

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 3258

(SENATE AUTHORS: LIMMER, Ingebrigtsen, Relph, Dziedzic and Pappas)

| DATE | D-PG | OFFICIAL STATUS |
|------------|-------|--|
| 02/17/2020 | 4787 | Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy |
| 02/27/2020 | 5047 | Authors added Dziedzic; Pappas |
| 03/09/2020 | 5274a | Comm report: To pass as amended |
| | 5333 | Second reading |
| 05/13/2020 | 6873 | Chief author stricken, shown as co-author Ingebrigtsen Chief author added Limmer |
| 05/14/2020 | | Special Order: Amended Third reading Passed See SF3357, Art. 1 |

1.1 A bill for an act

1.2 relating to civil law; modifying and modernizing certain provisions governing

1.3 guardianship and conservatorship; amending Minnesota Statutes 2018, sections

1.4 484.76, subdivision 2; 524.5-102, subdivisions 6, 7, 13a, by adding subdivisions;

1.5 524.5-104; 524.5-110; 524.5-113; 524.5-120; 524.5-205; 524.5-211; 524.5-303;

1.6 524.5-304; 524.5-307; 524.5-310; 524.5-311; 524.5-313; 524.5-316; 524.5-317;

1.7 524.5-403; 524.5-406; 524.5-408; 524.5-409; 524.5-411; 524.5-412; 524.5-414;

1.8 524.5-415; 524.5-416; 524.5-417; 524.5-420; 524.5-423; 524.5-431; 524.5-502;

1.9 609.748, subdivision 2; 611A.01; proposing coding for new law in Minnesota

1.10 Statutes, chapter 524.

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. Minnesota Statutes 2018, section 484.76, subdivision 2, is amended to read:

1.13 Subd. 2. **Scope.** Alternative dispute resolution methods provided for under the rules

1.14 must include arbitration, private trials, neutral expert fact-finding, mediation, minitrials,

1.15 consensual special magistrates including retired judges and qualified attorneys to serve as

1.16 special magistrates for binding proceedings with a right of appeal, and any other methods

1.17 developed by the supreme court. The methods provided must be nonbinding unless otherwise

1.18 agreed to in a valid agreement between the parties. Alternative dispute resolution may not

1.19 be required in ~~guardianship, conservatorship, or~~ civil commitment matters; or in matters

1.20 arising under section 144.651, 144.652, 518B.01, or 626.557.

1.21 Sec. 2. Minnesota Statutes 2018, section 524.5-102, is amended by adding a subdivision

1.22 to read:

1.23 Subd. 1a. **ABLE account.** "ABLE account" means an Achieving a Better Life Experience

1.24 Act of 2014 account under section 529A of the Internal Revenue Code.

2.1 Sec. 3. Minnesota Statutes 2018, section 524.5-102, subdivision 6, is amended to read:

2.2 Subd. 6. **Incapacitated person.** "Incapacitated person" means an individual who, for
 2.3 reasons other than being a minor, is impaired to the extent of lacking sufficient understanding
 2.4 or capacity to make ~~or communicate responsible~~ personal decisions, and who ~~has~~
 2.5 ~~demonstrated deficits in behavior which evidence an inability~~ is unable to meet personal
 2.6 needs for medical care, nutrition, clothing, shelter, or safety, even with appropriate
 2.7 technological and supported decision making assistance.

2.8 Sec. 4. Minnesota Statutes 2018, section 524.5-102, subdivision 7, is amended to read:

2.9 Subd. 7. **Interested person.** "Interested person" includes:

2.10 (i) the adult subject to guardianship or conservatorship, ward, protected person, or
 2.11 respondent;

2.12 (ii) a nominated guardian or conservator, or the duly appointed guardian or conservator;

2.13 (iii) legal representative;

2.14 (iv) the spouse, parent, adult children including adult step-children of a living spouse,
 2.15 and siblings, or if none of such persons is living or can be located, the next of kin of the
 2.16 ~~ward, protected person~~ subject to guardianship, person subject to conservatorship, or
 2.17 respondent;

2.18 (v) an adult person who has lived with a ~~ward, protected person~~ subject to guardianship,
 2.19 person subject to conservatorship, or respondent for a period of more than six months;

2.20 (vi) an attorney for the ~~ward~~ person subject to guardianship or protected person subject
 2.21 to conservatorship;

2.22 (vii) a governmental agency paying or to which an application has been made for benefits
 2.23 for the respondent, ~~ward, or protected person~~ subject to guardianship, or person subject to
 2.24 conservatorship, including the county social services agency for the person's county of
 2.25 residence and the county where the proceeding is venued;

2.26 (viii) a representative of a state ombudsman's office or a federal protection and advocacy
 2.27 program that has notified the court that it has a matter regarding the ~~ward, protected person~~
 2.28 subject to guardianship, person subject to conservatorship, or respondent;

2.29 (ix) a health care agent or proxy appointed pursuant to a health care directive as defined
 2.30 in section 145C.01, a living will under chapter 145B, or other similar document executed
 2.31 in another state and enforceable under the laws of this state; ~~and~~

3.1 (x) in the case of a minor who is an Indian as defined under United States Code, title
 3.2 25, section 1903, (1) the tribal chairman or delegated agent and (2) the regional director of
 3.3 the minor child's tribe with service by registered or certified mail under Code of Federal
 3.4 Regulations, title 25, parts 23.11 and 23.12; and

3.5 ~~(x)~~ (xi) any other person designated by the court.

3.6 Sec. 5. Minnesota Statutes 2018, section 524.5-102, is amended by adding a subdivision
 3.7 to read:

3.8 Subd. 7a. **Interested party.** "Interested party" means a person who has suffered some
 3.9 injury-in-fact, a person who is the beneficiary of some legislative enactment granting
 3.10 standing, or a person who must have sufficient personal interest in the matter so that it is
 3.11 appropriate to allow that person to participate in the matter.

3.12 Sec. 6. Minnesota Statutes 2018, section 524.5-102, subdivision 13a, is amended to read:

3.13 Subd. 13a. ~~Professional guardian or professional conservator~~ **Person subject to**
 3.14 **conservatorship.** "Professional guardian" or "professional conservator" means a person
 3.15 acting as guardian or conservator for three or more individuals not related by blood, adoption,
 3.16 or marriage. "Person subject to conservatorship" means a minor or other individual for
 3.17 whom a conservator has been appointed.

3.18 Sec. 7. Minnesota Statutes 2018, section 524.5-102, is amended by adding a subdivision
 3.19 to read:

3.20 Subd. 13b. **Person subject to guardianship.** "Person subject to guardianship" means
 3.21 an individual for whom a guardian has been appointed.

3.22 Sec. 8. Minnesota Statutes 2018, section 524.5-102, is amended by adding a subdivision
 3.23 to read:

3.24 Subd. 13c. **Professional guardian or professional conservator.** "Professional guardian"
 3.25 or "professional conservator" means a person acting as guardian or conservator for three or
 3.26 more individuals not related by blood, adoption, or marriage.

3.27 Sec. 9. Minnesota Statutes 2018, section 524.5-102, is amended by adding a subdivision
 3.28 to read:

3.29 Subd. 16a. **Supported decision making.** "Supported decision making" means assistance
 3.30 from one or more persons of an individual's choosing in understanding the nature and

4.1 consequences of potential personal and financial decisions which enables the individual to
 4.2 make the decisions and, when consistent with the individual's wishes, in communicating a
 4.3 decision once made.

4.4 Sec. 10. Minnesota Statutes 2018, section 524.5-104, is amended to read:

4.5 **524.5-104 FACILITY OF TRANSFER.**

4.6 (a) A person ~~required to~~ who may transfer money or personal property to a minor may
 4.7 do so, as to an amount or value not exceeding ~~\$5,000 per year~~ the amount allowable as a
 4.8 tax exclusion gift under section 2503(b) of the Internal Revenue Code or a different amount
 4.9 that is approved by the court, by transferring it to:

4.10 (1) a person who has the care and custody of the minor and with whom the minor resides;

4.11 (2) a guardian of the minor;

4.12 (3) a custodian under the Uniform Transfers To Minors Act or custodial trustee under
 4.13 the Uniform Custodial Trust Act; ~~or~~

4.14 (4) a financial institution as a deposit in an interest-bearing account or certificate in the
 4.15 sole name of the minor and giving notice of the deposit to the minor; or

4.16 (5) an ABLE account. A guardian only has the authority to establish an ABLE account.
 4.17 The guardian may not administer the ABLE account in the guardian's capacity as guardian.

4.18 (b) This section does not apply if the person making payment or delivery knows that a
 4.19 conservator has been appointed or that a proceeding for appointment of a conservator of
 4.20 the minor is pending.

4.21 (c) A person who transfers money or property in compliance with this section is not
 4.22 responsible for its proper application.

4.23 (d) A guardian or other person who receives money or property for a minor under
 4.24 paragraph (a), clause (1) or (2), may only apply it to the support, care, education, health,
 4.25 and welfare of the minor, and may not derive a personal financial benefit except for
 4.26 reimbursement for necessary expenses. Any excess must be preserved for the future support,
 4.27 care, education, health, and welfare of the minor and any balance must be transferred to the
 4.28 minor upon emancipation or attaining majority.

5.1 Sec. 11. Minnesota Statutes 2018, section 524.5-110, is amended to read:

5.2 **524.5-110 LETTERS OF OFFICE.**

5.3 The court shall issue appropriate letters of guardianship upon the guardian's filing of an
5.4 acceptance of office. The court shall issue appropriate letters of conservatorship upon the
5.5 conservator's filing of an acceptance of office and any required bond. Letters of guardianship
5.6 must indicate whether the guardian was appointed by the court, a parent, or the spouse. Any
5.7 limitation on duration or on the powers of a guardian or conservator or of the assets subject
5.8 to a conservatorship must be endorsed on the guardian's or conservator's letters.

5.9 Sec. 12. Minnesota Statutes 2018, section 524.5-113, is amended to read:

5.10 **524.5-113 NOTICE.**

5.11 (a) Except for notice for which specific requirements are otherwise provided in this
5.12 article or as otherwise ordered by the court for good cause, notice of a hearing on a petition
5.13 is required for all petitions in the manner prescribed by this section. The petitioner shall
5.14 give notice of the time and place of the hearing to all interested persons. Subject to paragraph
5.15 (f), notice must be given by mail postmarked at least 14 days before the hearing.

5.16 (b) Proof of notice must be made before or at the hearing and filed in the proceeding.

5.17 (c) A notice under this article must be given in plain language.

5.18 (d) If a patient of a state hospital, regional center, or any state-operated service has a
5.19 guardianship or conservatorship established, modified, or terminated, the head of the state
5.20 hospital, regional center, or state-operated service shall be notified. The notice shall require
5.21 the institution to advise the court of the existence, if known, of a health care directive as
5.22 defined in section 145C.01, executed by the proposed ~~ward~~ person subject to guardianship,
5.23 incapacitated person, or ~~protected~~ person subject to conservatorship, a living will executed
5.24 under chapter 145B, or any other similar document executed in another state and enforceable
5.25 under the laws of this state. If a ~~ward~~ person subject to guardianship, incapacitated person,
5.26 or ~~protected~~ person subject to conservatorship is under the guardianship or conservatorship
5.27 of the commissioner of human services as developmentally disabled or dependent and
5.28 neglected or is under the temporary custody of the commissioner of human services, the
5.29 court shall notify the commissioner of human services if the public guardianship or
5.30 conservatorship is established, modified, or terminated.

5.31 (e) If a conservator is required to file a bond pursuant to section 524.5-415, notice of
5.32 any proceeding seeking a surcharge of any interested party must be sent or delivered to the

6.1 surety at the address shown in the court records at the place where the bond is filed and to
 6.2 any other address then known to the petitioner.

6.3 (f) Except where personal service is required by statute for the petition to appoint a
 6.4 guardian under section 524.5-308 or conservator under section 524.5-404, service of all
 6.5 documents and notices under this chapter may, and where required by supreme court rule
 6.6 or order shall, be made by electronic means other than facsimile transmission if authorized
 6.7 by rule or order of the supreme court and if service is made in accordance with the rule or
 6.8 order.

6.9 (g) An interested person may notify the court in writing that the interested person does
 6.10 not wish to receive copies of notices required under any provision of this article after which
 6.11 time neither the court nor any other person is required to give notice to any person who has
 6.12 waived notice.

6.13 (h) After an initial hearing on any guardianship or conservatorship matter, the court may
 6.14 limit the notices and reports required under any provision of this article to the persons
 6.15 determined by the court.

