

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 157

Introduced by Coash, 27; Ashford, 20; Council, 11; Nelson, 6;
Wightman, 36.

Read first time January 07, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to guardianship and conservatorship; to amend
2 sections 25-2708, 25-2911, 25-2943, 30-1601, 30-2601.01,
3 30-2613, 30-2620, 30-2626, 30-2628, 30-2630.01, 30-2640,
4 30-2647, 30-2648, and 30-2655, Reissue Revised Statutes
5 of Nebraska, and section 30-2201, Revised Statutes
6 Cumulative Supplement, 2010; to provide for real estate
7 filings, use of dispute resolution, duties for the State
8 Court Administrator, and ex parte proceedings; to provide
9 and change duties for guardians and conservators; to
10 provide a penalty; to provide a duty for the Revisor of
11 Statutes; to provide an operative date; to harmonize
12 provisions; and to repeal the original sections.

13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-2708, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-2708 In any proceeding in the county court involving
4 (1) the probate of wills, (2) the administration of estates, (3) the
5 determination of heirs, (4) the determination of inheritance tax, (5)
6 guardianships, (6) conservatorships, where real estate is any part of
7 the assets of the estate or proceeding, or (7) trusts, where real
8 estate is specifically described as an asset of the trust, the county
9 judge before whom the proceeding is pending shall issue a certificate
10 which shall be filed with the register of deeds of the county in
11 which the real estate is located within ten days after the
12 description of the real estate is filed in the proceeding. A guardian
13 or conservator shall file a copy of his or her letters with the
14 register of deeds in every county in which the ward has real property
15 or an interest in real property. The certificate shall be in the
16 following form:

17 This is to certify that there is pending in the county
18 court of County, a
19 proceeding

20 (describe proceeding and name of person involved)

21 in which the following described real estate is involved,

22 to wit:

23

24 (describe real estate)

25

1 County Judge

2 Sec. 2. Section 25-2911, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 25-2911 (1) The following types of cases may be accepted
5 for dispute resolution at an approved center:

6 (a) Civil claims and disputes, including, but not limited
7 to, consumer and commercial complaints, disputes between neighbors,
8 disputes between business associates, disputes between landlords and
9 tenants, and disputes within communities;

10 (b) Disputes concerning child custody, parenting time,
11 visitation, or other access and other areas of domestic relations;
12 ~~and~~

13 (c) Juvenile offenses and disputes involving juveniles;
14 and -

15 (d) Guardianship and conservatorship proceedings.

16 (2) An approved center may accept cases referred by a
17 court, an attorney, a law enforcement officer, a social service
18 agency, a school, or any other interested person or agency or upon
19 the request of the parties involved. A case may be referred prior to
20 the commencement of formal judicial proceedings or may be referred as
21 a pending court case. In order for a referral to be effective, all
22 parties involved must consent to such referral. If a court refers a
23 case to an approved center, the center shall provide information to
24 the court as to whether an agreement was reached. If the court
25 requests a copy of the agreement, the center shall provide it.

1 Sec. 3. Section 25-2943, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-2943 A court may refer a civil case, including a
4 guardianship or conservatorship proceeding, to mediation or another
5 form of alternative dispute resolution and, unless otherwise ordered
6 following a hearing upon a motion to object to such referral, may
7 state a date for the case to return to court. Such date shall be no
8 longer than ninety days after the date the order was signed unless
9 the court grants an extension upon request of the parties. Any
10 agreement or resolution made in mediation or another form of
11 alternative dispute resolution shall be voluntarily entered into by
12 the parties. An individual trial court, an appellate court, or the
13 Supreme Court on its own initiative may adopt rules of practice
14 governing the procedures for referral of cases to mediation and other
15 forms of dispute resolution. Such services may be provided by
16 approved centers on a sliding scale of fees under the Dispute
17 Resolution Act.

18 Sec. 4. Section 30-1601, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 30-1601 (1) In all matters arising under the Nebraska
21 Probate Code and in all matters in county court arising under the
22 Nebraska Uniform Trust Code, appeals may be taken to the Court of
23 Appeals in the same manner as an appeal from district court to the
24 Court of Appeals.

25 (2) An appeal may be taken by any party and may also be

1 taken by any person against whom the final judgment or final order
2 may be made or who may be affected thereby.

