEMENT SOUGHT AND WHETHER A LESS
19 RESTRICTIVE ALTERNATIVE FOR MEETING THE RESPONDENT'S NEEDS IS
20 AVAILABLE;

21 (d) IF THE PETITION SEEKS TO CHANGE THE PHYSICAL LOCATION OF
22 THE DWELLING OF THE RESPONDENT, A STATEMENT WHETHER THE
23 PROPOSED DWELLING MEETS THE RESPONDENT'S NEEDS AND WHETHER THE
24 RESPONDENT HAS EXPRESSED A PREFERENCE AS TO THE RESPONDENT'S
25 DWELLING;

26 (e) A RECOMMENDATION WHETHER A PROFESSIONAL EVALUATION
27 ORDERED PURSUANT TO SECTION 15-14-907 IS NECESSARY;

1 (f) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO ATTEND
2 A HEARING AT THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD;

3 (g) A STATEMENT WHETHER THE RESPONDENT IS ABLE TO
4 PARTICIPATE IN A HEARING AND THAT IDENTIFIES ANY TECHNOLOGY OR
5 OTHER FORM OF SUPPORT THAT WOULD ENHANCE THE RESPONDENT'S
6 ABILITY TO PARTICIPATE; AND

7 (h) ANY OTHER MATTER THE COURT DETERMINES.

8 **15-14-906. Appointment and role of attorney.**

9 (1) THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT THE
10 RESPONDENT IN A PROCEEDING HELD PURSUANT TO THIS PART 9 IF:

11 (a) THE RESPONDENT REQUESTS THE APPOINTMENT;

12 (b) THE VISITOR RECOMMENDS THE APPOINTMENT; OR

13 (c) THE COURT DETERMINES THE RESPONDENT NEEDS
14 REPRESENTATION.

15 (2) AN ATTORNEY REPRESENTING THE RESPONDENT IN A
16 PROCEEDING HELD PURSUANT TO THIS PART 9 SHALL:

17 (a) MAKE REASONABLE EFFORTS TO ASCERTAIN THE RESPONDENT'S
18 WISHES;

19 (b) ADVOCATE FOR THE RESPONDENT'S WISHES TO THE EXTENT
20 REASONABLY ASCERTAINABLE; AND

21 (c) IF THE RESPONDENT'S WISHES ARE NOT REASONABLY
22 ASCERTAINABLE, ADVOCATE FOR THE RESULT THAT IS THE LEAST
23 RESTRICTIVE ALTERNATIVE IN TYPE, DURATION, AND SCOPE, CONSISTENT
24 WITH THE RESPONDENT'S INTERESTS.

25 **15-14-907. Professional evaluation.**

26 (1) AT OR BEFORE A HEARING ON A PETITION HELD PURSUANT TO
27 THIS PART 9 FOR A PROTECTIVE ARRANGEMENT, THE COURT SHALL ORDER

1 A PROFESSIONAL EVALUATION OF THE RESPONDENT:

2 (a) IF THE RESPONDENT REQUESTS THE EVALUATION; OR

3 (b) IN OTHER CASES, UNLESS THE COURT FINDS THAT IT HAS
4 SUFFICIENT INFORMATION TO DETERMINE THE RESPONDENT'S NEEDS AND
5 ABILITIES WITHOUT THE EVALUATION.

6 (2) IF THE COURT ORDERS AN EVALUATION PURSUANT TO
7 SUBSECTION (1) OF THIS SECTION, THE RESPONDENT MUST BE EXAMINED
8 BY A LICENSED PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER
9 INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE
10 THE RESPONDENT'S ALLEGED COGNITIVE AND FUNCTIONAL ABILITIES AND
11 LIMITATIONS AND IS NOT ADVANTAGED OR DISADVANTAGED BY A
12 DECISION TO GRANT THE PETITION OR OTHERWISE DOES NOT HAVE A
13 CONFLICT OF INTEREST. THE INDIVIDUAL CONDUCTING THE EVALUATION
14 PROMPTLY SHALL FILE A REPORT IN A RECORD WITH THE COURT. UNLESS
15 OTHERWISE DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

16 (a) A DESCRIPTION OF THE NATURE, TYPE, AND EXTENT OF THE
17 RESPONDENT'S COGNITIVE AND FUNCTIONAL ABILITIES AND LIMITATIONS;