6.16 Sec. 13. Minnesota Statutes 2018, section 524.5-120, is amended to read:

6.17 **524.5-120 BILL OF RIGHTS FOR ~~WARDS AND PROTECTED PERSONS~~**
 6.18 **SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP.**

6.19 The ~~ward or protected~~ person subject to guardianship or person subject to conservatorship
 6.20 retains all rights not restricted by court order and these rights must be enforced by the court.
 6.21 These rights include the right to:

6.22 (1) treatment with dignity and respect;

6.23 (2) due consideration of current and previously stated personal desires; and preferences,
 6.24 including but not limited to medical treatment preferences, cultural practices, religious
 6.25 beliefs, and other preferences and opinions in decisions made by the guardian or conservator;

6.26 (3) participate in decision making about and receive timely and appropriate health care
 6.27 and medical treatment that does not violate known preferences or conscientious, religious,
 6.28 or moral beliefs of the ~~ward or protected~~ person subject to guardianship or person subject
 6.29 to conservatorship;

6.30 (4) exercise control of all aspects of life ~~not~~ unless delegated specifically to the guardian
 6.31 or conservator by court order ~~to the guardian or conservator;~~

7.1 (5) guardianship or conservatorship services individually suited to the ~~ward's or protected~~
 7.2 ~~person's~~ conditions and needs of the person subject to guardianship or the person subject
 7.3 to conservatorship;

7.4 (6) petition the court to prevent or initiate a change in abode;

7.5 (7) care, comfort, social and recreational needs, employment and employment supports,
 7.6 training, education, habilitation, and rehabilitation care and services, within available
 7.7 resources;

7.8 (8) be consulted concerning, and to decide to the extent possible, the reasonable care
 7.9 and disposition of the ~~ward's or protected person's~~ clothing, furniture, vehicles, and other
 7.10 personal property and effects of the person subject to guardianship or person subject to
 7.11 conservatorship, to object to the disposition of personal property and effects, and to petition
 7.12 the court for a review of the guardian's or conservator's proposed disposition;

7.13 (9) personal privacy;

7.14 (10) ~~communication and visitation with persons of the ward's or protected person's~~
 7.15 ~~choice, provided that if the guardian has found that certain communication or visitation may~~
 7.16 ~~result in harm to the ward's or protected person's health, safety, or well-being, that~~
 7.17 ~~communication or visitation may be restricted but only to the extent necessary to prevent~~
 7.18 ~~the harm~~ communicate, visit, or interact with others, including receiving visitors or making
 7.19 or receiving telephone calls, personal mail, or electronic communications including through
 7.20 social media, or participating in social activities, unless the guardian has good cause to
 7.21 believe restriction is necessary because interaction with the person poses a risk of significant
 7.22 physical, psychological, or financial harm to the person subject to guardianship, and there
 7.23 is no other means to avoid the significant harm. In all cases, the guardian shall provide
 7.24 written notice of the restrictions imposed to the court, to the person subject to guardianship,
 7.25 and to the person subject to restrictions. The person subject to guardianship or the person
 7.26 subject to restrictions may petition the court to remove or modify the restrictions;

7.27 (11) marry and procreate, unless court approval is required, ~~and to consent;~~

7.28 (12) elect or object to sterilization as provided in section 524.5-313, paragraph (c), clause
 7.29 (4), item (iv);

7.30 ~~(12)~~ (13) at any time, petition the court for termination or modification of the guardianship
 7.31 or conservatorship, and any decisions made by the guardian or conservator in relation to
 7.32 powers granted, or for other appropriate relief;

8.1 ~~(13)~~ (14) be represented by an attorney in any proceeding or for the purpose of petitioning
8.2 the court;

8.3 ~~(14)~~ (15) vote, unless restricted by the court; ~~and~~

8.4 (16) be consulted concerning, and make decisions to the extent possible, about personal
8.5 image and name, unless restricted by the court; and

8.6 ~~(15)~~ (17) execute a health care directive, including both health care instructions and the
8.7 appointment of a health care agent, if the court has not granted a guardian any of the powers
8.8 or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4).

8.9 Sec. 14. [524.5-121] BILL OF PARTICULARS.

8.10 (a) When a bill of particulars is required to be filed under this chapter, it shall be filed
8.11 pursuant to a form approved by the court. In the absence of a court form, a bill of particulars
8.12 shall specify the confidential or nonpublic information within the text of the form or as an
8.13 appendix to the form, including a reference to where the information is located in the
8.14 pleadings, captioned consistent with the current proceedings, and identification of the bill
8.15 of particulars as a confidential document. A bill of particulars must be filed consistent with
8.16 all applicable court rules for submitting confidential or nonpublic documents, including
8.17 Rule 11 of the Minnesota Rules of General Practice and the Rules of Public Access to
8.18 Records of the Judicial Branch.

8.19 (b) Notwithstanding any provision of this article or of any other law to the contrary, a
8.20 bill of particulars filed pursuant to this chapter shall be served upon:

8.21 (1) the respondent or the respondent's attorneys;

8.22 (2) the person subject to guardianship or their attorneys;

8.23 (3) the person subject to conservatorship or their attorneys; and

8.24 (4) interested persons or their attorneys who file objections in a guardianship or
8.25 conservatorship or protective proceeding or object to a particular account, report or pleading
8.26 filed with a bill of particulars.

8.27 (c) Notwithstanding any provision of this article or of any other law to the contrary, a
8.28 bill of particulars filed pursuant to this chapter shall be served upon or otherwise provided
8.29 to:

8.30 (1) any person upon consent of: the respondent or the respondent's attorneys, the person
8.31 subject to guardianship or the person's attorneys, the person subject to conservatorship or

9.1 the person's attorneys, the respondent's guardian or conservator, or the guardian or
 9.2 conservator's attorneys; and

9.3 (2) other persons by order of the court for good cause shown.

9.4 (d) Any person served or provided with a bill of particulars may only disclose the
 9.5 information within it to those authorized to receive the information as provided for in this
 9.6 section. This limitation of disclosure shall be stated in the bill of particulars.

9.7 (e) A filing of a bill of particulars consistent with this chapter is not a violation of the
 9.8 Minnesota Health Records Act or section 144.293.

9.9 Sec. 15. Minnesota Statutes 2018, section 524.5-205, is amended to read:

9.10 **524.5-205 JUDICIAL APPOINTMENT OF GUARDIAN: PROCEDURE.**

9.11 (a) A person interested in the welfare of a minor may petition for appointment of a
 9.12 guardian.

9.13 (b) After a petition is filed, the court shall set a date for hearing, and the petitioner shall
 9.14 give notice of the time and place for hearing the petition, together with a copy of the petition,
 9.15 to:

9.16 (1) the minor, if the minor has attained 14 years of age and is not the petitioner;

9.17 (2) any person alleged to have had the primary care and custody of the minor during the
 9.18 60 days before the filing of the petition;

9.19 (3) each living parent of the minor or, if there is none, the adult nearest in kinship that
 9.20 can be found;

9.21 (4) any person nominated as guardian by the minor if the minor has attained 14 years
 9.22 of age;

9.23 (5) any appointee of a parent whose appointment has not been prevented or terminated
 9.24 under section 524.5-203; and

9.25 (6) any guardian or conservator currently acting for the minor in this state or elsewhere.

9.26 (c) Any documents or information disclosing or pertaining to health or financial
 9.27 information shall be filed as confidential documents, consistent with the bill of particulars
 9.28 under section 524.5-121.

9.29 ~~(e)~~ (d) The court, upon hearing, shall make the appointment if it finds that a qualified
 9.30 person seeks appointment, venue is proper, the required notices have been given, the
 9.31 conditions of section 524.5-204, paragraph (a), have been met, and the best interest of the

10.1 minor will be served by the appointment. In other cases, the court may dismiss the proceeding
 10.2 or make any other disposition of the matter that will serve the best interest of the minor.

10.3 ~~(d)~~ (e) If the court determines at any stage of the proceeding, before or after appointment,
 10.4 that the interests of the minor are or may be inadequately represented, it may appoint a
 10.5 lawyer to represent the minor, giving consideration to the choice of the minor if the minor
 10.6 has attained 14 years of age, provided that such appointment shall expire upon the expiration
 10.7 of the appeal time for the order appointing guardian or the order dismissing a petition or
 10.8 upon such other time or event as the court may direct.

10.9 ~~(e)~~ (f) Within 14 days after an appointment, a guardian shall send or deliver to the minor
 10.10 ~~ward~~ person subject to guardianship, and counsel if represented at the hearing, a copy of
 10.11 the order of appointment accompanied by a notice which advises the minor ~~ward~~ person
 10.12 subject to guardianship of the right to appeal the guardianship appointment in the time and
 10.13 manner provided by the Rules of Appellate Procedure.

10.14 Sec. 16. Minnesota Statutes 2018, section 524.5-211, is amended to read:

10.15 **524.5-211 DELEGATION OF POWER BY PARENT OR GUARDIAN.**

10.16 (a) A parent, legal custodian, or nonprofessional guardian of a minor or incapacitated
 10.17 person, by a properly executed power of attorney, may delegate to another person, for a
 10.18 period not exceeding one year, any powers regarding care, custody, or property of the minor
 10.19 or ~~ward~~ person subject to guardianship, except the power to consent to marriage or adoption
 10.20 of a minor ~~ward~~ person subject to guardianship.

10.21 (b) A professional guardian of a minor or incapacitated person, by a properly executed
 10.22 power of attorney, may delegate to another person, for a period not exceeding 30 days, any
 10.23 powers regarding care, custody, or property of the minor or person subject to guardianship,
 10.24 except the power to consent to marriage or adoption of a minor person subject to
 10.25 guardianship. A professional guardian delegating parental rights under this paragraph must
 10.26 submit the power of attorney to the court.

10.27 ~~(b)~~ (c) A parent who executes a delegation of powers under this section must mail or
 10.28 give a copy of the document to any other parent within 30 days of its execution unless:

10.29 (1) the other parent does not have parenting time or has supervised parenting time; or

10.30 (2) there is an existing order for protection under chapter 518B or a similar law of another
 10.31 state in effect against the other parent to protect the parent, legal custodian, or guardian
 10.32 executing the delegation of powers or the child.

11.1 (e) ~~(d)~~ A parent, legal custodian, or guardian of a minor child may also delegate those
 11.2 powers by designating a standby or temporary custodian under chapter 257B.

11.3 Sec. 17. Minnesota Statutes 2018, section 524.5-303, is amended to read:

11.4 **524.5-303 JUDICIAL APPOINTMENT OF GUARDIAN: PETITION.**

11.5 (a) An individual or a person interested in the individual's welfare may petition for a
 11.6 determination of incapacity, in whole or in part, and for the appointment of a guardian,
 11.7 limited or unlimited ~~guardian~~ in duration or power, for the individual.

11.8 (b) The petition must set forth the petitioner's name, residence, current address ~~if different~~,
 11.9 relationship to the respondent, and interest in the appointment and, to the extent known,
 11.10 state or contain the following with respect to the respondent and the relief requested:

11.11 (1) the respondent's name, age, principal residence, current street address, and, if different,
 11.12 the address of the dwelling in which it is proposed that the respondent will reside if the
 11.13 appointment is made;

11.14 (2) the name and address of the respondent's:

11.15 (i) spouse, or if the respondent has none, an adult with whom the respondent has resided
 11.16 for more than six months before the filing of the petition; and

11.17 (ii) adult children including adult step-children of a living spouse or, if the respondent
 11.18 has none, the respondent's parents and adult brothers and sisters, or if the respondent has
 11.19 none, at least one of the adults nearest in kinship to the respondent who can be found;

11.20 (3) the name of the administrative head and address of the institution where the respondent
 11.21 is a patient, resident, or client of any hospital, nursing home, home care agency, or other
 11.22 institution;

11.23 (4) the name and address or post office box of any legal representative for the respondent;

11.24 (5) the name, address or post office box, and telephone number of any person nominated
 11.25 as guardian by the respondent in any manner permitted by law, including a health care agent
 11.26 nominated in a health care directive;

11.27 (6) the name, address, and telephone number of any proposed guardian and the reason
 11.28 why the proposed guardian should be selected;

11.29 (7) the name and address of any health care agent or proxy appointed pursuant to a health
 11.30 care directive as defined in section 145C.01, a living will under chapter 145B, or other
 11.31 similar document executed in another state and enforceable under the laws of this state;

12.1 (8) the reason why guardianship is necessary, including a brief description of the nature
12.2 and extent of the respondent's alleged incapacity;

12.3 (9) what less restrictive means have been attempted and considered, how long such less
12.4 restrictive means have been attempted, and a description of why such less restrictive means
12.5 are not sufficient to meet the respondent's identified needs;

12.6 ~~(9)~~ (10) if an unlimited guardianship is requested, the reason why limited guardianship
12.7 is inappropriate and, if a limited guardianship is requested, the powers to be granted to the
12.8 limited guardian; and

12.9 ~~(10)~~ (11) a general statement of the respondent's property with an estimate of its value,
12.10 including any insurance or pension, and the source and amount of any other anticipated
12.11 income or receipts.

12.12 (c) The petition must also set forth the following information regarding the proposed
12.13 guardian or any employee of the guardian responsible for exercising powers and duties
12.14 under the guardianship:

12.15 (1) whether the proposed guardian has ever been removed for cause from serving as a
12.16 guardian or conservator and, if so, the case number and court location;

12.17 (2) if the proposed guardian is a professional guardian or conservator, a summary of the
12.18 proposed guardian's educational background and relevant work and other experience;

12.19 (3) whether the proposed guardian has ever applied for or held, at any time, any
12.20 professional license from an agency listed under section 524.5-118, subdivision 2a, and if
12.21 so, the name of the licensing agency, and as applicable, the license number and status;
12.22 whether the license is active or has been denied, conditioned, suspended, revoked, or
12.23 canceled; and the basis for the denial, condition, suspension, revocation, or cancellation of
12.24 the license;

12.25 (4) whether the proposed guardian has ever been found civilly liable in an action that
12.26 involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion,
12.27 and if so, the case number and court location;

12.28 (5) whether the proposed guardian has ~~ever~~ filed for or received protection under the
12.29 bankruptcy laws in the last five years, and if so, the case number and court location;

12.30 (6) whether the proposed guardian has any outstanding civil monetary judgments against
12.31 the proposed guardian, and if so, the case number, court location, and outstanding amount
12.32 owed;

13.1 (7) whether an order for protection or harassment restraining order has ever been issued
 13.2 against the proposed guardian, and if so, the case number and court location; ~~and~~

13.3 (8) whether the proposed guardian has ever been convicted of a ~~crime other than a petty~~
 13.4 ~~misdemeanor or traffic offense~~ gross misdemeanor or felony, and if so, the case number
 13.5 and the crime of which the guardian was convicted; and

13.6 (9) if the proposed guardian is a professional, the proposed guardian's current customary
 13.7 rates, and if the proposed guardian is not a professional, the proposed guardian's current
 13.8 anticipated rates.

13.9 (d) Any documents or information disclosing or pertaining to paragraph (b), clauses (7)
 13.10 to (11), or health or financial information shall be filed as confidential documents, consistent
 13.11 with the bill of particulars under section 524.5-121.

13.12 Sec. 18. Minnesota Statutes 2018, section 524.5-304, is amended to read:

13.13 **524.5-304 JUDICIAL APPOINTMENT OF GUARDIAN: PRELIMINARIES TO**
 13.14 **HEARING.**

13.15 (a) Upon receipt of a petition to establish a guardianship, the court shall set a date and
 13.16 time for hearing the petition and may appoint a visitor. The duties and reporting requirements
 13.17 of the visitor are limited to the relief requested in the petition.