3 (3) When the appeal is by someone other than a personal
4 representative, conservator, trustee, guardian, or guardian ad litem,
5 the appealing party shall, within thirty days after the entry of the
6 judgment or final order complained of, deposit with the clerk of the
7 county court a supersedeas bond or undertaking in such sum as the
8 court shall direct, with at least one good and sufficient surety
9 approved by the court, conditioned that the appellant will satisfy
10 any judgment and costs that may be adjudged against him or her,
11 including costs under subsection (6) of this section, unless the
12 court directs that no bond or undertaking need be deposited. If an
13 appellant fails to comply with this subsection, the Court of Appeals
14 on motion and notice may take such action, including dismissal of the
15 appeal, as is just.

16 (4) The appeal shall be a supersedeas for the matter from
17 which the appeal is specifically taken, but not for any other matter.
18 In appeals pursuant to sections 30-2601 to 30-2661, upon motion of
19 any party to the action, the county court may remove the supersedeas
20 or require the appealing party to deposit with the clerk of the
21 county court a bond or other security approved by the court in an
22 amount and conditioned in accordance with sections 30-2640 and
23 30-2641. Once the appeal is perfected, the court having jurisdiction
24 over the appeal may, upon motion of any party to the action, reimpose
25 or remove the supersedeas or require the appealing party to deposit

1 with the clerk of the court a bond or other security approved by the
2 court in an amount and conditioned in accordance with sections
3 30-2640 and 30-2641. Upon motion of any interested ~~party-person~~ or
4 upon the court's own motion, the county court may appoint a special
5 guardian or conservator pending appeal despite any supersedeas order.

6 (5) The judgment of the Court of Appeals shall not vacate
7 the judgment in the county court. The judgment of the Court of
8 Appeals shall be certified without cost to the county court for
9 further proceedings consistent with the determination of the Court of
10 Appeals.

11 (6) If it appears to the Court of Appeals that an appeal
12 was taken vexatiously or for delay, the court shall adjudge that the
13 appellant shall pay the cost thereof, including an attorney's fee, to
14 the adverse party in an amount fixed by the Court of Appeals, and any
15 bond required under subsection (3) of this section shall be liable
16 for the costs.

17 Sec. 5. Section 30-2201, Revised Statutes Cumulative
18 Supplement, 2010, is amended to read:

19 30-2201 Sections 30-2201 to 30-2902 and sections 7 and 8
20 of this act shall be known and may be cited as the Nebraska Probate
21 Code.

22 Sec. 6. Section 30-2601.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 30-2601.01 (1) The State Court Administrator shall
25 approve training curricula for persons appointed as guardians and

1 conservators. Such training curricula shall include, but not be
2 limited to:

3 ~~(1)-(a)~~ The rights of wards under sections 30-2601 to
4 30-2661 specifically and under the laws of the United States
5 generally;

6 ~~(2)-(b)~~ The duties and responsibilities of guardians;

7 ~~(3)-(c)~~ Reporting requirements;

8 ~~(4)-(d)~~ Least restrictive options in the areas of
9 housing, medical care, and psychiatric care; and

10 ~~(5)-(e)~~ Resources to assist guardians in fulfilling their
11 duties.

12 (2) The State Court Administrator shall create and
13 maintain a central data base of active guardianships and
14 conservatorships that shall be accessible by the public. The data
15 base shall include the status of each guardianship or
16 conservatorship, how many individuals a person is guardian or
17 conservator for, information regarding the suspension or removal of a
18 guardian or conservator, and any other information required by court
19 rule.

20 Sec. 7. (1) During the pendency of any proceeding under
21 sections 30-2601 to 30-2661 after a guardian or conservator is
22 appointed, upon application by any interested person or concerned
23 individual and if the accompanying affidavit of the party or his or
24 her agent shows to the court that the ward's or protected person's
25 safety, health, or financial welfare is at issue, the court may issue

1 ex parte orders to address the situation. Ex parte orders issued
2 under this section shall remain in full force and effect for no more
3 than ten days or until a hearing is held thereon, whichever is
4 earlier. Anyone who violates such order after service shall be guilty
5 of a Class II misdemeanor.