18 (b) AN EVALUATION OF THE RESPONDENT'S MENTAL AND PHYSICAL
19 CONDITION AND, IF APPROPRIATE, EDUCATIONAL POTENTIAL, ADAPTIVE
20 BEHAVIOR, AND SOCIAL SKILLS;

21 (c) A PROGNOSIS FOR IMPROVEMENT, INCLUDING WITH REGARD TO
22 THE ABILITY TO MANAGE THE RESPONDENT'S PROPERTY AND FINANCIAL
23 AFFAIRS IF A LIMITATION IN THAT ABILITY IS ALLEGED, AND A
24 RECOMMENDATION FOR THE APPROPRIATE TREATMENT, SUPPORT, OR
25 HABILITATION PLAN; AND

26 (d) THE DATE OF THE EXAMINATION ON WHICH THE REPORT IS
27 BASED.

1 (3) THE RESPONDENT MAY DECLINE TO PARTICIPATE IN AN
2 EVALUATION ORDERED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

3 **15-14-908. Attendance and rights at hearing.**

4 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
5 SECTION, A HEARING HELD PURSUANT TO THIS PART 9 MUST NOT PROCEED
6 UNLESS THE RESPONDENT ATTENDS THE HEARING. IF IT IS NOT
7 REASONABLY FEASIBLE FOR THE RESPONDENT TO ATTEND A HEARING AT
8 THE LOCATION COURT PROCEEDINGS TYPICALLY ARE HELD, THE COURT
9 SHALL HOLD A HEARING USING REAL-TIME AUDIO-VISUAL TECHNOLOGY
10 OR, AT THE COURT'S DISCRETION, HOLD THE HEARING AT AN ALTERNATIVE
11 LOCATION WHERE THE RESPONDENT CAN ATTEND USING REAL-TIME
12 AUDIO-VISUAL TECHNOLOGY.

13 (2) A HEARING HELD PURSUANT TO THIS PART 9 MAY PROCEED
14 WITHOUT THE RESPONDENT IN ATTENDANCE IF THE COURT FINDS BY CLEAR
15 AND CONVINCING EVIDENCE THAT:

16 (a) THE RESPONDENT HAS REFUSED TO ATTEND THE HEARING
17 AFTER HAVING BEEN FULLY INFORMED OF THE RIGHT TO ATTEND AND THE
18 POTENTIAL CONSEQUENCES OF FAILING TO DO SO;

19 (b) THERE IS NO PRACTICABLE WAY FOR THE RESPONDENT TO
20 ATTEND AND PARTICIPATE IN THE HEARING EVEN WITH APPROPRIATE
21 SUPPORTIVE SERVICES AND TECHNOLOGICAL ASSISTANCE; OR

22 (c) THE RESPONDENT IS A MINOR WHO HAS RECEIVED PROPER
23 NOTICE AND ATTENDANCE WOULD BE HARMFUL TO THE MINOR.

24 (3) THE RESPONDENT MAY BE ASSISTED IN A HEARING HELD
25 PURSUANT TO THIS PART 9 BY A PERSON OR PERSONS OF THE RESPONDENT'S
26 CHOOSING, ASSISTIVE TECHNOLOGY, OR AN INTERPRETER OR TRANSLATOR,
27 OR A COMBINATION OF THESE SUPPORTS. IF ASSISTANCE WOULD

1 FACILITATE THE RESPONDENT'S PARTICIPATION IN THE HEARING, BUT IS
2 NOT OTHERWISE AVAILABLE TO THE RESPONDENT, THE COURT SHALL
3 MAKE REASONABLE EFFORTS TO PROVIDE THE ASSISTANCE.

4 (4) THE RESPONDENT HAS A RIGHT TO CHOOSE AN ATTORNEY TO
5 REPRESENT THE RESPONDENT AT A HEARING HELD PURSUANT TO THIS PART
6 9.

7 (5) AT A HEARING HELD PURSUANT TO THIS PART 9, THE
8 RESPONDENT MAY:

9 (a) PRESENT EVIDENCE AND SUBPOENA WITNESSES AND
10 DOCUMENTS;

11 (b) EXAMINE WITNESSES, INCLUDING ANY COURT-APPOINTED
12 EVALUATOR AND THE VISITOR; AND

13 (c) OTHERWISE PARTICIPATE IN THE HEARING.

14 (6) A HEARING HELD PURSUANT TO THIS PART 9 MUST BE CLOSED
15 ON REQUEST OF THE RESPONDENT AND ON A SHOWING OF GOOD CAUSE.

