

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 170**

Introduced by Wightman, 36.

Read first time January 12, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to conservators; to amend section 30-2630.01,  
2 Reissue Revised Statutes of Nebraska; to change  
3 provisions relating to appointment of a temporary  
4 conservator; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 30-2630.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           30-2630.01 (a) If a person alleged to be in need  
4 of protection under section 30-2630 has no conservator and an  
5 emergency exists, the court may, pending notice and hearing,  
6 exercise the power of a conservator or enter an emergency  
7 protective order appointing a temporary conservator to address  
8 the emergency.

9           (b) When the court takes action to exercise the powers  
10 of a conservator or to appoint a temporary conservator under  
11 subsection (a) of this section, an expedited hearing shall be held  
12 if requested by the person alleged to be in need of protection,  
13 or by any interested party, if the request is filed more than ten  
14 business days prior to the date set for the hearing on the petition  
15 for appointment of the conservator. If an expedited hearing is  
16 to be held, the hearing shall be held within ten business days  
17 after the request is received. At the hearing on the temporary  
18 appointment, the petitioner shall have the burden of showing by  
19 a preponderance of the evidence that temporary conservatorship  
20 continues to be necessary to address the emergency situation.  
21 Unless the person alleged to be in need of protection has counsel  
22 of his or her own choice, the court may appoint an attorney to  
23 represent the person at the hearing as provided in section 30-2636.

24           (c) If an expedited hearing is requested, notice shall  
25 be served as provided in section 30-2634. The notice shall specify

1 that a temporary conservator has been appointed and shall be given  
2 at least twenty-four hours prior to the expedited hearing.

3 (d) At the expedited hearing, the court may render a  
4 judgment authorizing the temporary conservatorship to continue  
5 beyond the original ten-day period. The judgment shall prescribe  
6 the specific powers and duties of the temporary conservator in the  
7 letters of temporary conservatorship and shall be effective for at  
8 least a ninety-day period or for a longer period designated by  
9 order of the court. For good cause shown, the court may extend the  
10 temporary conservatorship for successive ~~ninety-day~~ periods.

11 (e) The temporary conservatorship shall terminate at  
12 the end of the ~~ninety-day~~ period in during which the temporary  
13 conservatorship is valid or at any time prior thereto if the  
14 court deems the circumstances leading to the order for temporary  
15 conservatorship no longer exist or if an order has been entered as  
16 a result of a hearing pursuant to section 30-2636 which has been  
17 held during the ~~ninety-day~~ or longer court-ordered period.

18 (f) If the court denies the request for the ex parte  
19 order, the court may, in its discretion, enter an order for an  
20 expedited hearing pursuant to subsections (b) through (e) of this  
21 section.

22 (g) If the petitioner requests the entry of an order  
23 of temporary conservatorship pursuant to subsection (a) of this  
24 section without requesting an ex parte order, the court may hold an  
25 expedited hearing pursuant to subsections (b) through (e) of this

1 section.

2 (h) A temporary conservator may be removed at any time.

3 A temporary conservator shall make any report the court requires.

4 In other respects the provisions of the Nebraska Probate Code

5 concerning conservators apply to temporary conservators.

6 Sec. 2. Original section 30-2630.01, Reissue Revised

7 Statutes of Nebraska, is repealed.