6 (2) If the court receives information that the ward's or
7 protected person's safety, health, or financial welfare is at issue
8 and the information is not in affidavit form, the court shall set the
9 matter for hearing within ten days and send notice of the hearing and
10 a copy of the information the court received to all interested
11 persons.

12 Sec. 8. (a) A person who has been nominated for
13 appointment as a guardian or conservator shall obtain the following
14 checks and reports of the results and file such reports with the
15 court at least ten days prior to the appointment hearing date:

16 (1) A credit check;

17 (2) A national criminal history record check requested
18 from the Nebraska State Patrol;

19 (3) A check of the central register created in section
20 28-718 for any history of the nominated guardian or conservator
21 exhibiting behavior injurious to or which may endanger the health or
22 morals of a child or adult; and

23 (4) A check with the sex offender registry maintained
24 pursuant to the Sex Offender Registration Act.

25 An order appointing a guardian or conservator shall not

1 be signed by the judge until such reports have been filed with the
2 court and reviewed by the judge. The nominated guardian or
3 conservator shall pay the costs incurred in obtaining the reports.
4 The court may waive the requirements of this section for good cause
5 shown. Reports filed under this section shall not be disclosed or
6 considered a public record.

7 (b) A guardian or conservator shall register each case
8 they are appointed to with the guardianship and conservatorship data
9 base created and maintained pursuant to section 30-2601.01.

10 Sec. 9. Section 30-2613, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 30-2613 (1) A guardian of a minor has the powers and
13 responsibilities of a parent who has not been deprived of custody of
14 his or her minor and unemancipated child, except that a guardian is
15 not legally obligated to provide from his or her own funds for the
16 ward and is not liable to third persons by reason of the parental
17 relationship for acts of the ward. In particular, and without
18 qualifying the foregoing, a guardian has the following powers and
19 duties:

20 (a) He or she must take reasonable care of his or her
21 ward's personal effects and commence protective proceedings if
22 necessary to protect other property of the ward.

23 (b) He or she may receive money payable for the support
24 of the ward to the ward's parent, guardian or custodian under the
25 terms of any statutory benefit or insurance system, or any private

1 contract, devise, trust, conservatorship or custodianship. He or she
2 also may receive money or property of the ward paid or delivered by
3 virtue of section 30-2603. Any sums so received shall be applied to
4 the ward's current needs for support, care and education, except as
5 provided in subdivisions (2) and (3) of this section. He or she must
6 exercise due care to conserve any excess for the ward's future needs
7 unless a conservator has been appointed for the estate of the ward,
8 in which case such excess shall be paid over at least annually to the
9 conservator. Sums so received by the guardian are not to be used for
10 compensation for his or her services except as approved by order of
11 court. A guardian may institute proceedings to compel the performance
12 by any person of a duty to support the ward or to pay sums for the
13 welfare of the ward.

14 (c) The guardian is empowered to facilitate the ward's
15 education, social, or other activities and to authorize medical or
16 other professional care, treatment, or advice. A guardian is not
17 liable by reason of this consent for injury to the ward resulting
18 from the negligence or acts of third persons unless it would have
19 been illegal for a parent to have consented. A guardian may consent
20 to the marriage or adoption of his or her ward.

21 (d) A guardian must report the condition of his or her
22 ward and of the ward's estate which has been subject to his or her
23 possession or control, as ordered by court on petition of any person
24 interested in the minor's welfare or as required by court rule, and
25 upon termination of the guardianship settle his or her accounts with

1 the ward or his or her legal representatives and pay over and deliver
2 all of the estate and effects remaining in his or her hands or due
3 from him or her on settlement to the person or persons who shall be
4 lawfully entitled thereto.

5 (2) The appointment of a guardian for a minor shall not
6 relieve his or her parent or parents, liable for the support of such
7 minor, from their obligation to provide for such minor. For the
8 purposes of guardianship of minors, the application of guardianship
9 income and principal after payment of debts and charges of managing
10 the estate, in relationship to the respective obligations owed by
11 fathers, mothers, and others, for the support, maintenance and
12 education of the minor shall be:

13 (a) The income and property of the father and mother of
14 the minor in such manner as they can reasonably afford, regard being
15 had to the situation of the family and to all the circumstances of
16 the case;

17 (b) The guardianship income, in whole or in part, as
18 shall be judged reasonable considering the extent of the guardianship
19 income and the parents' financial ability;

20 (c) The income and property of any other person having a
21 legal obligation to support the minor, in such manner as the person
22 can reasonably afford, regard being had to the situation of the
23 person's family and to all the circumstances of the case; and

24 (d) The guardianship principal, either personal or real
25 estate, in whole or in part, as shall be judged for the best interest

1 of the minor, considering all the circumstances of the minor and
2 those liable for his or her support.