13.18 (b) A proposed ~~ward~~ person subject to guardianship has the right to be represented by
 13.19 counsel at any proceeding under this article. The court shall appoint counsel to represent
 13.20 the proposed ~~ward~~ person subject to guardianship for the initial proceeding held pursuant
 13.21 to section 524.5-307 if neither the proposed ~~ward~~ person subject to guardianship nor others
 13.22 provide counsel unless in a meeting with a visitor the proposed ~~ward~~ person subject to
 13.23 guardianship makes an informed decision in writing to specifically waive the right to counsel.
 13.24 Before appointment, and at any time during the course of the representation when a risk of
 13.25 a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court,
 13.26 the proposed ~~ward~~ person subject to guardianship or ~~ward~~ person subject to guardianship,
 13.27 and interested persons whether there are concurrent proceedings in which the counsel is the
 13.28 attorney for the proposed guardian or guardian and whether there is a risk of a conflict of
 13.29 interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of
 13.30 the proposed ~~ward~~ person subject to guardianship or ~~ward~~ person subject to guardianship
 13.31 will be materially limited by counsel's concurrent responsibilities to the proposed guardian
 13.32 or guardian. If there is a risk of a conflict of interest, the counsel must not be appointed or
 13.33 new counsel must be appointed, unless:

14.1 (1) the court determines that the proposed ~~ward~~ person subject to guardianship or ~~ward~~
14.2 person subject to guardianship is able to give informed consent to the representation and,
14.3 if the proposed ~~ward~~ person subject to guardianship or ~~ward~~ person subject to guardianship
14.4 consents, the consent is confirmed in writing pursuant to Rule 1.7; or

14.5 (2) the court determines that there is not a risk of a conflict of interest under Rule 1.7
14.6 requiring the appointment of different counsel.

14.7 (c) Counsel must be appointed immediately after any petition under this article is served
14.8 under section 524.5-308. Counsel has the full right of subpoena. In all proceedings under
14.9 this article, counsel shall:

14.10 (1) consult with the proposed ~~ward~~ person subject to guardianship before any hearing;

14.11 (2) be given adequate time to prepare for all hearings; and

14.12 (3) continue to represent the person throughout any proceedings under section 524.5-307,
14.13 provided that such appointment shall expire upon the expiration of the appeal time for the
14.14 order appointing guardian or the order dismissing a petition, or upon such other time or
14.15 event as the court may direct.

14.16 The court need not appoint counsel to represent the proposed ~~ward~~ person subject to
14.17 guardianship on a voluntary petition, and the court may remove a court-appointed attorney
14.18 at any time if the court finds that the proposed ~~ward~~ person subject to guardianship has
14.19 made a knowing and intelligent waiver of the right to counsel or has obtained private counsel.

14.20 (d) The visitor shall personally serve the notice and petition upon the respondent and
14.21 shall offer to read the notice and petition to the respondent, and if so requested the visitor
14.22 shall read the notice and petition to such person. The visitor shall also interview the
14.23 respondent in person, and to the extent that the respondent is able to understand:

14.24 (1) explain to the respondent the substance of the petition; the nature, purpose, and effect
14.25 of the proceeding; the respondent's rights at the hearing; and the general powers and duties
14.26 of a guardian;

14.27 (2) determine the respondent's views about the proposed guardian, the proposed guardian's
14.28 powers and duties, and the scope and duration of the proposed guardianship;

14.29 (3) inform the respondent of the right to employ and consult with a lawyer at the
14.30 respondent's own expense and the right to request a court-appointed lawyer; and

14.31 (4) inform the respondent that all costs and expenses of the proceeding, including
14.32 respondent's attorneys fees, will be paid from the respondent's estate.

15.1 (e) In addition to the duties in paragraph (d), the visitor shall make any other investigation
15.2 the court directs.

15.3 (f) The visitor shall promptly file, as a confidential document consistent with the bill of
15.4 particulars under section 524.5-121, a report in writing with the court, which must include:

15.5 (1) recommendations regarding the appropriateness of guardianship, including whether
15.6 less restrictive means of intervention are available, the type of guardianship, and, if a limited
15.7 guardianship, the powers to be granted to the limited guardian;

15.8 (2) a statement as to whether the respondent approves or disapproves of the proposed
15.9 guardian, and the powers and duties proposed or the scope of the guardianship; and

15.10 (3) any other matters the court directs.

15.11 (g) The county social service agency may create a screening committee to review a
15.12 petition involving an indigent person. The screening committee must consist of individuals
15.13 selected by the agency with knowledge of alternatives that are less restrictive than
15.14 guardianship. If the agency has created a screening committee, the court shall make its
15.15 decision after the screening committee has reviewed the petition. For an indigent person,
15.16 the court may appoint a guardian under contract with the county to provide these services.

15.17 Sec. 19. Minnesota Statutes 2018, section 524.5-307, is amended to read:

15.18 **524.5-307 JUDICIAL APPOINTMENT OF GUARDIAN PROCEEDINGS;**
15.19 **PRESENCE AND RIGHTS AT HEARING.**

15.20 (a) Unless excused by the court for good cause, the petitioner and the proposed guardian
15.21 shall attend the hearing. The respondent shall attend and participate in the hearing, unless
15.22 excused by the court for good cause. The petitioner and respondent may present evidence
15.23 and subpoena witnesses and documents; examine witnesses, including the visitor; and
15.24 otherwise participate in the hearing. The hearing may be held in a location convenient to
15.25 the respondent and may be closed upon the request of the respondent and a showing of good
15.26 cause.

15.27 (b) Any person may request permission to participate in the proceeding. The court may
15.28 grant the request, with or without hearing, upon a showing of good cause and after
15.29 determining that the best interest of the respondent will be served. The court may attach
15.30 appropriate conditions to the participation.

15.31 (c) A respondent to any guardianship petition and any person subject to guardianship in
15.32 any other guardianship proceeding has not placed his or her health, physical, or mental

16.1 condition in controversy. Any denials, allegations or affirmative assertions by the respondent
 16.2 or person subject to guardianship regarding capacity do not place these matters in controversy.

16.3 Sec. 20. Minnesota Statutes 2018, section 524.5-310, is amended to read:

16.4 **524.5-310 FINDINGS; ORDER OF APPOINTMENT.**

16.5 (a) The court may appoint a guardian, limited or unlimited guardian in duration or power,
 16.6 for a respondent only if it finds by clear and convincing evidence that:

16.7 (1) the respondent is an incapacitated person; and

16.8 (2) the respondent's identified needs cannot be met by less restrictive means, including
 16.9 but not limited to use of appropriate technological assistance, supported decision making,
 16.10 community or residential services, or appointment of a health care agent under section
 16.11 145C.01, subdivision 2. The court must make specific findings particular to the respondent
 16.12 why less restrictive alternatives do not work.

16.13 (b) Alternatively, the court, with appropriate findings, may treat the petition as one for
 16.14 a protective order under section 524.5-401, enter any other appropriate order, or dismiss
 16.15 the proceeding.

16.16 (c) The court shall grant to a guardian only those powers necessitated by the ~~ward's~~
 16.17 limitations and demonstrated needs of the person subject to guardianship and, whenever
 16.18 feasible, make appointive and other orders that will encourage the development of the ~~ward's~~
 16.19 maximum self-reliance and independence of the person subject to guardianship. Any power
 16.20 not specifically granted to the guardian, following a written finding by the court of a
 16.21 demonstrated need for that power, is retained by the ~~ward~~ person subject to guardianship.

16.22 (d) The court may limit the duration of any guardianship. However, if the person subject
 16.23 to guardianship is under the age of 30 years old on the date the court files an order appointing
 16.24 a guardian, the guardianship must be of a limited duration determined by the court, not
 16.25 exceeding a period over 72 months.

16.26 (e) Notwithstanding paragraph (d), a petition for guardianship for an indefinite period
 16.27 of time may be filed for any person who is 29 years or older and is currently subject to a
 16.28 guardianship of limited duration.

16.29 ~~(d)~~ (f) If the court grants the guardian any of the powers or duties under section 524.5-313,
 16.30 paragraph (c), clause (1), (2), or (4), the authority of a previously appointed health care
 16.31 agent to make health care decisions, as defined in section 145C.01, subdivision 5, is
 16.32 suspended until further order of the court or as otherwise provided by this section. The court

17.1 may declare a health care directive unenforceable as provided in section 145C.09, subdivision
 17.2 3. The court may declare that a health care directive has been revoked by the ward person
 17.3 subject to guardianship if the court finds, by clear and convincing evidence, that the ward
 17.4 person subject to guardianship has revoked the health care directive as provided in section
 17.5 145C.09, subdivision 1.

17.6 ~~(e)~~ (g) A health care agent or other person legally appointed by the ward person subject
 17.7 to guardianship to control final disposition of the ward's remains of the person subject to
 17.8 guardianship under section 145C.05, subdivision 2, clause (7), or 149A.80, or a health care
 17.9 agent authorized to make organ or tissue donations under section 525A.04 or 525A.09, may
 17.10 make health care decisions as defined in section 145C.01, subdivision 5, on behalf of the
 17.11 ward person subject to guardianship for the purpose of preparing the ward's body of the
 17.12 person subject to guardianship for organ or tissue donation or final disposition of the ward's
 17.13 remains of the person subject to guardianship, as applicable.

17.14 ~~(f)~~ (h) Within 14 days after an appointment, a guardian shall send or deliver to the ward
 17.15 person subject to guardianship, and counsel if represented at the hearing, a copy of the order
 17.16 of appointment accompanied by a notice which advises the ward person subject to
 17.17 guardianship of the right to appeal the guardianship appointment in the time and manner
 17.18 provided by the Rules of Appellate Procedure.

17.19 ~~(g)~~ (i) Each year, within 30 days after the anniversary date of an appointment, a guardian
 17.20 shall send or deliver to the ward person subject to guardianship and to interested persons
 17.21 of record with the court (1) a notice of the right to request termination or modification of
 17.22 the guardianship or to request an order that is in the best interests of the ward person subject
 17.23 to guardianship or for other appropriate relief, ~~and~~ (2) notice of the status of the ward's right
 17.24 to vote of the person subject to guardianship, and (3) a copy of the bill of rights for persons
 17.25 subject to guardianship as provided in section 524.5-120.

17.26 Sec. 21. Minnesota Statutes 2018, section 524.5-311, is amended to read:

17.27 **524.5-311 EMERGENCY GUARDIAN.**

17.28 (a) If the court finds that compliance with the procedures of this article will likely result
 17.29 in substantial harm to the respondent's health, safety, or welfare, and that no other person
 17.30 appears to have authority and willingness to act in the circumstances, the court, on petition
 17.31 by a person interested in the respondent's welfare, may appoint an emergency guardian
 17.32 whose authority may not exceed 60 days and who may exercise only the powers specified
 17.33 in the order. A county that is acting under section 626.557, subdivision 10, by petitioning
 17.34 for appointment of an emergency guardian on behalf of a vulnerable adult may be granted

18.1 authority to act for a period not to exceed 90 days. An emergency guardian's appointment
18.2 under this section may only be extended once for a period not to exceed 60 days if the court
18.3 finds good cause for the continuation of the guardianship. Immediately upon receipt of the
18.4 petition for an emergency guardianship, the court shall appoint a lawyer to represent the
18.5 respondent in the proceeding. Except as otherwise provided in paragraph (b), reasonable
18.6 notice of the time and place of a hearing on the petition must be given to the respondent
18.7 and any other persons as the court directs.

18.8 (b) An emergency guardian may be appointed without notice to the respondent and the
18.9 respondent's lawyer only if the court finds from affidavit or other sworn testimony that the
18.10 respondent will be substantially harmed before a hearing on the appointment can be held.
18.11 If the court appoints an emergency guardian without notice to the respondent, the respondent
18.12 must be given notice of the appointment within 48 hours after the appointment. The court
18.13 shall hold a hearing on the appropriateness of the appointment within five days after the
18.14 appointment.

18.15 (c) Appointment of an emergency guardian, with or without notice, is not a determination
18.16 of the respondent's incapacity.

18.17 (d) The court may remove an emergency guardian at any time. An emergency guardian
18.18 shall make any report the court requires. In other respects, the provisions of this article
18.19 concerning guardians apply to an emergency guardian.

18.20 (e) Any documents or information disclosing or pertaining to health or financial
18.21 information shall be filed as confidential documents, consistent with the bill of particulars
18.22 under section 524.5-121.

18.23 Sec. 22. Minnesota Statutes 2018, section 524.5-313, is amended to read:

18.24 **524.5-313 POWERS AND DUTIES OF GUARDIAN.**

18.25 (a) A guardian shall be subject to the control and direction of the court at all times and
18.26 in all things.

18.27 (b) The court shall grant to a guardian only those powers necessary to provide for the
18.28 demonstrated needs of the ~~ward~~ person subject to guardianship.

