

CHAPTER 254—H.F.No. 3128

An act relating to probate; clarifying the powers of health care agents, guardians, and others to make health care decisions for wards and protected persons; modifying provisions governing guardians and conservators; amending Minnesota Statutes 2008, sections 145C.09, subdivision 3; 524.5-303; 524.5-403; 525A.09; Minnesota Statutes 2009 Supplement, sections 524.5-120; 524.5-304; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-406; 524.5-420.

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

Section 1. Minnesota Statutes 2008, section 145C.09, subdivision 3, is amended to read:

Subd. 3. **Power of a guardian court to declare a health care directive unenforceable.** ~~The powers of a guardian to revoke the appointment of a health care agent in A court may declare a health care directive of which the ward is the principal or to revoke the health care directive itself are specified in section 524.5-315 unenforceable if it finds, by clear and convincing evidence, that the health care directive was executed under coercion or fraudulent inducement as prohibited by section 145C.13, subdivision 1, clause (4), or if it finds that the health care directive is not legally sufficient under section 145C.03 or 145C.04.~~

Sec. 2. Minnesota Statutes 2009 Supplement, section 524.5-120, is amended to read:

524.5-120 BILL OF RIGHTS FOR WARDS AND PROTECTED PERSONS.

The ward or protected person retains all rights not restricted by court order and these rights must be enforced by the court. These rights include the right to:

- (1) treatment with dignity and respect;
- (2) due consideration of current and previously stated personal desires, medical treatment preferences, religious beliefs, and other preferences and opinions in decisions made by the guardian or conservator;
- (3) receive timely and appropriate health care and medical treatment that does not violate known conscientious, religious, or moral beliefs of the ward or protected person;
- (4) exercise control of all aspects of life not delegated specifically by court order to the guardian or conservator;
- (5) guardianship or conservatorship services individually suited to the ward's or protected person's conditions and needs;
- (6) petition the court to prevent or initiate a change in abode;
- (7) care, comfort, social and recreational needs, training, education, habilitation, and rehabilitation care and services, within available resources;

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

(9) personal privacy;

(10) communication and visitation with persons of the ward's or protected person's choice, provided that if the guardian has found that certain communication or visitation may result in harm to the ward's or protected person's health, safety, or well-being, that communication or visitation may be restricted but only to the extent necessary to prevent the harm;

(11) marry and procreate, unless court approval is required, and to consent or object to sterilization as provided in section 524.5-313, paragraph (c), clause (4), item (iv);

(12) petition the court for termination or modification of the guardianship or conservatorship or for other appropriate relief;

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

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

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

Sec. 3. Minnesota Statutes 2008, section 524.5-303, is amended to read:

524.5-303 JUDICIAL APPOINTMENT OF GUARDIAN: PETITION.

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

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

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

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

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

(ii) adult children or, if the respondent has none, the respondent's parents and adult brothers and sisters, or if the respondent has none, at least one of the adults nearest in kinship to the respondent who can be found;

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

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

(5) the name ~~and~~, address, and telephone number of any person nominated as guardian by the respondent in any manner permitted by law, including a health care agent nominated in a health care directive;

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

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

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

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

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

(c) The petition must also set forth the following information regarding the proposed guardian:

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

(2) if the proposed guardian is a professional guardian, a summary of the proposed guardian's educational background and relevant work and other experience.

Sec. 4. Minnesota Statutes 2009 Supplement, section 524.5-304, is amended to read:

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

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

(b) A proposed ward has the right to be represented by counsel at any proceeding under this article. The court shall appoint counsel to represent the proposed ward for the initial proceeding held pursuant to section 524.5-307 if neither the proposed ward nor others provide counsel unless in a meeting with a visitor the proposed ward makes an informed decision in writing to specifically waive the right to counsel. Before appointment, and at any time during the course of the representation when a risk of a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court, the proposed ward or ward, and interested persons whether there are concurrent proceedings in which the counsel is the attorney for the proposed guardian or guardian and whether there is a risk of a conflict of interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of the proposed ward or ward will be materially limited by counsel's concurrent responsibilities to the proposed guardian or guardian. If there is a

risk of a conflict of interest, the counsel must not be appointed or new counsel must be appointed, unless:

(1) the court determines that the proposed ward or ward is able to give informed consent to the representation and, if the proposed ward or ward consents, the consent is confirmed in writing pursuant to Rule 1.7; or

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

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

(1) consult with the proposed ward before any hearing;

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

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

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

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

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

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

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

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

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

(e) The visitor shall promptly file a report in writing with the court, which must include:

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

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

(3) any other matters the court directs.

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

~~(g) Before the initial appointment, and annually within 30 days after the anniversary date of the appointment, the proposed guardian or guardian shall file an informational statement with the court. The statement must be a sworn affidavit containing the following information:~~

~~(1) the person's educational background and relevant work and other experience;~~

~~(2) an address and telephone number where the guardian can be contacted;~~

~~(3) whether the person has ever been removed for cause from serving as a guardian or conservator and if so, the case number and court location;~~

~~(4) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study conducted pursuant to section 524.5-118, and~~

~~(5) if applicable, the amount of reimbursement for services rendered to the ward that the person has received during the previous year.~~

Sec. 5. Minnesota Statutes 2009 Supplement, section 524.5-309, is amended to read:

524.5-309 WHO MAY BE GUARDIAN: PRIORITIES.