3 (3) Notwithstanding the provisions of subsection (2) of
4 this section, the court may from time to time authorize the guardian
5 to use so much of the guardianship income or principal, whether
6 personal or real estate, as it may deem proper, considering all the
7 circumstances of the minor and those liable for his or her support,
8 if it is shown that (a) an emergency exists which justifies an
9 expenditure, or (b) a fund has been given to the minor for a special
10 purpose and the court can, with reasonable certainty, ascertain such
11 purpose.

12 (4) The court may require a guardian to furnish a bond in
13 an amount and conditioned in accordance with the provisions of
14 section 30-2640.

15 (5) A guardian shall not change a ward's place of abode
16 to a location outside of the State of Nebraska without court
17 permission.

18 Sec. 10. Section 30-2620, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 30-2620 (a) The court may appoint a guardian if it is
21 satisfied by clear and convincing evidence that the person for whom a
22 guardian is sought is incapacitated and that the appointment is
23 necessary or desirable as the least restrictive alternative available
24 for providing continuing care or supervision of the person of the
25 person alleged to be incapacitated. If the court finds that a

1 guardianship should be created, the guardianship shall be a limited
2 guardianship unless the court finds by clear and convincing evidence
3 that a full guardianship is necessary. If a limited guardianship is
4 created, the court shall, at the time of appointment or later,
5 specify the authorities and responsibilities which the guardian and
6 ward, acting together or singly, shall have with regard to:

7 (1) Selecting the ward's place of abode within this state
8 or, with court permission, outside of ~~without~~ this state;

9 (2) Arranging for medical care for the ward;

10 (3) Protecting the personal effects of the ward;

11 (4) Giving necessary consent, approval, or releases on
12 behalf of the ward;

13 (5) Arranging for training, education, or other
14 habilitating services appropriate for the ward;

15 (6) Applying for private or governmental benefits to
16 which the ward may be entitled;

17 (7) Instituting proceedings to compel any person under a
18 duty to support the ward or to pay sums for the welfare of the ward
19 to perform such duty, if no conservator has been appointed;

20 (8) Entering into contractual arrangements on behalf of
21 the ward, if no conservator has been appointed; and

22 (9) Receiving money and tangible property deliverable to
23 the ward and applying such money and property to the ward's expenses
24 for room and board, medical care, personal effects, training,
25 education, and habilitating services, if no conservator has been

1 appointed, or requesting the conservator to expend the ward's estate
2 by payment to third persons to meet such expenses.

3 (b) In a limited guardianship, the powers shall be
4 endorsed upon the letters of appointment of the guardian and shall be
5 treated as specific limitations upon the general powers, rights, and
6 duties accorded by law to the guardian. In a full guardianship, the
7 letters of appointment shall specify that the guardian is granted all
8 powers conferred upon guardians by law. After appointment, the ward
9 may retain an attorney for the sole purpose of challenging the
10 guardianship, the terms of the guardianship, or the actions of the
11 guardian on behalf of the ward.

12 (c) A guardian shall not change a ward's place of abode
13 to a location outside of the State of Nebraska without court
14 permission.

15 Sec. 11. Section 30-2626, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 30-2626 (a) If a person alleged to be incapacitated has
18 no guardian and an emergency exists, the court may, pending notice
19 and hearing, exercise the power of a guardian or enter an ex parte
20 order appointing a temporary guardian to address the emergency. The
21 order and letters of temporary guardianship shall specify the powers
22 and duties of the temporary guardian limiting the powers and duties
23 to those necessary to address the emergency.