18.29 (c) The court may appoint a guardian if it determines that all the powers and duties listed
18.30 in this section are needed to provide for the needs of the incapacitated person. The court
18.31 may also appoint a guardian if it determines that a guardian is needed to provide for the
18.32 needs of the incapacitated person through the exercise of some, but not all, of the powers

19.1 and duties listed in this section. The duties and powers of a guardian or those which the
19.2 court may grant to a guardian include, but are not limited to:

19.3 (1) the power to have custody of the ward person subject to guardianship and the power
19.4 to establish a place of abode within or outside the state, except as otherwise provided in this
19.5 clause. The ward person subject to guardianship or any interested person may petition the
19.6 court to prevent or to initiate a change in abode. A ward person subject to guardianship may
19.7 not be admitted to a regional treatment center by the guardian except:

19.8 (i) after a hearing under chapter 253B;

19.9 (ii) for outpatient services; or

19.10 (iii) for the purpose of receiving temporary care for a specific period of time not to
19.11 exceed 90 days in any calendar year;

19.12 (2) the duty to provide for the ward's care, comfort, and maintenance needs of the person
19.13 subject to guardianship, including food, clothing, shelter, health care, social and recreational
19.14 requirements, and, whenever appropriate, training, education, and habilitation or
19.15 rehabilitation. The guardian has no duty to pay for these requirements out of personal funds.
19.16 Whenever possible and appropriate, the guardian should meet these requirements through
19.17 governmental benefits or services to which the ward person subject to guardianship is
19.18 entitled, rather than from the ward's estate of the person subject to guardianship. Failure to
19.19 satisfy the needs and requirements of this clause shall be grounds for removal of a private
19.20 guardian, but the guardian shall have no personal or monetary liability;

19.21 (3) the duty to take reasonable care of the ward's clothing, furniture, vehicles, and other
19.22 personal effects of the person subject to guardianship, and, if other property requires
19.23 protection, the power to seek appointment of a conservator of the estate. The guardian must
19.24 give notice by mail to interested persons prior to the disposition of the ward's clothing,
19.25 furniture, vehicles, or other personal effects of the person subject to guardianship. The notice
19.26 must inform the person of the right to object to the disposition of the property within ten
19.27 days of the date of mailing and to petition the court for a review of the guardian's proposed
19.28 actions. Notice of the objection must be served by mail or personal service on the guardian
19.29 and the ward person subject to guardianship unless the ward person subject to guardianship
19.30 is the objector. The guardian served with notice of an objection to the disposition of the
19.31 property may not dispose of the property unless the court approves the disposition after a
19.32 hearing;

19.33 (4)(i) the power to give any necessary consent to enable the ward person subject to
19.34 guardianship to receive necessary medical or other professional care, counsel, treatment,

20.1 or service, except that no guardian may give consent for psychosurgery, electroshock,
20.2 sterilization, or experimental treatment of any kind unless the procedure is first approved
20.3 by order of the court as provided in this clause. The guardian shall not consent to any medical
20.4 care for the ward person subject to guardianship which violates the known conscientious,
20.5 religious, or moral belief of the ward person subject to guardianship;

20.6 (ii) a guardian who believes a procedure described in item (i) requiring prior court
20.7 approval to be necessary for the proper care of the ward person subject to guardianship,
20.8 shall petition the court for an order and, in the case of a public guardianship under chapter
20.9 252A, obtain the written recommendation of the commissioner of human services. The court
20.10 shall fix the time and place for the hearing and shall give notice to the ward person subject
20.11 to guardianship in such manner as specified in section 524.5-308 and to interested persons.
20.12 The court shall appoint an attorney to represent the ward person subject to guardianship
20.13 who is not represented by counsel, provided that such appointment shall expire upon the
20.14 expiration of the appeal time for the order issued by the court under this section or the order
20.15 dismissing a petition, or upon such other time or event as the court may direct. In every
20.16 case the court shall determine if the procedure is in the best interest of the ward person
20.17 subject to guardianship. In making its determination, the court shall consider a written
20.18 medical report which specifically considers the medical risks of the procedure, whether
20.19 alternative, less restrictive methods of treatment could be used to protect the best interest
20.20 of the ward person subject to guardianship, and any recommendation of the commissioner
20.21 of human services for a public ward person subject to guardianship. The standard of proof
20.22 is that of clear and convincing evidence;

20.23 (iii) in the case of a petition for sterilization of a ~~developmentally disabled~~ ward person
20.24 with developmental disabilities subject to guardianship, the court shall appoint a licensed
20.25 physician, a psychologist who is qualified in the diagnosis and treatment of developmental
20.26 disability, and a social worker who is familiar with the ward's social history and adjustment
20.27 of the person subject to guardianship or the case manager for the ward person subject to
20.28 guardianship to examine or evaluate the ward person subject to guardianship and to provide
20.29 written reports to the court. The reports shall indicate why sterilization is being proposed,
20.30 whether sterilization is necessary and is the least intrusive method for alleviating the problem
20.31 presented, and whether it is in the best interest of the ward person subject to guardianship.
20.32 The medical report shall specifically consider the medical risks of sterilization, the
20.33 consequences of not performing the sterilization, and whether alternative methods of
20.34 contraception could be used to protect the best interest of the ward person subject to
20.35 guardianship;

21.1 (iv) any ~~ward~~ person subject to guardianship whose right to consent to a sterilization
21.2 has not been restricted under this section or section 252A.101 may be sterilized only if the
21.3 ~~ward~~ person subject to guardianship consents in writing or there is a sworn acknowledgment
21.4 by an interested person of a nonwritten consent by the ~~ward~~ person subject to guardianship.
21.5 The consent must certify that the ~~ward~~ person subject to guardianship has received a full
21.6 explanation from a physician or registered nurse of the nature and irreversible consequences
21.7 of the sterilization;

21.8 (v) a guardian or the public guardian's designee who acts within the scope of authority
21.9 conferred by letters of guardianship under section 252A.101, subdivision 7, and according
21.10 to the standards established in this chapter or in chapter 252A shall not be civilly or criminally
21.11 liable for the provision of any necessary medical care, including, but not limited to, the
21.12 administration of psychotropic medication or the implementation of aversive and deprivation
21.13 procedures to which the guardian or the public guardian's designee has consented;

21.14 (5) in the event there is no duly appointed conservator of the ~~ward's~~ estate of the person
21.15 subject to guardianship, the guardian shall have the power to approve or withhold approval
21.16 of any contract, except for necessities, which the ~~ward~~ person subject to guardianship may
21.17 make or wish to make;

21.18 (6) the duty and power to exercise supervisory authority over the ~~ward~~ person subject
21.19 to guardianship in a manner which limits civil rights and restricts personal freedom only to
21.20 the extent necessary to provide needed care and services. A guardian may not restrict the
21.21 ability of the person subject to guardianship to communicate, visit, or interact with others,
21.22 including receiving visitors or making or receiving telephone calls, personal mail, or
21.23 electronic communications including through social media, or participating in social activities,
21.24 unless the guardian has good cause to believe restriction is necessary because interaction
21.25 with the person poses a risk of significant physical, psychological, or financial harm to the
21.26 person subject to guardianship, and there is no other means to avoid such significant harm.
21.27 In all cases, the guardian shall provide written notice of the restrictions imposed to the court,
21.28 to the person subject to guardianship, and to the person subject to restrictions. The person
21.29 subject to guardianship or the person subject to restrictions may petition the court to remove
21.30 or modify the restrictions;

21.31 (7) if there is no acting conservator of the estate for the ~~ward~~ person subject to
21.32 guardianship, the guardian has the power to apply on behalf of the ~~ward~~ person subject to
21.33 guardianship for any assistance, services, or benefits available to the ~~ward~~ person subject
21.34 to guardianship through any unit of government;

22.1 (8) unless otherwise ordered by the court, the ward person subject to guardianship retains
 22.2 the right to vote;

22.3 (9) the power to establish an ABLE account for a person subject to guardianship or
 22.4 conservatorship. By this provision a guardian only has the authority to establish an ABLE
 22.5 account, but may not administer the ABLE account in the guardian's capacity as guardian;
 22.6 and

22.7 (10) if there is no conservator appointed for the person subject to guardianship, the
 22.8 guardian has the duty and power to institute suit on behalf of the person subject to
 22.9 guardianship and represent the person subject to guardianship in expungement proceedings,
 22.10 harassment proceedings, and all civil court proceedings, including but not limited to
 22.11 restraining orders, orders for protection, name changes, conciliation court, housing court,
 22.12 family court, probate court, and juvenile court, provided that a guardian may not settle or
 22.13 compromise any claim or debt owed to the estate without court approval.

22.14 Sec. 23. Minnesota Statutes 2018, section 524.5-316, is amended to read:

22.15 **524.5-316 REPORTS; MONITORING OF GUARDIANSHIP; COURT ORDERS.**

22.16 (a) A guardian shall report to the court in writing on the condition of the ward person
 22.17 subject to guardianship at least annually and whenever ordered by the court. A copy of the
 22.18 report must be provided to the ward person subject to guardianship and to interested persons
 22.19 of record with the court. A report must state or contain:

22.20 (1) the current mental, physical, and social condition of the ward person subject to
 22.21 guardianship;

22.22 (2) the living arrangements for all addresses of the ward person subject to guardianship
 22.23 during the reporting period;

22.24 (3) any restrictions placed on the ward's right of the person subject to guardianship to
 22.25 communication and visitation with persons of the ward's choicee communicate, visit, or
 22.26 interact with others, including receiving visitors or making or receiving telephone calls,
 22.27 personal mail, or electronic communications including through social media, or participating
 22.28 in social activities, and the factual bases for those restrictions;

22.29 (4) the medical, educational, vocational, and other services provided to the ward person
 22.30 subject to guardianship and the guardian's opinion as to the adequacy of the ward's care of
 22.31 the person subject to guardianship;

23.1 (5) a recommendation as to the need for continued guardianship and any recommended
23.2 changes in the scope of the guardianship;

23.3 (6) an address or post office box and a telephone number where the guardian can be
23.4 contacted; and

23.5 (7) if applicable, the amount of ~~reimbursement~~ payment received as guardian for services
23.6 rendered to the ~~ward~~ person subject to guardianship that the guardian received during the
23.7 previous year that were not ~~reimbursed~~ paid by county contract, and the guardian's current
23.8 rates.

23.9 (b) A guardian shall report to the court in writing within 30 days of the occurrence of
23.10 any of the events listed in this paragraph. The guardian must report any of the occurrences
23.11 in this paragraph and follow the same reporting requirements in this paragraph for any
23.12 employee of the guardian responsible for exercising powers and duties under the
23.13 guardianship. A copy of the report must be provided to the ~~ward~~ person subject to
23.14 guardianship and to interested persons of record with the court. A guardian shall report
23.15 when:

23.16 (1) the guardian is removed for cause from serving as a guardian or conservator, and if
23.17 so, the case number and court location;

23.18 (2) the guardian has a professional license from an agency listed under section 524.5-118,
23.19 subdivision 2a, denied, conditioned, suspended, revoked, or canceled, and if so, the licensing
23.20 agency and license number, and the basis for denial, condition, suspension, revocation, or
23.21 cancellation of the license;

23.22 (3) the guardian is found civilly liable in an action that involves fraud, misrepresentation,
23.23 material omission, misappropriation, theft, or conversion, and if so, the case number and
23.24 court location;

23.25 (4) the guardian files for or receives protection under the bankruptcy laws, and if so, the
23.26 case number and court location;

23.27 (5) a civil monetary judgment is entered against the guardian, and if so, the case number,
23.28 court location, and outstanding amount owed;

23.29 (6) the guardian is convicted of a crime other than a petty misdemeanor or traffic offense,
23.30 and if so, the case number and court location; or

23.31 (7) an order for protection or harassment restraining order is issued against the guardian,
23.32 and if so, the case number and court location.

24.1 (c) A ~~ward~~ person subject to guardianship or interested person of record with the court
 24.2 may submit to the court a written statement disputing statements or conclusions regarding
 24.3 the condition of the ~~ward~~ person subject to guardianship or addressing any disciplinary or
 24.4 legal action that is contained in the guardian's reports and may petition the court for an order
 24.5 that is in the best interests of the ~~ward~~ person subject to guardianship or for other appropriate
 24.6 relief.

24.7 (d) Unless communication is prohibited by court order, a guardian shall communicate
 24.8 to all known interested persons as defined by section 524.5-102, subdivision 7, clauses (iii),
 24.9 (iv), (v), (vi), (ix), and (xi):

24.10 (1) within one day of awareness of:

24.11 (i) a significant or unexpected change in health or medical condition requiring physician
 24.12 treatment or hospitalization of the person subject to guardianship;

24.13 (ii) a significant situation that requires action by ambulance, law enforcement, or fire
 24.14 department for the person subject to guardianship; or

24.15 (iii) the death of the person subject to guardianship, provided that the court shall also
 24.16 be notified of the death of the person subject to guardianship; and

24.17 (2) at least 14 days in advance of a permanent change in the primary dwelling of the
 24.18 person subject to guardianship or a permanent move to a nursing home, mental health
 24.19 facility, or other facility unless the move was by prior order of the court. Prior notice is not
 24.20 necessary for any change of primary dwelling due to accident, injury, illness, or other
 24.21 involuntary actions of the person subject to guardianship or guardian, but notice shall be
 24.22 provided to interested persons defined by section 524.5-102, subdivision 7, clauses (iii),
 24.23 (iv), (v), (vi), (ix), and (xi), within seven days of such a move caused by involuntary actions
 24.24 of the person subject to guardianship or guardian.

24.25 ~~(d)~~ (e) An interested person may notify the court in writing that the interested person
 24.26 does not wish to receive copies of reports required under this section.

24.27 ~~(e)~~ (f) The court may appoint a visitor to review a report, interview the ~~ward~~ person
 24.28 subject to guardianship or guardian, and make any other investigation the court directs.

24.29 ~~(f)~~ (g) The court shall establish a system for monitoring guardianships, including the
 24.30 filing and review of annual reports. If an annual report is not filed within 60 days of the
 24.31 required date, the court shall issue an order to show cause.

24.32 ~~(g)~~ (h) If a guardian fails to comply with this section, the court may decline to appoint
 24.33 that person as a guardian or conservator, or may remove a person as guardian or conservator.

25.1 (i) Any documents or information disclosing or pertaining to health information in the
25.2 guardian's annual report shall be filed as confidential documents, consistent with the bill of
25.3 particulars under section 524.5-121.

25.4 Sec. 24. Minnesota Statutes 2018, section 524.5-317, is amended to read:

25.5 **524.5-317 TERMINATION OR MODIFICATION OF GUARDIANSHIP; COURT**
25.6 **ORDERS.**

25.7 (a) A guardianship terminates upon the death of the ward person subject to guardianship,
25.8 upon the expiration of the duration of guardianship established in the order appointing the
25.9 guardian, or upon order of the court.

25.10 (b) On petition of any person interested in the ward's welfare of the person subject to
25.11 guardianship the court may terminate a guardianship if the ward person subject to
25.12 guardianship no longer needs the assistance or protection of a guardian. The court may
25.13 modify the type of appointment or powers granted to the guardian if the extent of protection
25.14 or assistance previously granted is currently excessive or insufficient or the ward's capacity
25.15 of the person subject to guardianship to provide for support, care, education, health, and
25.16 welfare has so changed as to warrant that action. The court may make any other order that
25.17 is in the best interests of the ward person subject to guardianship or may grant other
25.18 appropriate relief.