(a) Subject to paragraph (c), the court, in appointing a guardian, shall consider persons otherwise qualified in the following order of priority:

(1) a guardian, other than a temporary or emergency guardian, currently acting for the respondent in this state or elsewhere;

(2) an a health care agent appointed by the respondent under in a health care directive that does not include limitations on the nomination of the health care agent as a guardian and is executed pursuant to chapter 145C;

(3) the spouse of the respondent or a person nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased spouse;

(4) an adult child of the respondent;

(5) a parent of the respondent, or an individual nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased parent;

(6) an adult with whom the respondent has resided for more than six months before the filing of the petition;

(7) an adult who is related to the respondent by blood, adoption, or marriage; and

(8) any other adult or a professional guardian.

(b) The court, acting in the best interest of the respondent, may decline to appoint a person having priority and appoint a person having a lower priority or no priority. With respect to persons having equal priority, the court shall select the one it considers best qualified.

(c) Any individual or agency which provides residence, custodial care, medical care, employment training or other care or services for which they receive a fee may not be appointed as guardian unless related to the respondent by blood, marriage, or adoption.

Sec. 6. Minnesota Statutes 2009 Supplement, section 524.5-310, is amended to read:

524.5-310 FINDINGS; ORDER OF APPOINTMENT.

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

(1) the respondent is an incapacitated person; and

(2) the respondent's identified needs cannot be met by less restrictive means, including use of appropriate technological assistance.

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

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

(d) If the court grants the guardian any of the powers or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4), the authority of a previously appointed health care agent to make health care decisions, as defined in section 145C.01, subdivision 5, is suspended until further order of the court or as otherwise provided by this section. The court may declare a health care directive unenforceable as provided in section 145C.09, subdivision 3. The court may declare that a health care directive has been revoked by the ward if the court finds, by clear and convincing evidence, that the ward has revoked the health care directive as provided in section 145C.09, subdivision 1.

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

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

~~(g)~~ (g) Each year, within 30 days after the anniversary date of an appointment, a guardian shall send or deliver to the ward and to interested persons of record with the court a notice of the right to request termination or modification of the guardianship or to

request an order that is in the best interests of the ward or for other appropriate relief, and notice of the status of the ward's right to vote.

Sec. 7. Minnesota Statutes 2009 Supplement, section 524.5-315, is amended to read:

524.5-315 RIGHTS AND IMMUNITIES OF GUARDIAN; LIMITATIONS.

(a) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for expenditures made on behalf of the ward, in a manner consistent with section 524.5-502.

(b) A guardian is not liable to a third person for acts of the ward solely by reason of the relationship. A guardian who exercises reasonable care in choosing a third person providing medical or other care, treatment, or service for the ward is not liable for injury to the ward resulting from the wrongful conduct of the third person.

(c) A guardian may not revoke the health care directive of a ward or protected person absent a court order. ~~A guardian may revoke the appointment of an agent of a health care directive for which the ward is the principal only under the following circumstances:~~

~~(1) the agent was appointed in the previous 60 days;~~

~~(2) multiple agents have been appointed; or~~

~~(3) when a court has determined that the ward lacks capacity to appoint an agent of a health care directive and the court has expressly granted the guardian the power to give necessary consent to enable the ward to receive medical care, treatment, or service.~~

~~In all other circumstances, the guardian may not revoke the appointment of an agent of a health care directive for which the ward is principal absent a court order. Unless the appointment of a health care directive is revoked in accordance with this section, a health care decision of the agent takes precedence over that of the guardian.~~

(d) A guardian may not initiate the commitment of a ward to an institution except in accordance with section 524.5-313.

Sec. 8. Minnesota Statutes 2009 Supplement, section 524.5-316, is amended to read:

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

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

(1) the current mental, physical, and social condition of the ward;

(2) the living arrangements for all addresses of the ward during the reporting period;

(3) any restrictions placed on the ward's right to communication and visitation with persons of the ward's choice and the factual bases for those restrictions;

(4) the medical, educational, vocational, and other services provided to the ward and the guardian's opinion as to the adequacy of the ward's care; ~~and~~

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

(6) an address and telephone number where the guardian can be contacted;

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

(8) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study of the guardian conducted under section 524.5-118; and

(9) if applicable, the amount of reimbursement for services rendered to the ward that the guardian received during the previous year that were not reimbursed by county contract.

(b) A ward or interested person of record with the court may submit to the court a written statement disputing statements or conclusions regarding the condition of the ward that are contained in the report and may petition the court for an order that is in the best interests of the ward or for other appropriate relief.

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

~~(c)~~ (d) The court may appoint a visitor to review a report, interview the ward or guardian, and make any other investigation the court directs.