24 (b) When the court takes action to exercise the powers of
25 a guardian or to appoint a temporary guardian under subsection (a) of

1 this section, an expedited hearing shall be held if requested by the
2 person alleged to be incapacitated, or by any interested ~~party,~~
3 person, if the request is filed more than ten business days prior to
4 the date set for the hearing on the petition for appointment of the
5 guardian. If an expedited hearing is to be held, the hearing shall be
6 held within ten business days after the request is received. At the
7 hearing on the temporary appointment, the petitioner shall have the
8 burden of showing by a preponderance of the evidence that temporary
9 guardianship continues to be necessary to address the emergency
10 situation. Unless the person alleged to be incapacitated has counsel
11 of his or her own choice, the court may appoint an attorney to
12 represent the person alleged to be incapacitated at the hearing as
13 provided in section 30-2619.

14 (c) If an expedited hearing is requested, notice shall be
15 served as provided in section 30-2625. The notice shall specify that
16 a temporary guardian has been appointed and shall be given at least
17 twenty-four hours prior to the expedited hearing.

18 (d) At the expedited hearing, the court may render a
19 judgment authorizing the temporary guardianship to continue beyond
20 the original ten-day period. The judgment shall prescribe the
21 specific powers and duties of the temporary guardian in the letters
22 of temporary guardianship and shall be effective for a single ninety-
23 day period. For good cause shown, the court may extend the temporary
24 guardianship for successive ninety-day periods.

25 (e) The temporary guardianship shall terminate at the end

1 of the ninety-day period in which the temporary guardianship is valid
2 or at any time prior thereto if the court deems the circumstances
3 leading to the order for temporary guardianship no longer exist or if
4 an order has been entered as a result of a hearing pursuant to
5 section 30-2619 which has been held during the ninety-day period.

6 (f) If the court denies the request for the ex parte
7 order, the court may, in its discretion, enter an order for an
8 expedited hearing pursuant to subsections (b) through (e) of this
9 section.

10 (g) If the petitioner requests the entry of an order of
11 temporary guardianship pursuant to subsection (a) of this section
12 without requesting an ex parte order, the court may hold an expedited
13 hearing pursuant to subsections (b) through (e) of this section.

14 (h) If an appointed guardian is not effectively
15 performing his or her duties and the court further finds that the
16 welfare of the incapacitated person requires immediate action, it
17 may, pending notice and hearing in accordance with section 30-2220,
18 appoint a temporary guardian for the incapacitated person for a
19 specified period not to exceed ninety days. For good cause shown, the
20 court may extend the temporary guardianship for successive ninety-day
21 periods. A temporary guardian appointed pursuant to this subsection
22 has only the powers and duties specified in the previously appointed
23 guardian's letters of guardianship, and the authority of any
24 permanent guardian previously appointed by the court is suspended so
25 long as a temporary guardian has authority.

1 (i) A temporary guardian may be removed at any time. A
2 temporary guardian shall make any report the court requires. In other
3 respects the provisions of the Nebraska Probate Code concerning
4 guardians apply to temporary guardians.

5 Sec. 12. Section 30-2628, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 30-2628 (a) Except as limited by ~~an order entered~~
8 ~~pursuant to~~ section 30-2620, a guardian of an incapacitated person
9 has the same powers, rights, and duties respecting ~~his or her the~~
10 guardian's ward that a parent has respecting ~~his or her the~~ parent's
11 unemancipated minor child, except that a guardian is not liable to
12 third persons for acts of the ward solely by reason of the parental
13 relationship. In particular, and without qualifying the foregoing, a
14 guardian has the following powers and duties, except as may be
15 specified by order of the court:

16 (1) To the extent that it is consistent with the terms of
17 any order by a court of competent jurisdiction relating to detention
18 or commitment of the ward, ~~he or she a~~ guardian is entitled to
19 custody of the person of his or her ward and may establish the ward's
20 place of abode within this state or, with court permission, outside
21 of ~~without~~ this state. When establishing the ward's place of abode, a
22 guardian shall make every reasonable effort to ensure that the
23 placement is the least restrictive alternative. A guardian shall
24 authorize a placement to a more restrictive environment only after
25 careful evaluation of the need for such placement. The guardian may

1 obtain a professional evaluation or assessment that such placement is
2 in the best interest of the ward.