25.19 (c) Except as otherwise ordered by the court for good cause, the court, before terminating
25.20 a guardianship, shall follow the same procedures to safeguard the rights of the ward person
25.21 subject to guardianship as apply to a petition for guardianship. Upon presentation by the
25.22 petitioner of evidence establishing a prima facie case for termination, the court shall order
25.23 the termination and discharge the guardian unless it is proven that continuation of the
25.24 guardianship is in the best interest of the ward person subject to guardianship.

25.25 (d) Any documents or information disclosing or pertaining to health or financial
25.26 information shall be filed as confidential documents, consistent with the bill of particulars
25.27 under section 524.5-121.

25.28 (e) A guardian has the right to petition the court for discharge from the guardianship.

26.1 Sec. 25. Minnesota Statutes 2018, section 524.5-403, is amended to read:

26.2 **524.5-403 ORIGINAL PETITION FOR APPOINTMENT OR PROTECTIVE**
26.3 **ORDER.**

26.4 (a) The following may petition for the appointment of a conservator or for any other
26.5 appropriate protective order:

26.6 (1) the person to be protected;

26.7 (2) an individual interested in the estate, affairs, or welfare of the person to be protected;

26.8 or

26.9 (3) a person who would be adversely affected by lack of effective management of the
26.10 property and business affairs of the person to be protected.

26.11 (b) The petition must set forth the petitioner's name, residence, current address if different,
26.12 relationship to the respondent, and interest in the appointment or other protective order,
26.13 and, to the extent known, state or contain the following with respect to the respondent and
26.14 the relief requested:

26.15 (1) the respondent's name, age, principal residence, current street address, and, if different,
26.16 the address of the dwelling where it is proposed that the respondent will reside if the
26.17 appointment is made;

26.18 (2) if the petition alleges impairment in the respondent's ability to receive and evaluate
26.19 information, a brief description of the nature and extent of the respondent's alleged
26.20 impairment;

26.21 (3) if the petition alleges that the respondent is missing, detained, or unable to return to
26.22 the United States, a statement of the relevant circumstances, including the time and nature
26.23 of the disappearance or detention and a description of any search or inquiry concerning the
26.24 respondent's whereabouts;

26.25 (4) the name and address of the respondent's:

26.26 (i) spouse, or if the respondent has none, an adult with whom the respondent has resided
26.27 for more than six months before the filing of the petition; and

26.28 (ii) adult children including adult step-children of a living spouse or, if the respondent
26.29 has none, the respondent's parents and adult brothers and sisters or, if the respondent has
26.30 none, at least one of the adults nearest in kinship to the respondent who can be found;

27.1 (5) the name of the administrative head and address of the institution where the respondent
27.2 is a patient, resident, or client of any hospital, nursing home, home care agency, or other
27.3 institution;

27.4 (6) the name and address of any legal representative for the respondent;

27.5 (7) the name and address of any health care agent or proxy appointed pursuant to a health
27.6 care directive as defined in section 145C.01, a living will under chapter 145B, or other
27.7 similar document executed in another state and enforceable under the laws of this state;

27.8 (8) a general statement of the respondent's property with an estimate of its value, including
27.9 any insurance or pension, and the source and amount of other anticipated income or receipts;
27.10 and

27.11 (9) the reason why a conservatorship or other protective order is in the best interest of
27.12 the respondent; and

27.13 (10) what less restrictive means have been attempted and considered, how long such
27.14 less restrictive means have been attempted, and a description of why such less restrictive
27.15 means are not sufficient to meet the respondent's identified needs.

27.16 (c) If a conservatorship is requested, the petition must also set forth to the extent known:

27.17 (1) the name, address or post office box, and telephone number of any proposed
27.18 conservator and the reason why the proposed conservator should be selected;

27.19 (2) the name, address or post office box, and telephone number of any person nominated
27.20 as conservator by the respondent if the respondent has attained 14 years of age; and

27.21 (3) the type of conservatorship requested and, if an unlimited conservatorship, the reason
27.22 why limited conservatorship is inappropriate or, if a limited conservatorship, the property
27.23 to be placed under the conservator's control and any limitation on the conservator's powers
27.24 and duties.

27.25 (d) The petition must also set forth the following information regarding the proposed
27.26 conservator or any employee of the conservator responsible for exercising powers and duties
27.27 under the conservatorship:

27.28 (1) whether the proposed conservator has ever been removed for cause from serving as
27.29 a guardian or conservator and, if so, the case number and court location;

27.30 (2) if the proposed conservator is a professional guardian or conservator, a summary of
27.31 the proposed conservator's educational background and relevant work and other experience;

28.1 (3) whether the proposed conservator has ever applied for or held, at any time, any
28.2 professional license from an agency listed under section 524.5-118, subdivision 2a, and if
28.3 so, the name of the licensing agency, and as applicable, the license number and status;
28.4 whether the license is active or has been denied, conditioned, suspended, revoked, or
28.5 canceled; and the basis for the denial, condition, suspension, revocation, or cancellation of
28.6 the license;

28.7 (4) whether the proposed conservator has ever been found civilly liable in an action that
28.8 involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion,
28.9 and if so, the case number and court location;

28.10 (5) whether the proposed conservator has ~~ever~~ filed for or received protection under the
28.11 bankruptcy laws in the last five years, and if so, the case number and court location;

28.12 (6) whether the proposed conservator has any outstanding civil monetary judgments
28.13 against the proposed conservator, and if so, the case number, court location, and outstanding
28.14 amount owed;

28.15 (7) whether an order for protection or harassment restraining order has ever been issued
28.16 against the proposed conservator, and if so, the case number and court location; ~~and~~

28.17 (8) whether the proposed conservator has ever been convicted of a crime other than a
28.18 petty misdemeanor or traffic offense, and if so, the case number and the crime of which the
28.19 conservator was convicted; and

28.20 (9) if the proposed conservator is a professional, the proposed conservator's current
28.21 customary rates, and if the proposed conservator is not a professional, the proposed
28.22 conservator's current anticipated rates.

28.23 (e) Any documents or information disclosing or pertaining to the following information
28.24 shall be filed as confidential documents, consistent with the bill of particulars under section
28.25 524.5-121:

28.26 (1) health or financial information;

28.27 (2) information submitted pursuant to paragraph (b), clause (2);

28.28 (3) information submitted pursuant to paragraph (b), clauses (7) to (10); or

28.29 (4) information submitted pursuant to paragraph (c), clause (3).

29.1 Sec. 26. Minnesota Statutes 2018, section 524.5-406, is amended to read:

29.2 **524.5-406 ORIGINAL PETITION: PERSONS UNDER DISABILITY;**
 29.3 **PRELIMINARIES TO HEARING.**

29.4 (a) Upon the filing of a petition for a conservatorship or other protective order for a
 29.5 respondent for reasons other than being a minor, the court shall set a date for hearing and
 29.6 the court may appoint a visitor. The duties and reporting requirements of the visitor are
 29.7 limited to the relief requested in the petition.

29.8 (b) A respondent has the right to be represented by counsel at any proceeding under this
 29.9 article. The court shall appoint counsel to represent the respondent for the initial proceeding
 29.10 held pursuant to section 524.5-408 if neither the respondent nor others provide counsel,
 29.11 unless in a meeting with a visitor, the proposed respondent makes an informed decision in
 29.12 writing to specifically waive the right to counsel. Before appointment, and at any time during
 29.13 the course of the representation when a risk of a conflict of interest may arise, the proposed
 29.14 or appointed counsel shall disclose to the court, the proposed ~~protected~~ person subject to
 29.15 conservatorship or ~~protected~~ person subject to conservatorship, and interested persons
 29.16 whether there are concurrent proceedings in which the counsel is the attorney for the proposed
 29.17 conservator or conservator and whether there is a risk of a conflict of interest under Rule
 29.18 1.7 of the Rules of Professional Conduct so that the representation of the proposed ~~protected~~
 29.19 person subject to conservatorship or ~~protected~~ person subject to conservatorship will be
 29.20 materially limited by counsel's concurrent responsibilities to the proposed conservator or
 29.21 conservator. If there is a risk of a conflict of interest, the counsel must not be appointed,
 29.22 unless:

29.23 (1) the court determines that the proposed ~~protected~~ person subject to conservatorship
 29.24 or ~~protected~~ person subject to conservatorship is able to give informed consent to the
 29.25 representation and, if the proposed ~~protected~~ person subject to conservatorship or ~~protected~~
 29.26 person subject to conservatorship consents, the consent is confirmed in writing pursuant to
 29.27 Rule 1.7; or

29.28 (2) the court determines that there is not a risk of a conflict of interest under Rule 1.7
 29.29 requiring the appointment of different counsel.

29.30 (c) Counsel must be appointed immediately after any petition under this part is served
 29.31 pursuant to section 524.5-404. Counsel has the full right of subpoena. In all proceedings
 29.32 under this part, counsel shall:

29.33 (1) consult with the respondent before any hearing;

30.1 (2) be given adequate time to prepare for all hearings; and

30.2 (3) continue to represent the respondent throughout any proceedings under section
30.3 524.5-408, provided that such appointment shall expire upon the expiration of the appeal
30.4 time for the order appointing conservator or the order dismissing a petition, or upon such
30.5 other time or event as the court may direct.

30.6 The court need not appoint counsel to represent the respondent on a voluntary petition,
30.7 and the court may remove a court-appointed attorney at any time if the court finds that the
30.8 respondent has made a knowing and intelligent waiver of the right to counsel or has obtained
30.9 private counsel.

30.10 (d) The visitor shall personally serve the notice and petition upon the respondent and
30.11 shall offer to read the notice and petition to the respondent, and if so requested, the visitor
30.12 shall read the notice and petition to such person. The visitor shall also interview the
30.13 respondent in person, and to the extent that the respondent is able to understand:

30.14 (1) explain to the respondent the substance of the petition and the nature, purpose, and
30.15 effect of the proceeding;

30.16 (2) if the appointment of a conservator is requested, inform the respondent of the general
30.17 powers and duties of a conservator and determine the respondent's views regarding the
30.18 proposed conservator, the proposed conservator's powers and duties, and the scope and
30.19 duration of the proposed conservatorship;

30.20 (3) inform the respondent of the respondent's rights, including the right to employ and
30.21 consult with a lawyer at the respondent's own expense, and the right to request a
30.22 court-appointed lawyer; and

30.23 (4) inform the respondent that all costs and expenses of the proceeding, including
30.24 respondent's attorney fees, will be paid from the respondent's estate.

30.25 (e) In addition to the duties set out in paragraph (d), the visitor shall make any other
30.26 investigations the court directs.

30.27 (f) The visitor shall promptly file, as a confidential document consistent with the bill of
30.28 particulars under section 524.5-121, a report with the court which must include:

30.29 (1) recommendations regarding the appropriateness of a conservatorship, including
30.30 whether less restrictive means of intervention are available, the type of conservatorship,
30.31 and, if a limited conservatorship, the powers and duties to be granted the limited conservator,
30.32 and the assets over which the conservator should be granted authority;

31.1 (2) a statement as to whether the respondent approves or disapproves of the proposed
 31.2 conservator, and the powers and duties proposed or the scope of the conservatorship; and
 31.3 (3) any other matters the court directs.

31.4 (g) While a petition to establish a conservatorship or for another protective order is
 31.5 pending, after preliminary hearing and without notice to others, the court may make orders
 31.6 to preserve and apply the property of the respondent as may be required for the support of
 31.7 the respondent or individuals who are in fact dependent upon the respondent, and may
 31.8 appoint an agent to assist in that task.

31.9 Sec. 27. Minnesota Statutes 2018, section 524.5-408, is amended to read:

31.10 **524.5-408 ORIGINAL PETITION CONSERVATORSHIP PROCEEDINGS:**
 31.11 **PROCEDURE AT HEARING.**

31.12 (a) Unless excused by the court for good cause, the petitioner and the proposed
 31.13 conservator shall attend the hearing. The respondent shall attend and participate in the
 31.14 hearing unless excused by the court for good cause. The petitioner and respondent may
 31.15 present evidence and subpoena witnesses and documents, examine witnesses, including the
 31.16 visitor, and otherwise participate in the hearing. The hearing may be held in a location
 31.17 convenient to the respondent and may be closed upon request of the respondent and a
 31.18 showing of good cause.

31.19 (b) Any person may request permission to participate in the proceeding. The court may
 31.20 grant the request, with or without hearing, upon a showing of good cause and after
 31.21 determining that the best interest of the respondent will be served. The court may attach
 31.22 appropriate conditions to the participation.

31.23 (c) A respondent to any conservatorship or protective proceeding petition and any person
 31.24 subject to conservatorship in any other conservatorship or protective proceeding has not
 31.25 placed his or her health, physical or mental condition in controversy and any denials,
 31.26 allegations or affirmative assertions by the respondent or person subject to conservatorship
 31.27 regarding capacity or their ability to receive and evaluate information do not place such
 31.28 matters in controversy.

31.29 Sec. 28. Minnesota Statutes 2018, section 524.5-409, is amended to read:

31.30 **524.5-409 FINDINGS; ORDER OF APPOINTMENT.**

31.31 Subdivision 1. **Limited or unlimited conservator.** (a) The court may appoint a limited
 31.32 or unlimited conservator for a respondent only if it finds that:

32.1 (1) by clear and convincing evidence, the individual is unable to manage property and
32.2 business affairs because of an impairment in the ability to receive and evaluate information
32.3 or make decisions, even with the use of appropriate technological assistance, or because
32.4 the individual is missing, detained, or unable to return to the United States;

32.5 (2) by a preponderance of evidence, the individual has property that will be wasted or
32.6 dissipated unless management is provided or money is needed for the support, care, education,
32.7 health, and welfare of the individual or of individuals who are entitled to the individual's
32.8 support and that protection is necessary or desirable to obtain or provide money; and

32.9 (3) the respondent's identified needs cannot be met by less restrictive means, including
32.10 but not limited to use of appropriate technological assistance, supported decision making,
32.11 representative payee, trusts, banking or bill paying assistance, or appointment of an
32.12 attorney-in-fact under section 523.01. The court must make specific findings particular to
32.13 the respondent why less restrictive alternatives do not work.