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

Sec. 9. Minnesota Statutes 2008, section 524.5-403, is amended to read:

524.5-403 ORIGINAL PETITION FOR APPOINTMENT OR PROTECTIVE ORDER.

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

(1) the person to be protected;

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

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

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

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

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

(3) if the petition alleges that the respondent is missing, detained, or unable to return to the United States, a statement of the relevant circumstances, including the time

and nature of the disappearance or detention and a description of any search or inquiry concerning the respondent's whereabouts;

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

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

(ii) adult children or, if the respondent has none, the respondent's parents and adult brothers and sisters or, if the respondent has none, at least one of the adults nearest in kinship to the respondent who can be found;

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

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

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

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

(9) the reason why a conservatorship or other protective order is in the best interest of the respondent.

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

(1) the name and, address, and telephone number of any proposed conservator and the reason why the proposed conservator should be selected;

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

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

(d) The petition must also set forth the following information regarding the proposed conservator:

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

(2) if the proposed conservator is a professional conservator, a summary of the proposed conservator's educational background and relevant work and other experience.

Sec. 10. Minnesota Statutes 2009 Supplement, section 524.5-406, is amended to read:

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

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

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

(1) the court determines that the proposed protected person or protected person is able to give informed consent to the representation and, if the proposed protected person or protected person consents, the consent is confirmed in writing pursuant to Rule 1.7; or

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

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

(1) consult with the respondent before any hearing;

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

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

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

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

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

(2) if the appointment of a conservator is requested, inform the respondent of the general powers and duties of a conservator and determine the respondent's views regarding

the proposed conservator, the proposed conservator's powers and duties, and the scope and duration of the proposed conservatorship;

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

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

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

(e) The visitor shall promptly file a report with the court which must include:

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

(2) a statement as to whether the respondent approves or disapproves of the proposed conservator, and the powers and duties proposed or the scope of the conservatorship; and

(3) any other matters the court directs.

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

~~(g) Before the initial appointment, and annually within 30 days after the anniversary date of the appointment, the proposed conservator or conservator shall file an informational statement with the court. The statement must be a sworn affidavit containing the following information:~~

~~(1) the person's educational background and relevant work and other experience;~~

~~(2) an address and telephone number where the conservator can be contacted;~~

~~(3) whether the person has ever been removed for cause from serving as a guardian or conservator and if so, the case number and court location;~~

~~(4) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study conducted pursuant to section 524.5-118; and~~

~~(5) if applicable, the amount of reimbursement for services rendered to the protected person that the person has received during the previous year.~~

Sec. 11. Minnesota Statutes 2009 Supplement, section 524.5-420, is amended to read:

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

(a) A conservator shall report to the court for administration of the estate annually unless the court otherwise directs, upon resignation or removal, upon termination of the conservatorship, and at other times as the court directs. An order, after notice and hearing, allowing an intermediate report of a conservator adjudicates liabilities concerning

the matters adequately disclosed in the accounting. An order, after notice and hearing, allowing a final report adjudicates all previously unsettled liabilities relating to the conservatorship.

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

(c) The report must also state:

(1) an address and telephone number where the conservator can be contacted;

(2) whether the conservator has ever been removed for cause from serving as a guardian or conservator and, if so, the case number and court locations; and

(3) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study of the conservator conducted under section 524.5-118.

~~(c)~~ (d) A protected person or an interested person of record with the court may submit to the court a written statement disputing account statements regarding the administration of the estate that are contained in the report and may petition the court for any order that is in the best interests of the protected person and the estate or for other appropriate relief.

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

~~(d)~~ (f) The court may appoint a visitor to review a report or plan, interview the protected person or conservator, and make any other investigation the court directs. In connection with a report, the court may order a conservator to submit the assets of the estate to an appropriate examination to be made in a manner the court directs.

~~(e)~~ (g) The court shall establish a system for monitoring of conservatorships, including the filing and review of conservators' reports and plans. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause.

Sec. 12. Minnesota Statutes 2008, section 525A.09, is amended to read:

525A.09 WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.

(a) Subject to paragraphs (b) and (c) and unless barred by section 525A.07 or 525A.08, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) an agent of the decedent at the time of death who could have made an anatomical gift under section 525A.04, clause ~~(2)~~ (3), immediately before the decedent's death;

(2) the spouse of the decedent;

(3) adult children of the decedent;

(4) parents of the decedent;

(5) adult siblings of the decedent;

(6) adult grandchildren of the decedent;

(7) grandparents of the decedent;

(8) the persons who were acting as the guardians of the person of the decedent at the time of death;

(9) an adult who exhibited special care and concern for the decedent; and

(10) any other person having lawful authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in paragraph (a), clause (1), (3), (4), (5), (6), (7), or (9), entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 525A.11 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under paragraph (a) is reasonably available to make or to object to the making of an anatomical gift.

Sec. 13. **EFFECTIVE DATE.**

This act is effective the day following final enactment and applies to petitions filed and protective orders issued or renewed on or after August 1, 2010, or earlier if directed by the court.

Presented to the governor April 13, 2010

Signed by the governor April 15, 2010, 12:22 p.m.