16 (7) ANY PERSON MAY REQUEST TO PARTICIPATE IN A HEARING
17 HELD PURSUANT TO THIS PART 9. THE COURT MAY GRANT THE REQUEST,
18 WITH OR WITHOUT A HEARING, ON DETERMINING THAT THE BEST INTEREST
19 OF THE RESPONDENT IS SERVED. THE COURT MAY IMPOSE APPROPRIATE
20 CONDITIONS ON THE PERSON'S PARTICIPATION.

21 **15-14-909. Notice of order.**

22 THE COURT SHALL GIVE NOTICE, PURSUANT TO SECTION 15-10-401,
23 OF AN ORDER ISSUED PURSUANT TO THIS PART 9 TO THE INDIVIDUAL WHO
24 IS SUBJECT TO THE PROTECTIVE ARRANGEMENT INSTEAD OF
25 GUARDIANSHIP, A PERSON WHOSE ACCESS TO THE INDIVIDUAL IS
26 RESTRICTED BY THE ORDER, AND ANY OTHER PERSON THE COURT
27 DETERMINES.

1 **15-14-910. Confidentiality of records.**

2 THE COURT SHALL COMPLY WITH THE ADMINISTRATIVE RULES
3 ADOPTED BY THE JUDICIAL DEPARTMENT CONCERNING THE
4 CONFIDENTIALITY OF COURT RECORDS.

5 **SECTION 5.** In Colorado Revised Statutes, **repeal** 15-14-101.

6 **SECTION 6.** In Colorado Revised Statutes, 13-5-142, **amend**
7 (3)(b)(I) as follows:

8 **13-5-142. National instant criminal background check system**
9 **- reporting.**

10 (3) The state court administrator shall take all necessary steps to
11 cancel a record made by the state court administrator in the national
12 instant criminal background check system if:

13 (b) No less than three years before the date of the written request:

14 (I) The court entered an order pursuant to ~~section 15-14-318,~~
15 ~~C.R.S.~~ SECTION 15-14-319, terminating a guardianship on a finding that
16 the person is no longer an incapacitated person, if the record in the
17 national instant criminal background check system is based on a finding
18 of incapacity;

19 **SECTION 7.** In Colorado Revised Statutes, 13-9-123, **amend**
20 (3)(b)(I) as follows:

21 **13-9-123. National instant criminal background check system**
22 **- reporting.**

23 (3) The state court administrator shall take all necessary steps to
24 cancel a record made by the state court administrator in the national
25 instant criminal background check system if:

26 (b) No less than three years before the date of the written request:

27 (I) The court entered an order pursuant to ~~section 15-14-318,~~

1 ~~C.R.S.~~ SECTION 15-14-319, terminating a guardianship on a finding that
2 the person is no longer an incapacitated person, if the record in the
3 national instant criminal background check system is based on a finding
4 of incapacity;

5 **SECTION 8.** In Colorado Revised Statutes, 14-10-107, **amend**
6 (3) as follows:

7 **14-10-107. Commencement - pleadings - abolition of existing**
8 **defenses - automatic, temporary injunction - enforcement.**

9 (3) Either ~~or both parties~~ PARTY to the marriage may initiate the
10 proceeding. In addition, a legal guardian, with court approval pursuant to
11 ~~section 15-14-315.5, C.R.S.~~ SECTION 15-14-314(3), or a conservator, with
12 court approval pursuant to section 15-14-425.5, ~~C.R.S.~~, may initiate the
13 proceeding. If a legal guardian or conservator initiates the proceeding, the
14 legal guardian or conservator ~~shall~~ MUST receive notice in the same
15 manner as the parties to the proceeding.

16 **SECTION 9.** In Colorado Revised Statutes, 15-10-201, **amend**
17 (26) as follows:

18 **15-10-201. General definitions.**

19 Subject to additional definitions contained in this article 10 and the
20 subsequent articles that are applicable to specific articles, parts, or
21 sections, and unless the context otherwise requires, in this code:

22 (26) "Informal proceedings" means those conducted without
23 notice to interested persons by an officer of the court acting as a registrar
24 for probate of a will, appointment of a personal representative, or
25 determination of a guardian under ~~sections 15-14-202 and 15-14-301~~
26 SECTIONS 15-14-202, 15-14-301, AND 15-14-302.