32.14 (b) Alternatively, the court, with appropriate findings, may enter any other appropriate
32.15 order, or dismiss the proceeding.

32.16 (c) The court, whenever feasible, shall grant to a conservator only those powers
32.17 necessitated by the ~~protected person's~~ limitations and demonstrated needs of the person
32.18 subject to conservatorship and make appointive and other orders that will encourage the
32.19 development of the ~~protected person's~~ maximum self-reliance and independence of the
32.20 person subject to conservatorship.

32.21 (d) Within 14 days after an appointment, the conservator shall send or deliver to the
32.22 ~~protected person~~ subject to conservatorship, if the ~~protected person~~ subject to conservatorship
32.23 has attained 14 years of age and is not missing, detained, or unable to return to the United
32.24 States, and counsel if represented at the hearing, a copy of the order of appointment
32.25 accompanied by a notice which advises the ~~protected person~~ subject to conservatorship of
32.26 the right to appeal the conservatorship appointment in the time and manner provided by the
32.27 Rules of Appellate Procedure.

32.28 (e) Each year, within 30 days after the anniversary date of an appointment, a conservator
32.29 shall send or deliver to the ~~protected person~~ subject to conservatorship and to interested
32.30 persons of record with the court a notice of the right to request termination or modification
32.31 of the conservatorship or for any order that is in the best interests of the ~~protected person~~
32.32 subject to conservatorship or for other appropriate relief as well as a copy of the bill of
32.33 rights for the person subject to conservatorship as provided in section 524.5-120.

33.1 (f) The appointment of a conservator or the entry of another protective order is not a
33.2 determination of incapacity of the ~~protected~~ person subject to conservatorship.

33.3 Subd. 2. **Emergency and temporary conservator.** (a) If the court finds that compliance
33.4 with the procedures of this article will likely result in the immediate loss, waste, or dissipation
33.5 of the individual's assets or income unless management is provided, or money is needed for
33.6 the support, care, education, health, and welfare of the individual or of individuals who are
33.7 entitled to the individual's support and that protection is necessary or desirable to obtain or
33.8 provide money, and that no other person appears to have authority and willingness to act
33.9 in the circumstances, the court, on petition by a person interested in the respondent's welfare,
33.10 may appoint an emergency conservator whose authority may not exceed 60 days and who
33.11 may exercise only the powers specified in the order. A county that is acting under section
33.12 626.557, subdivision 10, by petitioning for appointment of an emergency conservator on
33.13 behalf of a vulnerable adult may be granted authority to act for a period not to exceed 90
33.14 days. An emergency conservator's appointment under this section may be extended once
33.15 for a period not to exceed 60 days if the court finds good cause for the continuation of the
33.16 conservatorship. Immediately upon receipt of the petition for an emergency conservatorship,
33.17 the court shall appoint a lawyer to represent the respondent in the proceeding. Except as
33.18 otherwise provided in paragraph (b), reasonable notice of the time and place of a hearing
33.19 on the petition must be given to the respondent and any other persons as the court directs.

33.20 (b) An emergency conservator may be appointed without notice to the respondent and
33.21 the respondent's lawyer only if the court finds from affidavit or other sworn testimony that
33.22 the respondent will be substantially harmed before a hearing on the appointment can be
33.23 held. If the court appoints an emergency conservator without notice to the respondent, the
33.24 respondent must be given notice of the appointment within 48 hours after the appointment.
33.25 The court shall hold a hearing on the appropriateness of the appointment within five days
33.26 after the appointment.

33.27 (c) Appointment of an emergency conservator, with or without notice, is not a
33.28 determination of the respondent's incapacity.

33.29 (d) The court may remove an emergency conservator at any time. An emergency
33.30 conservator shall make any report the court requires. In other respects, the provisions of
33.31 this article concerning conservators apply to an emergency conservator.

33.32 (e) If the court finds that a conservator is not effectively performing the conservator's
33.33 duties and that the security and preservation of the ~~protected person's~~ assets of the person
33.34 subject to conservatorship requires immediate action, the court may appoint a temporary

34.1 substitute conservator for the ~~protected~~ person subject to conservatorship for a specified
34.2 period not exceeding six months. Except as otherwise ordered by the court, a temporary
34.3 substitute conservator so appointed has the powers set forth in the previous order of
34.4 appointment. The authority of any unlimited or limited conservator previously appointed
34.5 by the court is suspended as long as a temporary substitute conservator has authority. If an
34.6 appointment is made without previous notice to the ~~protected~~ person subject to
34.7 conservatorship or the affected conservator within five days after the appointment, the court
34.8 shall inform the ~~protected~~ person subject to conservatorship or conservator of the
34.9 appointment.

34.10 (f) The court may remove a temporary substitute conservator at any time. A temporary
34.11 substitute conservator shall make any report the court requires. In other respects, the
34.12 provisions of this article concerning conservators apply to a temporary substitute conservator.

34.13 (g) Any documents or information disclosing or pertaining to health or financial
34.14 information shall be filed as confidential documents, consistent with the bill of particulars
34.15 under section 524.5-121.

34.16 Sec. 29. Minnesota Statutes 2018, section 524.5-411, is amended to read:

34.17 **524.5-411 REQUIRED COURT APPROVAL.**

34.18 (a) After notice to affected persons as provided in this section, and after hearing, and
34.19 upon express authorization of the court, a conservator may:

34.20 (1) make gifts;

34.21 (2) convey, release, or disclaim contingent and expectant interests in property, including
34.22 marital property rights and any right of survivorship incident to joint tenancy or tenancy by
34.23 the entireties;

34.24 (3) exercise or release a power of appointment;

34.25 (4) create a revocable or irrevocable trust of property of the estate, whether or not the
34.26 trust extends beyond the duration of the conservatorship, or to revoke or amend a trust
34.27 revocable by the ~~protected~~ person subject to conservatorship;

34.28 (5) subject to the terms of the plan document, contract, or agreement, exercise rights to
34.29 elect options and change beneficiaries under insurance policies and annuities or surrender
34.30 the policies and annuities for their cash value, and any change pursuant to this clause, shall
34.31 invalidate the existing elections and beneficiary designations;

35.1 (6) exercise any right to exempt property and an elective share in the estate of the
 35.2 ~~protected person's~~ deceased spouse of the person subject to conservatorship and to renounce
 35.3 or disclaim any interest by testate or intestate succession or by transfer inter vivos;

35.4 (7) subject to the terms of the plan document, contract, or agreement, exercise rights to
 35.5 elect options and change beneficiaries under any qualified or nonqualified retirement plan
 35.6 including, but not limited to, defined benefit plans, defined contribution plans, plans governed
 35.7 by sections 401(k), 403, 408, or 457 of the Internal Revenue Code and the regulations
 35.8 thereto, and the right to exercise the options provided a plan participant or beneficiary under
 35.9 section 401 and related provisions of the Internal Revenue Code and the regulations thereto,
 35.10 and any change pursuant to this clause, shall invalidate the existing elections and beneficiary
 35.11 designations;

35.12 (8) exercise the power to create, terminate, or alter the beneficial interests and
 35.13 beneficiaries of, a payable on death (POD) account, a transfer on death (TOD) security
 35.14 registration or account, or joint tenancy interests with rights of survivorship; and

35.15 (9) make, amend, or revoke the ~~protected person's will~~ of the person subject to
 35.16 conservatorship.

35.17 (b) Notice of any hearing pursuant to this section shall not be given pursuant to section
 35.18 524.5-113. Notice of any hearing under this section shall be given to all affected persons,
 35.19 in plain language, and shall provide the time and place of the hearing and be given by mail
 35.20 postmarked at least 14 days before the hearing. Proof of notice must be made before or at
 35.21 the hearing and filed in the proceeding. For purposes of this section, notice to "affected
 35.22 persons":

35.23 (1) shall always include (i) the ~~protected person~~ subject to conservatorship, (ii) the duly
 35.24 appointed conservator, (iii) the ~~protected person's heirs-at-law~~ of the person subject to
 35.25 conservatorship, (iv) any state agency or county social services agency paying benefits to
 35.26 or for the benefit of the ~~protected person~~ subject to conservatorship, (v) any state agency
 35.27 to which an application for benefits has been submitted and any state or county agency that
 35.28 has prepared an asset assessment or could prepare an asset assessment under section
 35.29 256B.059, subdivision 2, for the ~~protected person~~ subject to conservatorship or spouse, and
 35.30 (vi) subject to the limitations of paragraph (c), all beneficiaries of the ~~protected person's~~
 35.31 existing will or revocable trust of the person subject to conservatorship;

35.32 (2) shall also include, subject to the limitations of paragraph (c), any person who has a
 35.33 beneficial vested or contingent interest that may be affected by the exercise of the power
 35.34 under this section; and

36.1 (3) shall also include any other persons designated by the court.

36.2 (c) For purposes of this section, when giving notice, or for purposes of giving consent
36.3 or approval, or objecting with regard to any proceedings under this section, the sole holder
36.4 or all coholders of a presently exercisable or testamentary general power of appointment,
36.5 power of revocation, or unlimited power of withdrawal, under an existing will or trust, are
36.6 deemed to represent and act for beneficiaries to the extent that their interests as objects,
36.7 takers in default, or otherwise, are subject to the power.

36.8 (d) A conservator, in making, amending, or revoking the ~~protected person's will~~ of the
36.9 person subject to conservatorship, shall comply with sections 524.2-501 to 524.2-517 acting
36.10 on behalf of the ~~protected person~~ subject to conservatorship.

36.11 (e) The court, in exercising or in approving a conservator's exercise of the powers listed
36.12 in paragraph (a), shall consider primarily the decision that the ~~protected person~~ subject to
36.13 conservatorship would have made, to the extent that the decision can be ascertained. The
36.14 court shall also consider:

36.15 (1) the financial needs of the ~~protected person~~ subject to conservatorship and the needs
36.16 of individuals who are dependent on the ~~protected person~~ subject to conservatorship for
36.17 support and the interests of creditors;

36.18 (2) possible effect on income, estate, gift, inheritance, or other tax liabilities;

36.19 (3) eligibility for governmental assistance with the goal of avoiding reliance on such
36.20 programs;

36.21 (4) the ~~protected person's~~ previous pattern of giving or level of support of the person
36.22 subject to conservatorship;

36.23 (5) the existing estate plan;

36.24 (6) the ~~protected person's~~ life expectancy of the person subject to conservatorship and
36.25 the probability that the conservatorship will terminate before the ~~protected person's~~ death
36.26 of the person subject to conservatorship;

36.27 (7) whether the ~~protected person's~~ needs of the person subject to conservatorship can be
36.28 met from the person's remaining assets after any transfer is made, taking into account the
36.29 effect of any transfer on eligibility for medical assistance long-term care services; and

36.30 (8) any other factors the court considers relevant.

36.31 (f) If an affected person, as defined in this article, is a minor or an incapacitated person
36.32 as defined by this article and has no guardian or conservator within the state, or if an affected

37.1 person is unborn, unascertained, or a person whose identity or address is unknown to the
 37.2 petitioner, the court shall represent that person, unless the court, upon the application of the
 37.3 guardian, conservator, or any other affected person, appoints a guardian ad litem to represent
 37.4 the affected person.

37.5 (g) Notwithstanding the power granted to the conservator by the court under this section,
 37.6 the conservator owes no duty to any person other than the ~~protected~~ person subject to
 37.7 conservatorship. The conservator shall not be held liable for the exercise or the failure to
 37.8 exercise, or the decision to exercise or the decision to decline to exercise, the powers granted
 37.9 by this section. The conservator, however, may be held liable to the ~~protected person's estate~~
 37.10 of the person subject to conservatorship for gross negligence related to the implementation
 37.11 of any action approved by the court under this section.

37.12 (h) The Uniform Guardianship and Protective Proceedings Act does not repeal section
 37.13 524.2-215 as it applies to ~~wards, protected~~ persons subject to guardianship, persons subject
 37.14 to conservatorship, or respondents, expressly or by implication. If there is a conflict between
 37.15 the act and section 524.2-215, section 524.2-215 controls and the guardian or conservator
 37.16 shall exercise the rights of the ~~ward, protected~~ person subject to guardianship, person subject
 37.17 to conservatorship, or respondent under section 524.2-215 without the need for any court
 37.18 order.

37.19 (i) Any documents or information disclosing or pertaining to health or financial
 37.20 information shall be filed as confidential documents, consistent with the bill of particulars
 37.21 under section 524.5-121.

37.22 Sec. 30. Minnesota Statutes 2018, section 524.5-412, is amended to read:

37.23 **524.5-412 PROTECTIVE ARRANGEMENTS AND SINGLE TRANSACTIONS.**

37.24 (a) If a basis is established for a protective order with respect to an individual, the court,
 37.25 without appointing a conservator, may:

37.26 (1) authorize, direct, or ratify any transaction necessary or desirable to achieve any
 37.27 arrangement for security, service, or care meeting the foreseeable needs of the ~~protected~~
 37.28 person subject to conservatorship, including:

37.29 (i) subject to the procedural and notice requirements of section 524.5-418, the sale,
 37.30 mortgage, lease, or other transfer of property;

37.31 (ii) purchase of an annuity;

38.1 (iii) making a contract for lifetime care, a deposit contract, or a contract for training and
 38.2 education; ~~or~~

38.3 (iv) addition to or establishment of a suitable trust, including a trust created under the
 38.4 Uniform Custodial Trust Act; ~~and~~ or

38.5 (v) establish, fund, and administer an ABLE account for the person subject to
 38.6 conservatorship. The conservator may exercise all powers over the ABLE account for the
 38.7 benefit of the person subject to conservatorship and shall direct investment of the ABLE
 38.8 accounts property in accordance with the provisions of sections 48A.07, subdivision 6;
 38.9 501C.0901; and 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary
 38.10 shall be applicable to all ABLE account investments by a conservator; and

38.11 (2) authorize, direct, or ratify any other contract, trust, will, or transaction relating to the
 38.12 ~~protected person's~~ property and business affairs of the person subject to conservatorship,
 38.13 including a settlement of a claim, upon determining that it is in the best interest of the
 38.14 ~~protected person~~ subject to conservatorship.