3 (2) If entitled to custody of his or her ward, ~~he or she~~
4 a guardian shall make provision for the care, comfort, and
5 maintenance of his or her ward and, whenever appropriate, arrange for
6 ~~his or her~~ the ward's training and education. Without regard to
7 custodial rights of the ward's person, ~~he or she~~ a guardian shall
8 take reasonable care of his or her ward's clothing, furniture,
9 vehicles, and other personal effects and commence protective
10 proceedings if other property of his or her ward is in need of
11 protection.

12 (3) A guardian may give any consents or approvals that
13 may be necessary to enable the ward to receive medical, psychiatric,
14 psychological, or other professional care, counsel, treatment, or
15 service. When making such medical or psychiatric decisions, the
16 guardian shall consider and carry out the intent of the ward
17 expressed prior to incompetency to the extent allowable by law.
18 Notwithstanding this provision or any other provision of the Nebraska
19 Probate Code, the ward may authorize the release of financial,
20 medical, and other confidential records pursuant to sections 20-161
21 to 20-166.

22 (4) If no conservator for the estate of the ward has been
23 appointed, a guardian shall, within thirty days after appointment,
24 prepare and file with the appointing court a complete inventory of
25 the ward's estate together with the guardian's oath or affirmation

1 that the inventory is complete and accurate so far as the guardian is
2 informed. The guardian shall mail a copy thereof by certified mail,
3 return receipt requested, and by first-class mail to the ward, if the
4 ward can be located, has attained the age of fourteen years, and has
5 sufficient mental capacity to understand these matters, and to all
6 other interested persons. The guardian shall keep suitable records of
7 the guardian's administration and exhibit the same on request of any
8 interested person. To the extent a guardian, who has not been named a
9 conservator, has possession or control of the ward's estate, the
10 guardian shall file with the court an updated inventory every year
11 along with an affidavit of mailing showing that copies were sent to
12 all interested persons and, if a bond has been required, to the
13 bonding company, by certified mail, return receipt requested, and by
14 first-class mail along with a form to send back to the court that
15 indicates if such person wants to continue receiving notifications
16 about the proceedings.

17 ~~(4)~~ (5) If no conservator for the estate of the ward has
18 been appointed, ~~he or she~~ a guardian may:

19 (i) Institute proceedings to compel any person under a
20 duty to support the ward or to pay sums for the welfare of the ward
21 to perform ~~his or her~~ such person's duty;

22 (ii) Receive money and tangible property deliverable to
23 the ward and apply the money and property for support, care, and
24 education of the ward; but ~~he or she~~ a guardian may not use funds
25 from his or her ward's estate for room and board which ~~he or she~~, his

1 ~~or her~~ the guardian or the guardian's spouse, parent, or child has
2 furnished the ward unless a charge for the service is approved by
3 order of the court made upon notice to at least one of the next of
4 kin of the ward, if notice is possible. ~~He or she~~ A guardian must
5 exercise care to conserve any excess for the ward's needs; and

6 (iii) Exercise a settlor's powers with respect to
7 revocation, amendment, or distribution of trust property when
8 authorized by a court acting under the authority of subsection (f) of
9 section 30-3854. In acting under the authority of subsection (f) of
10 section 30-3854, the court shall proceed in the same manner as
11 provided under subdivision (3) of section 30-2637.

12 ~~(5)-(6)~~ (6) A guardian is required to report the condition of
13 his or her ward and of the estate which has been subject to ~~his or~~
14 ~~her~~ the guardian's possession or control, at least every year and as
15 required by the court or court rule. The court shall receive from any
16 interested person, for a period of thirty days after the filing of
17 the guardian's report, any comments with regard to the need for
18 continued guardianship or amendment of the guardianship order. If the
19 court has reason to believe that additional rights should be returned
20 to the ward or assigned to the guardian, the court shall set a date
21 for a hearing and may provide all protections as set forth for the
22 original finding of incapacity and appointment of a guardian.

23 ~~(6)-(7)~~ (7) If a conservator has been appointed, all of the
24 ward's estate received by the guardian in excess of those funds
25 expended to meet current expenses for support, care, and education of

1 the ward must be paid to the conservator for management as provided
2 in the Nebraska Probate Code, and the guardian must account to the
3 conservator for funds expended.