27 **SECTION 10.** In Colorado Revised Statutes, 15-10-602, **amend**

1 (6) and (9) as follows:

2 **15-10-602. Recovery of reasonable compensation and costs.**

3 (6) Except as provided in sections 15-10-605 (2), (3), and (4)
4 ~~15-14-318 (4)~~; and 15-14-431 (5), if ~~any~~ A fiduciary or person with
5 priority for appointment as personal representative, conservator, guardian,
6 agent, custodian, or trustee defends or prosecutes a proceeding in good
7 faith, whether successful or not, the fiduciary or person is entitled to
8 receive from the estate reimbursement for reasonable costs and
9 disbursements, including ~~but not limited to~~ reasonable attorney fees.

10 (9) Every application or petition for appointment of a fiduciary
11 filed under this code, including without limitation those required under
12 sections 15-12-301, 15-12-402, 15-12-614, 15-12-621, 15-12-622,
13 15-14-202, 15-14-204, ~~15-14-304~~ **15-14-302**, and 15-14-403, ~~shall~~ MUST
14 include a statement by the applicant or petitioner disclosing the basis
15 upon which any compensation is ~~to be~~ charged to the estate by the
16 fiduciary and ~~his or her or its~~ THE FIDUCIARY'S counsel or ~~shall~~ MUST state
17 that the basis has not yet been determined. The disclosure statement ~~shall~~
18 MUST specifically describe, as ~~is~~ applicable, the hourly rates ~~to be~~
19 charged, any amounts ~~to be~~ charged pursuant to a published fee schedule,
20 including the rates and basis for charging fees for any extraordinary
21 services, and any other bases upon which a fee charged to the estate will
22 be calculated. This disclosure obligation ~~shall be~~ IS continuing in nature
23 ~~so as to require~~ AND REQUIRES supplemental disclosures if material
24 changes to the basis for charging fees take place.

25 **SECTION 11.** In Colorado Revised Statutes, 15-14-110, **amend**
26 (1) introductory portion and (1)(e) as follows:

27 **15-14-110. Letters of office.**

1 (1) A nominee for guardian, emergency guardian, conservator, or
2 special conservator shall file an acceptance of office with the court. The
3 acceptance of office shall MUST be signed by the nominee and, except as
4 otherwise provided in this section, shall MUST include a statement by the
5 nominee informing the court of the following:

6 (e) That the nominee acknowledges and understands that if the
7 nominee fails to file required reports with the court or fails to respond to
8 an order of the court to show cause why the nominee should not be held
9 in contempt of court, Colorado law authorizes the court to access data and
10 records of state agencies in order to obtain contact information, as defined
11 in ~~sections 15-14-317 (4)(c) and~~ SECTION 15-14-420 (6)(c).

12 **SECTION 12.** In Colorado Revised Statutes, 15-14-113.5,
13 **amend** (1), (2) introductory portion, (2)(a), (4) introductory portion, and
14 (4)(c) as follows:

15 **15-14-113.5. Appointments without notice - investigation -**
16 **report - procedures.**

17 (1) A visitor appointed pursuant to section ~~15-14-312 (5) or~~
18 15-14-412 (3)(b) OR 15-14-905 must be a person who has ~~such~~ THE
19 training as the court deems appropriate.

20 (2) A visitor appointed pursuant to section ~~15-14-312 (5) or~~
21 15-14-412 (3)(b) shall interview the respondent in person and, to the
22 extent that the respondent is able to understand:

23 (a) Explain to the respondent the substance of the petition; the
24 nature, purpose, and effect of the proceeding; the respondent's right to a
25 hearing pursuant to ~~section 15-14-312 (2)~~ SECTION 15-14-312 (4), if
26 applicable; and the powers and duties of the emergency guardian or
27 special conservator;

1 (4) The visitor shall promptly file a report in writing with the court
2 ~~which must include~~ THAT INCLUDES:

3 (c) Recommendations on whether ~~any~~ A member of the supportive
4 community should be granted permission to participate in the proceedings
5 pursuant to ~~section 15-14-308 (2)~~ SECTION 15-14-307 (8) or 15-10-201
6 (27);

7 **SECTION 13.** In Colorado Revised Statutes, 15-14-501, **amend**
8 (1) as follows:

9 **15-14-501. When power of attorney not affected by disability.**

10 (1) ~~Whenever~~ IF a principal designates another ~~his~~ THE
11 PRINCIPAL'S attorney-in-fact or agent by a power of attorney in writing
12 and the writing contains the words "This power of attorney shall not be
13 affected by disability of the principal." or "This power of attorney shall
14 become effective upon the disability of the principal." or similar words
15 showing the intent of the principal that the authority conferred shall be
16 exercisable notwithstanding ~~his~~ THE PRINCIPAL'S disability, the authority
17 of the attorney-in-fact or agent is exercisable ~~by him~~ as provided in the
18 power on behalf of the principal notwithstanding later disability or
19 incapacity of the principal at law or later uncertainty as to whether the
20 principal is dead or alive. The authority of the attorney-in-fact or agent to
21 act on behalf of the principal ~~shall~~ MUST be set forth in the power and
22 may relate to any act, power, duty, right, or obligation ~~which~~ THAT the
23 principal has or after acquires relating to the principal or any matter,
24 transaction, or property, real or personal, tangible or intangible. The
25 authority of the agent with regard to medical treatment decisions on
26 behalf of a principal is set forth in sections 15-14-503 to 15-14-509. The
27 attorney-in-fact or agent, however, is subject to the same limitations

1 imposed upon court-appointed guardians contained in section 15-14-312.
2 ~~(1)(a)~~. Additionally, the principal may expressly empower ~~his~~ THE
3 PRINCIPAL'S attorney-in-fact or agent to renounce and disclaim interests
4 and powers, to make gifts, in trust or otherwise, and to release and
5 exercise powers of appointment. All acts done by the attorney-in-fact or
6 agent pursuant to the power during any period of disability or
7 incompetence or uncertainty as to whether the principal is dead or alive
8 have the same effect and inure to the benefit of and bind the principal or
9 ~~his~~ THE PRINCIPAL'S heirs, devisees, and personal representative as if the
10 principal were alive, competent, and not disabled. If a guardian or
11 conservator thereafter is appointed for the principal, the attorney-in-fact
12 or agent, during the continuance of the appointment, ~~shall~~ MUST consult
13 with the guardian on matters concerning the principal's personal care or
14 account to the conservator on matters concerning the principal's financial
15 affairs. The conservator has the same power the principal would have had
16 if ~~he~~ THE PRINCIPAL were not disabled or incompetent to revoke, suspend,
17 or terminate all or any part of the power of attorney or agency as it relates
18 to financial matters. Subject to any limitation or restriction of the
19 guardian's powers or duties set forth in the order of appointment and
20 endorsed on the letters of guardianship, a guardian has the same power to
21 revoke, suspend, or terminate all or any part of the power of attorney or
22 agency as it relates to matters concerning the principal's personal care that
23 the principal would have had if the principal were not disabled or
24 incompetent, except with respect to medical treatment decisions made by
25 an agent pursuant to sections 15-14-506 to 15-14-509; however, ~~such~~
26 THIS exception ~~shall~~ DOES not preclude a court from removing an agent
27 in the event an agent becomes incapacitated, or is unwilling or unable to

1 serve as an agent.

2 **SECTION 14.** In Colorado Revised Statutes, 15-14.5-102,
3 **amend** the introductory portion and (3) as follows:

4 **15-14.5-102. Definitions.**

5 AS USED in this article 14.5, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (3) "Guardian" means a person appointed by the court to make
8 decisions regarding the person of an adult, including a person appointed
9 ~~under section 15-14-301~~ PURSUANT TO SECTIONS 15-14-301 AND
10 15-14-302.

11 **SECTION 15.** In Colorado Revised Statutes, 27-65-103, **amend**
12 (1) as follows:

13 **27-65-103. Voluntary applications for mental health services.**

14 (1) Nothing in this article 65 in any way limits the right of ~~any~~ A
15 person to make a voluntary application at any time to ~~any~~ A public or
16 private agency or professional person for mental health services, either by
17 direct application in person or by referral from any other public or private
18 agency or professional person. Subject to ~~section 15-14-316 (4)~~ SECTION
19 15-14-315 (2), a ward, as defined in section 15-14-102 (15), may be
20 admitted to a hospital or institutional care and treatment for a mental
21 health disorder with the guardian's consent ~~for as long as~~ IF the ward
22 agrees to ~~such~~ THE care and treatment. The guardian shall immediately
23 notify in writing the court that appointed the guardian of the admission.

24 **SECTION 16. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2026 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.