38.15 (b) In deciding whether to approve a protective arrangement or other transaction under
 38.16 this section, the court shall consider the factors listed in section 524.5-411, paragraph (e).

38.17 (c) The court may appoint an agent to assist in the accomplishment of any protective
 38.18 arrangement or other transaction authorized under this section. The agent has the authority
 38.19 conferred by the order and shall serve until discharged by order after report to the court;
 38.20 provided, however, that if a conservator is appointed, only the conservator has the power
 38.21 to sign all real estate deeds.

38.22 (d) Any documents or information disclosing or pertaining to health or financial
 38.23 information shall be filed as confidential documents, consistent with the bill of particulars
 38.24 under section 524.5-121.

38.25 Sec. 31. Minnesota Statutes 2018, section 524.5-414, is amended to read:

38.26 **524.5-414 PETITION FOR ORDER SUBSEQUENT TO APPOINTMENT.**

38.27 (a) A ~~protected person~~ subject to conservatorship or an interested person may file a
 38.28 petition in the appointing court for an order:

38.29 (1) requiring bond or collateral or additional bond or collateral, or reducing bond;

38.30 (2) requiring an accounting for the administration of the ~~protected person's estate~~ of the
 38.31 person subject to conservatorship;

38.32 (3) directing distribution;

39.1 (4) removing the conservator and appointing a temporary or successor conservator;

39.2 (5) modifying the type of appointment or powers granted to the conservator if the extent
 39.3 of protection or management previously granted is currently excessive or insufficient or the
 39.4 ~~protected person's~~ ability of the person subject to conservatorship to manage the estate and
 39.5 business affairs has so changed as to warrant the action; or

39.6 (6) acting in the ~~protected person's~~ best interests of the person subject to conservatorship
 39.7 or granting other appropriate relief.

39.8 (b) A conservator may petition the appointing court for instructions concerning fiduciary
 39.9 responsibility.

39.10 (c) On notice and hearing the petition, the court may give appropriate instructions and
 39.11 make any appropriate order.

39.12 (d) The court may, at its own discretion, waive the notice or hearing requirements for
 39.13 the relief requested in a petition filed under this section.

39.14 (e) Any documents or information disclosing or pertaining to health or financial
 39.15 information shall be filed as confidential documents, consistent with the bill of particulars
 39.16 under section 524.5-121.

39.17 Sec. 32. Minnesota Statutes 2018, section 524.5-415, is amended to read:

39.18 **524.5-415 BOND.**

39.19 The court may require a conservator to furnish a bond conditioned upon faithful discharge
 39.20 of all duties of the conservatorship according to law, with sureties as it may specify. A bond
 39.21 is not required for any conservator that is a bank or trust company provided the total
 39.22 conservatorship assets do not exceed \$1,000,000. If the conservator is a bank or trust
 39.23 company then a bond shall be required if the conservatorship assets exceed \$1,000,000.

39.24 Sec. 33. Minnesota Statutes 2018, section 524.5-416, is amended to read:

39.25 **524.5-416 TERMS AND REQUIREMENTS OF BOND.**

39.26 (a) The following rules apply to any bond required:

39.27 (1) Except as otherwise provided by the terms of the bond, sureties and the conservator
 39.28 are jointly and severally liable.

39.29 (2) By executing the bond of a conservator, a surety submits to the jurisdiction of the
 39.30 court that issued letters to the primary obligor in any proceeding pertaining to the fiduciary
 39.31 duties of the conservator in which the surety is named as a party. Notice of any proceeding

40.1 seeking to surcharge any interested party or the bond must be sent or delivered to the surety
 40.2 at the address shown in the court records at the place where the bond is filed and to any
 40.3 other address then known to the petitioner.

40.4 (3) On petition of a successor conservator or any interested person, a proceeding may
 40.5 be brought against a surety for breach of the obligation of the bond of the conservator.

40.6 (4) The bond of the conservator may be proceeded against until liability under the bond
 40.7 is exhausted.

40.8 (5) Except as otherwise provided in this section, in any proceeding where the value of
 40.9 the personal property of the estate of the proposed ~~protected~~ person subject to conservatorship
 40.10 in the initial inventory of the estate filed by the conservator under section 524.5-419 is
 40.11 expected to be at least \$10,000, the court shall require the conservator to furnish a bond in
 40.12 an amount that the court determines is necessary to reasonably protect the ~~protected person's~~
 40.13 assets of the person subject to conservatorship. Joint conservators may unite in a bond or
 40.14 each may give a separate bond.

40.15 (b) In lieu of executing and filing a bond, the conservator may request that access to
 40.16 certain assets of the ~~protected~~ person subject to conservatorship be blocked. The court may
 40.17 grant the request if sufficient evidence is filed with the court to establish that those assets
 40.18 are being held in a manner that prevents the conservator from accessing the assets without
 40.19 a specific court order or the court finds that the manner in which the assets are held is
 40.20 sufficient to protect the assets. To the extent that assets not placed in blocked accounts are
 40.21 expected to be at least \$10,000, the bond requirement under paragraph (a) applies.

40.22 (c) A proceeding may not be brought against a surety on any matter as to which an action
 40.23 or proceeding against the primary obligor is barred.

40.24 Sec. 34. Minnesota Statutes 2018, section 524.5-417, is amended to read:

40.25 **524.5-417 GENERAL POWERS AND DUTIES OF CONSERVATOR.**

40.26 (a) A conservator shall be subject to the control and direction of the court at all times
 40.27 and in all things.

40.28 (b) The court shall grant to a conservator only those powers necessary to provide for the
 40.29 demonstrated needs of the ~~protected~~ person subject to conservatorship.

40.30 (c) The court may appoint a conservator if it determines that all the powers and duties
 40.31 listed in this section are needed to provide for the needs of the ~~protected~~ person subject to
 40.32 conservatorship. The court may also appoint a conservator if it determines that a conservator

41.1 is necessary to provide for the needs of the ~~protected~~ person subject to conservatorship
41.2 through the exercise of some, but not all, of the powers and duties listed in this section. The
41.3 duties and powers of a conservator include, but are not limited to:

41.4 (1) the duty to pay the reasonable charges for the support, maintenance, and education
41.5 of the ~~protected~~ person subject to conservatorship in a manner suitable to the ~~protected~~
41.6 ~~person's~~ station in life of the person subject to conservatorship and the value of the estate.
41.7 Nothing herein contained shall release parents from obligations imposed by law for the
41.8 support, maintenance, and education of their children. The conservator has no duty to pay
41.9 for these requirements out of personal funds. Wherever possible and appropriate, the
41.10 conservator should meet these requirements through governmental benefits or services to
41.11 which the ~~protected~~ person subject to conservatorship is entitled, rather than from the
41.12 ~~protected person's~~ estate of the person subject to conservatorship. Failure to satisfy the needs
41.13 and requirements of this section shall be grounds for removal, but the conservator shall have
41.14 no personal or monetary liability;

41.15 (2) the duty to pay out of the ~~protected person's~~ estate of the person subject to
41.16 conservatorship all lawful debts of the ~~protected~~ person subject to conservatorship and the
41.17 reasonable charges incurred for the support, maintenance, and education of the ~~protected~~
41.18 ~~person's~~ spouse and dependent children of the person subject to conservatorship and, upon
41.19 order of the court, pay such sum as the court may fix as reasonable for the support of any
41.20 person unable to earn a livelihood who is legally entitled to support from the ~~protected~~
41.21 person subject to conservatorship;

41.22 (3) the duty to possess and manage the estate, collect all debts and claims in favor of
41.23 the ~~protected~~ person subject to conservatorship, or, with the approval of the court,
41.24 compromise them, institute suit on behalf of the ~~protected~~ person subject to conservatorship
41.25 and represent the ~~protected~~ person subject to conservatorship in any court proceedings,
41.26 expungement proceedings, harassment proceedings, and all civil court proceedings, including
41.27 but not limited to restraining orders, orders for protection, name changes, conciliation court,
41.28 housing court, family court, probate court and juvenile court; and invest all funds not
41.29 currently needed for the debts and charges named in clauses (1) and (2) and the management
41.30 of the estate, in accordance with the provisions of sections 48A.07, subdivision 6, 501C.0901,
41.31 and 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary shall be
41.32 applicable to all investments by a conservator. A conservator shall also have the power to
41.33 purchase certain contracts of insurance as provided in section 50.14, subdivision 14, clause
41.34 (b);

42.1 (4) where a ~~protected~~ person subject to conservatorship has inherited an undivided
 42.2 interest in real estate, the court, on a showing that it is for the best interest of the ~~protected~~
 42.3 person subject to conservatorship, may authorize an exchange or sale of the ~~protected~~
 42.4 ~~person's interest of the person subject to conservatorship~~ or a purchase by the ~~protected~~
 42.5 person subject to conservatorship of any interest other heirs may have in the real estate,
 42.6 subject to the procedures and notice requirements of section 524.5-418;

42.7 (5) the power to approve or withhold approval of any contract, except for necessities,
 42.8 which the ~~protected~~ person subject to conservatorship may make or wish to make; ~~and~~

42.9 (6) the power to apply on behalf of the ~~protected~~ person subject to conservatorship for
 42.10 any assistance, services, or benefits available to the ~~protected~~ person subject to
 42.11 conservatorship through any unit of government; and

42.12 (7) the power to establish an ABLE account for the person subject to conservatorship.
 42.13 The conservator may exercise all powers over the ABLE account for the benefit of the
 42.14 person subject to conservatorship and shall direct investment of the ABLE accounts property
 42.15 in accordance with the provisions of sections 48A.07, subdivision 6, 501C.0901, and
 42.16 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary shall be
 42.17 applicable to all ABLE account investments by a conservator.

42.18 (d) The conservator shall have the power to revoke, suspend, or terminate all or any part
 42.19 of a durable power of attorney of which the ~~protected~~ person subject to conservatorship is
 42.20 the principal with the same power the principal would have if the principal were not
 42.21 incapacitated. If a durable power of attorney is in effect, a decision of the conservator takes
 42.22 precedence over that of an attorney-in-fact.

42.23 (e) Transaction set aside. If a ~~protected~~ person subject to conservatorship has made a
 42.24 financial transaction or gift or entered into a contract during the two-year period before
 42.25 establishment of the conservatorship, the conservator may petition for court review of the
 42.26 transaction, gift, or contract. If the court finds that the ~~protected~~ person subject to
 42.27 conservatorship was incapacitated or subject to duress, coercion, or undue influence when
 42.28 the transaction, gift, or contract was made, the court may declare the transaction, gift, or
 42.29 contract void except as against a bona fide transferee for value and order reimbursement or
 42.30 other appropriate relief. This paragraph does not affect any other right or remedy that may
 42.31 be available to the ~~protected~~ person subject to conservatorship with respect to the transaction,
 42.32 gift, or contract.

42.33 (f) After the filing of the petition, a certificate of the district court certified to that fact
 42.34 may be filed for record with the Minnesota secretary of state in the same manner as provided

43.1 in section 336.9-501. The certificate shall state that a petition is pending and the name and
43.2 address of the person for whom a conservator is sought. If a conservator is appointed on
43.3 the petition, and if the conservatorship order removes or restricts the right of the ~~protected~~
43.4 person subject to conservatorship to transfer property or to contract, then all contracts except
43.5 for necessities, and all transfers of personal property, tangible or intangible, including, but
43.6 not limited to, cash or securities transfers at banks, brokerage houses, or other financial
43.7 institutions, or transfers of cash or securities, made by the ~~protected~~ person subject to
43.8 conservatorship after the filing and before the termination of the conservatorship shall be
43.9 voidable.

43.10 (g) Unless otherwise ordered by the court, if the person subject to conservatorship shall
43.11 at any time during the continuance of the conservatorship be employed, the wages or salary
43.12 for employment of the person subject to conservatorship shall not be a part of the
43.13 conservatorship estate and the wages and salaries shall be paid to the person subject to
43.14 conservatorship and shall be subject to the control of the person subject to conservatorship
43.15 to the same extent as if the conservatorship did not exist. The conservator shall not have to
43.16 account for the wages and salary.

43.17 Sec. 35. Minnesota Statutes 2018, section 524.5-420, is amended to read:

43.18 **524.5-420 REPORTS; APPOINTMENT OF VISITOR; MONITORING; COURT**
43.19 **ORDERS.**

43.20 (a) A conservator shall report to the court for administration of the estate annually unless
43.21 the court otherwise directs, upon resignation or removal, upon termination of the
43.22 conservatorship, and at other times as the court directs. An order, after notice and hearing,
43.23 allowing an intermediate report of a conservator adjudicates liabilities concerning the matters
43.24 adequately disclosed in the accounting. An order, after notice and hearing, allowing a final
43.25 report adjudicates all previously unsettled liabilities relating to the conservatorship.

43.26 (b) A report must state or contain a listing of the assets of the estate under the
43.27 conservator's control and a listing of the receipts, disbursements, and distributions during
43.28 the reporting period.

43.29 (c) The report must also state an address or post office box and a telephone number
43.30 where the conservator can be contacted.