4 (b) Any guardian of one for whom a conservator also has
5 been appointed shall control the custody and care of the ward, and is
6 entitled to receive reasonable sums for ~~his or her~~ the guardian's
7 services and for room and board furnished to the ward as agreed upon
8 between ~~him or her~~ the guardian and the conservator, ~~provided if~~ the
9 amounts agreed upon are reasonable under the circumstances. The
10 guardian may request the conservator to expend the ward's estate by
11 payment to third persons or institutions for the ward's care and
12 maintenance.

13 (c) Nothing in subdivision (a)(3) of this section or in
14 any other part of this section shall be construed to alter the
15 decisionmaking authority of an attorney in fact designated and
16 authorized under sections 30-3401 to 30-3432 to make health care
17 decisions pursuant to a power of attorney for health care.

18 Sec. 13. Section 30-2630.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 30-2630.01 (a) If a person alleged to be in need of
21 protection under section 30-2630 has no conservator and an emergency
22 exists, the court may, pending notice and hearing, exercise the power
23 of a conservator or enter an emergency protective order appointing a
24 temporary conservator to address the emergency.

25 (b) When the court takes action to exercise the powers of

1 a conservator or to appoint a temporary conservator under subsection
2 (a) of this section, an expedited hearing shall be held if requested
3 by the person alleged to be in need of protection, or by any
4 interested ~~party,~~ person, if the request is filed more than ten
5 business days prior to the date set for the hearing on the petition
6 for appointment of the conservator. If an expedited hearing is to be
7 held, the hearing shall be held within ten business days after the
8 request is received. At the hearing on the temporary appointment, the
9 petitioner shall have the burden of showing by a preponderance of the
10 evidence that temporary conservatorship continues to be necessary to
11 address the emergency situation. Unless the person alleged to be in
12 need of protection has counsel of his or her own choice, the court
13 may appoint an attorney to represent the person at the hearing as
14 provided in section 30-2636.

15 (c) If an expedited hearing is requested, notice shall be
16 served as provided in section 30-2634. The notice shall specify that
17 a temporary conservator has been appointed and shall be given at
18 least twenty-four hours prior to the expedited hearing.

19 (d) At the expedited hearing, the court may render a
20 judgment authorizing the temporary conservatorship to continue beyond
21 the original ten-day period. The judgment shall prescribe the
22 specific powers and duties of the temporary conservator in the
23 letters of temporary conservatorship and shall be effective for a
24 ninety-day period. For good cause shown, the court may extend the
25 temporary conservatorship for successive ninety-day periods.

1 (e) The temporary conservatorship shall terminate at the
2 end of the ninety-day period in which the temporary conservatorship
3 is valid or at any time prior thereto if the court deems the
4 circumstances leading to the order for temporary conservatorship no
5 longer exist or if an order has been entered as a result of a hearing
6 pursuant to section 30-2636 which has been held during the ninety-day
7 period.

8 (f) If the court denies the request for the ex parte
9 order, the court may, in its discretion, enter an order for an
10 expedited hearing pursuant to subsections (b) through (e) of this
11 section.

12 (g) If the petitioner requests the entry of an order of
13 temporary conservatorship pursuant to subsection (a) of this section
14 without requesting an ex parte order, the court may hold an expedited
15 hearing pursuant to subsections (b) through (e) of this section.

16 (h) A temporary conservator may be removed at any time. A
17 temporary conservator shall make any report the court requires. In
18 other respects the provisions of the Nebraska Probate Code concerning
19 conservators apply to temporary conservators.

20 Sec. 14. Section 30-2640, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 30-2640 ~~The court may require a conservator to furnish a~~
23 ~~bond conditioned upon faithful discharge of all duties of the trust~~
24 ~~according to law, with sureties as it shall specify and may eliminate~~
25 ~~the requirement or decrease or increase the required amount of any~~

1 ~~such bond previously furnished. The amount of the bond may be fixed~~
2 ~~at the discretion of the court, but if not otherwise fixed by the~~
3 ~~court, the amount of the bond shall be in the amount of the aggregate~~
4 ~~capital value of the personal property of the estate in his or her~~
5 ~~control plus one year's estimated income from all sources minus the~~
6 ~~value of securities deposited under arrangements requiring an order~~
7 ~~of the court for their removal. The court, in lieu of sureties on a~~
8 ~~bond, may accept other security for the performance of the bond,~~
9 ~~including a pledge of securities or a mortgage of land. The court may~~
10 ~~consider the desires of the protected person as expressed in any~~
11 ~~written power of attorney in determining whether a bond shall be~~
12 ~~required and the amount thereof.~~