43.31 (d) A conservator shall report to the court in writing within 30 days of the occurrence
43.32 of any of the events listed in this paragraph. The conservator must report any of the
43.33 occurrences in this paragraph and follow the same reporting requirements in this paragraph

44.1 for any employee of the conservator responsible for exercising powers and duties under the
44.2 conservatorship. A copy of the report must be provided to the ~~protected~~ person subject to
44.3 conservatorship and to interested persons of record with the court. A conservator shall report
44.4 when:

44.5 (1) the conservator is removed for cause from serving as a guardian or conservator, and
44.6 if so, the case number and court location;

44.7 (2) the conservator has a professional license from an agency listed under section
44.8 524.5-118, subdivision 2a, denied, conditioned, suspended, revoked, or canceled, and if so,
44.9 the licensing agency and license number, and the basis for denial, condition, suspension,
44.10 revocation, or cancellation of the license;

44.11 (3) the conservator is found civilly liable in an action that involves fraud,
44.12 misrepresentation, material omission, misappropriation, theft, or conversion, and if so, the
44.13 case number and court location;

44.14 (4) the conservator files for or receives protection under the bankruptcy laws, and if so,
44.15 the case number and court location;

44.16 (5) a civil monetary judgment is entered against the conservator, and if so, the case
44.17 number, court location, and outstanding amount owed;

44.18 (6) the conservator is convicted of a crime other than a petty misdemeanor or traffic
44.19 offense, and if so, the case number and court location; or

44.20 (7) an order for protection or harassment restraining order is issued against the
44.21 conservator, and if so, the case number and court location.

44.22 (e) A ~~protected~~ person subject to conservatorship or an interested person of record with
44.23 the court may submit to the court a written statement disputing account statements regarding
44.24 the administration of the estate or addressing any disciplinary or legal action that is contained
44.25 in the reports and may petition the court for any order that is in the best interests of the
44.26 ~~protected~~ person subject to conservatorship and the estate or for other appropriate relief.

44.27 (f) An interested person may notify the court in writing that the interested person does
44.28 not wish to receive copies of reports required under this section after which time neither
44.29 the court nor any other person is required to give notice to any person who has waived
44.30 notice.

44.31 (g) The court may appoint a visitor to review a report or plan, interview the ~~protected~~
44.32 person subject to conservatorship or conservator, and make any other investigation the court

45.1 directs. In connection with a report, the court may order a conservator to submit the assets
45.2 of the estate to an appropriate examination to be made in a manner the court directs.

45.3 (h) The court shall establish a system for monitoring of conservatorships, including the
45.4 filing and review of conservators' reports and plans. If an annual report is not filed within
45.5 60 days of the required date, the court shall issue an order to show cause. Unless otherwise
45.6 ordered by the court, a report under this section shall be filed publicly.

45.7 (i) If there is no acting guardian, a conservator that becomes aware of the death of the
45.8 person subject to conservatorship shall notify in writing; orally; or by phone, text message,
45.9 e-mail, or electronic service, all known interested persons as defined by section 524.5-102,
45.10 subdivision 7, clauses (iii), (iv), (v), (vi), (ix), and (xi), and the court as soon as is reasonably
45.11 practical, that the person subject to conservatorship has died. The conservator may delegate
45.12 this task under reasonable circumstances.

45.13 ~~(j)~~ (j) If a conservator fails to comply with this section, the court may decline to appoint
45.14 that person as a guardian or conservator, or may remove a person as guardian or conservator.

45.15 Sec. 36. Minnesota Statutes 2018, section 524.5-423, is amended to read:

45.16 **524.5-423 SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING**
45.17 **CONFLICT OF INTEREST.**

45.18 Any transaction involving the conservatorship estate which is affected by a conflict
45.19 between the conservator's fiduciary and personal interests is voidable unless the transaction
45.20 is expressly authorized by the court after notice to interested persons. A transaction affected
45.21 by a conflict between personal and fiduciary interests includes any sale, encumbrance, or
45.22 other transaction involving the conservatorship estate entered into by the conservator, the
45.23 spouse, descendant, agent, or lawyer of a conservator, or corporation or other enterprise in
45.24 which the conservator has a beneficial interest. ~~Notwithstanding a conflict between the~~
45.25 ~~conservator's fiduciary and personal interests, if the protected person is a parent, child, or~~
45.26 ~~sibling of the conservator, the court has discretion to allow a transaction of beneficial interest~~
45.27 ~~to the conservator, as long as the conservator can prove that this transaction is primarily in~~
45.28 ~~the best interest of the protected person.~~

45.29 Sec. 37. Minnesota Statutes 2018, section 524.5-431, is amended to read:

45.30 **524.5-431 TERMINATION OF PROCEEDINGS.**

45.31 (a) A conservatorship terminates upon the death of the protected person subject to
45.32 conservatorship or upon order of the court. Unless created for reasons other than that the

46.1 ~~protected~~ person subject to conservatorship is a minor, a conservatorship created for a minor
46.2 also terminates when the ~~protected~~ person subject to conservatorship attains majority or is
46.3 emancipated.

46.4 (b) Upon the death of a ~~protected~~ person subject to conservatorship, the conservator
46.5 shall conclude the administration of the estate by distribution of probate property to the
46.6 personal representative of the ~~protected person's estate~~ of the person subject to
46.7 conservatorship. The conservator shall distribute nonprobate property to the successor in
46.8 interest. The conservator shall file a final report and petition for discharge no later than 30
46.9 days after distribution, and notice of hearing for allowance of said report shall be given to
46.10 interested persons and to the personal representative of the ~~protected person's estate~~ of the
46.11 person subject to conservatorship.

46.12 (c) On petition of any person interested in the ~~protected person's welfare~~ of the person
46.13 subject to conservatorship, the court may terminate the conservatorship if the ~~protected~~
46.14 person subject to conservatorship no longer needs the assistance or protection of a
46.15 conservator. Termination of the conservatorship does not affect a conservator's liability for
46.16 previous acts or the obligation to account for funds and assets of the ~~protected person~~ subject
46.17 to conservatorship.

46.18 (d) Except as otherwise ordered by the court for good cause, before terminating a
46.19 conservatorship, the court shall follow the same procedures to safeguard the rights of the
46.20 ~~protected person~~ subject to conservatorship that apply to a petition for conservatorship.
46.21 Upon the establishment of a prima facie case for termination, the court shall order termination
46.22 unless it is proved that continuation of the conservatorship is in the best interest of the
46.23 ~~protected person~~ subject to conservatorship.

46.24 (e) Upon termination of a conservatorship, whether or not formally distributed by the
46.25 conservator, title to assets of the estate remains vested in the formerly ~~protected~~ person
46.26 subject to conservatorship or passes to the person's successors subject to administration,
46.27 including claims of creditors and allowances of surviving spouse and dependent children,
46.28 and subject to the rights of others resulting from abatement, retainer, advancement, and
46.29 ademption. The order of termination must provide for payment of expenses of administration
46.30 and include payment of fees and costs of final administration for guardians, conservators,
46.31 and attorneys. The order must direct the conservator to execute appropriate instruments to
46.32 evidence the transfer of title or confirm a distribution previously made and to file a final
46.33 report and a petition for discharge upon approval of the final report.

47.1 (f) The court shall enter a final order of discharge upon the approval of the final report
 47.2 and satisfaction by the conservator of any other conditions placed by the court on the
 47.3 conservator's discharge.

47.4 (g) Any documents or information disclosing or pertaining to health or financial
 47.5 information shall be filed as confidential documents, consistent with the bill of particulars
 47.6 under section 524.5-121.

47.7 (h) A conservator may petition the court for discharge from the conservatorship.

47.8 Sec. 38. Minnesota Statutes 2018, section 524.5-502, is amended to read:

47.9 **524.5-502 COMPENSATION AND EXPENSES.**

47.10 (a) The court may authorize a proceeding under this article to proceed in forma pauperis,
 47.11 as provided in chapter 563.

47.12 (b) In proceedings under this article, a lawyer or health professional rendering necessary
 47.13 services with regard to the appointment of a guardian or conservator, the administration of
 47.14 the protected person's estate or personal affairs, or the restoration of that person's capacity
 47.15 or termination of the protective proceeding shall be entitled to compensation from the
 47.16 ~~protected person's~~ estate of the person subject to guardianship or conservatorship or from
 47.17 the county having jurisdiction over the proceedings if the ~~ward or protected~~ person subject
 47.18 to guardianship or conservatorship is indigent. When the court determines that other necessary
 47.19 services have been provided for the benefit of the ~~ward or protected~~ person subject to
 47.20 guardianship or conservatorship by a lawyer or health professional, the court may order
 47.21 fees to be paid from the estate of the ~~protected~~ person subject to guardianship or
 47.22 conservatorship or from the county having jurisdiction over the proceedings if the ~~ward or~~
 47.23 ~~protected~~ person subject to guardianship or conservatorship is indigent. If, however, the
 47.24 court determines that a petitioner, guardian, or conservator has not acted in good faith, the
 47.25 court shall order some or all of the fees or costs incurred in the proceedings to be borne by
 47.26 the petitioner, guardian, or conservator not acting in good faith. In determining compensation
 47.27 for a guardian or conservator of an indigent person, the court shall consider a fee schedule
 47.28 recommended by the Board of County Commissioners. The fee schedule may also include
 47.29 a maximum compensation based on the living arrangements of the ~~ward or protected~~ person
 47.30 subject to guardianship or conservatorship. If these services are provided by a public or
 47.31 private agency, the county may contract on a fee-for-service basis with that agency.

47.32 (c) When the court determines that a guardian or conservator has rendered necessary
 47.33 services or has incurred necessary expenses for the benefit of the ~~ward or protected~~ person

48.1 subject to guardianship or conservatorship, the court may order reimbursement or
 48.2 compensation to be paid from the estate of the ~~protected~~ person subject to guardianship or
 48.3 conservatorship or from the county having jurisdiction over the guardianship or protective
 48.4 proceeding if the ~~ward or protected~~ person subject to guardianship or conservatorship is
 48.5 indigent. The court may not deny an award of fees solely because the ~~ward or protected~~
 48.6 person subject to guardianship or conservatorship is a recipient of medical assistance. In
 48.7 determining compensation for a guardian or conservator of an indigent person, the court
 48.8 shall consider a fee schedule recommended by the Board of County Commissioners. The
 48.9 fee schedule may also include a maximum compensation based on the living arrangements
 48.10 of the ward or protected person. If these services are provided by a public or private agency,
 48.11 the county may contract on a fee-for-service basis with that agency.

48.12 (d) The court shall order reimbursement or compensation if the guardian or conservator
 48.13 requests payment and the guardian or conservator was nominated by the court or by the
 48.14 county adult protection unit because no suitable relative or other person was available to
 48.15 provide guardianship or protective proceeding services necessary to prevent maltreatment
 48.16 of a vulnerable adult, as defined in section 626.5572, subdivision 15. In determining
 48.17 compensation for a guardian or conservator of an indigent person, the court shall consider
 48.18 a fee schedule recommended by the Board of County Commissioners. The fee schedule
 48.19 may also include a maximum compensation based on the living arrangements of the ~~ward~~
 48.20 ~~or protected~~ person subject to guardianship or conservatorship. If these services are provided
 48.21 by a public or private agency, the county may contract on a fee-for-service basis with that
 48.22 agency.

48.23 (e) When a county employee serves as a guardian or conservator as part of employment
 48.24 duties, the court shall order compensation if the guardian or conservator performs necessary
 48.25 services that are not compensated by the county. The court may order reimbursement to the
 48.26 county from the protected person's estate for compensation paid by the county for services
 48.27 rendered by a guardian or conservator who is a county employee but only if the county
 48.28 shows that after a diligent effort it was unable to arrange for an independent guardian or
 48.29 conservator.

48.30 Sec. 39. Minnesota Statutes 2018, section 609.748, subdivision 2, is amended to read:

48.31 Subd. 2. **Restraining order; court jurisdiction.** A person who is a victim of harassment
 48.32 or the victim's guardian or conservator may seek a restraining order from the district court
 48.33 in the manner provided in this section. The parent, guardian or conservator, or stepparent
 48.34 of a minor who is a victim of harassment may seek a restraining order from the district court

49.1 on behalf of the minor. An application for relief under this section may be filed in the county
49.2 of residence of either party or in the county in which the alleged harassment occurred. There
49.3 are no residency requirements that apply to a petition for a harassment restraining order.

49.4 Sec. 40. Minnesota Statutes 2018, section 611A.01, is amended to read:

49.5 **611A.01 DEFINITIONS.**

49.6 For the purposes of sections 611A.01 to 611A.06:

49.7 (a) "Crime" means conduct that is prohibited by local ordinance and results in bodily
49.8 harm to an individual; or conduct that is included within the definition of "crime" in section
49.9 609.02, subdivision 1, or would be included within that definition but for the fact that (1)
49.10 the person engaging in the conduct lacked capacity to commit the crime under the laws of
49.11 this state, or (2) the act was alleged or found to have been committed by a juvenile.

49.12 (b) "Victim" means a natural person who incurs loss or harm as a result of a crime,
49.13 including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and
49.14 611A.045, also includes (1) a corporation that incurs loss or harm as a result of a crime, (2)
49.15 a government entity that incurs loss or harm as a result of a crime, and (3) any other entity
49.16 authorized to receive restitution under section 609.10 or 609.125. The term "victim" includes
49.17 the family members, guardian, conservator, or custodian of a minor, incompetent,
49.18 incapacitated, or deceased person. In a case where the prosecutor finds that the number of
49.19 family members makes it impracticable to accord all of the family members the rights
49.20 described in sections 611A.02 to 611A.0395, the prosecutor shall establish a reasonable
49.21 procedure to give effect to those rights. The procedure may not limit the number of victim
49.22 impact statements submitted to the court under section 611A.038. The term "victim" does
49.23 not include the person charged with or alleged to have committed the crime.

49.24 (c) "Juvenile" has the same meaning as given to the term "child" in section 260B.007,
49.25 subdivision 3.

49.26 Sec. 41. **REVISOR INSTRUCTION.**

49.27 The revisor of statutes shall substitute the term "person subject to guardianship" for the
49.28 term "ward" and "person subject to conservatorship" for the term "protected person" in
49.29 Minnesota Statutes, sections 524.5-101 to 524.5-505, except in section 524.5-102,
49.30 subdivisions 7, 14, and 17. The revisor shall make grammatical changes related to the change
49.31 in terms.

50.1 Sec. 42. **EFFECTIVE DATE.**

50.2 Sections 17, 20, 25, and 28, are effective August 1, 2020, and apply to cases commenced
50.3 on or after August 1, 2020. Sections 1 to 16, 18, 19, 21 to 24, 26, 27, and 29 to 41, are
50.4 effective August 1, 2020, and apply to cases commenced before, on, or after that date.