13 For assets over ten thousand dollars, the bond for a
14 conservator shall be in the amount of the aggregate capital value of
15 the personal property of the estate in the conservator's control plus
16 one year's estimated income from all sources minus the value of
17 securities deposited under arrangements requiring an order of the
18 court for their removal. The bond of the conservator shall be
19 conditioned upon the faithful discharge of all duties of the trust
20 according to law, with sureties as the court shall specify. The
21 court, in lieu of sureties on a bond, may accept other security for
22 the performance of the bond, including a pledge of securities or a
23 mortgage of land owned by the conservator. For good cause shown, the
24 court may eliminate the requirement of a bond or decrease or increase
25 the required amount of any such bond previously furnished. The court

1 may consider as one of the factors of good cause, when determining
2 whether a bond shall be required and the amount thereof, the desires
3 of the protected person as expressed in any written power of
4 attorney.

5 Sec. 15. Section 30-2647, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 30-2647 Within ~~ninety~~thirty days after his appointment,
8 every conservator shall prepare and file with the appointing court a
9 complete inventory of the estate of the protected person together
10 with ~~his~~the conservator's oath or affirmation that ~~it~~the inventory
11 is complete and accurate so far as he or she is informed. The
12 conservator shall ~~provide~~mail a copy thereof by certified mail,
13 return receipt requested, and by first-class mail to the protected
14 person, if ~~he~~the protected person can be located, has attained the
15 age of fourteen years, and has sufficient mental capacity to
16 understand these matters, and to ~~any parent or guardian with whom the~~
17 ~~protected person resides.~~all other interested persons. Every
18 conservator shall file an updated inventory with the annual
19 accounting required under section 30-2648. The conservator shall keep
20 suitable records of his or her administration and exhibit the same on
21 request of any interested person.

22 Sec. 16. Section 30-2648, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 30-2648 Every conservator must account to the court for
25 his or her administration of the trust annually, upon his or her

1 resignation or removal, and at such other times as the court may
2 direct. On termination of the protected person's minority or
3 disability, a conservator may account to the court, or ~~he~~the
4 conservator may account to the former protected person or ~~his~~the
5 former protected person's personal representative. Subject to appeal
6 or vacation within the time permitted, an order, made upon notice and
7 hearing, allowing an intermediate account of a conservator,
8 adjudicates as to ~~his~~the conservator's liabilities concerning the
9 matters considered in connection therewith; and an order, made upon
10 notice and hearing, allowing a final account adjudicates as to all
11 previously unsettled liabilities of the conservator to the protected
12 person or ~~his~~the protected person's successors relating to the
13 conservatorship. In connection with any account, the court may
14 require a conservator to submit to a physical check of the estate in
15 his or her control, to be made in any manner the court may specify.

16 Sec. 17. Section 30-2655, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 30-2655 (a) The court may, at the time of appointment or
19 later, limit the powers of a conservator otherwise conferred by
20 sections 30-2653 and 30-2654, or previously conferred by the court,
21 and may at any time relieve ~~him~~the conservator of any limitation. If
22 the court limits any power conferred on the conservator by section
23 30-2653 or 30-2654, the limitation shall be endorsed upon ~~his~~the
24 conservator's letters of appointment.

25 (b) A conservator shall not change a protected person's

1 place of abode to a location outside of the State of Nebraska without
2 court permission.

3 Sec. 18. The Revisor of Statutes shall assign sections 7
4 and 8 of this act within Chapter 30, article 26, Part 1.

5 Sec. 19. This act becomes operative on January 1, 2012.

6 Sec. 20. Original sections 25-2708, 25-2911, 25-2943,
7 30-1601, 30-2601.01, 30-2613, 30-2620, 30-2626, 30-2628, 30-2630.01,
8 30-2640, 30-2647, 30-2648, and 30-2655, Reissue Revised Statutes of
9 Nebraska, and section 30-2201, Revised Statutes Cumulative
10 Supplement, 2010, are repealed.