

AMENDMENTS TO LB920

Introduced by Coash

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Sections 1 to 18 of this act shall be known  
4 and may be cited as the Public Guardianship Act.

5           Sec. 2. (1) The Legislature finds that the present  
6 system of obtaining a guardian or conservator for an individual,  
7 which often depends on volunteers, is inadequate when there is no  
8 willing and qualified family member or other person available or  
9 willing to serve as guardian or conservator for such individual.  
10 The Legislature finds that there is a need to provide guardians  
11 and conservators when there is no one suitable or available with  
12 priority to serve the needs of such individual. The Legislature  
13 intends that establishment of the Office of Public Guardian will  
14 provide services for individuals when no private guardian or  
15 private conservator is available. The Legislature also finds that  
16 alternatives to full guardianship and less intrusive means of  
17 intervention should always be explored, including, but not limited  
18 to, limited guardianship, temporary guardianship, conservatorship,  
19 or the appointment of a payee. It is the intent of the Legislature  
20 to provide a public guardian or public conservator only to those  
21 individuals whose needs cannot be met through less intrusive means  
22 of intervention.

23           (2) The Legislature finds that:

1           (a) All individuals in need of a guardian or conservator  
2 shall have the opportunity to have one appointed for them;

3           (b) The priorities for appointment in sections 30-2601 to  
4 30-2661 are appropriate in most instances;

5           (c) There are individuals in need of guardians or  
6 conservators for whom persons that have priority are unwilling,  
7 unable, or inappropriate to become a guardian or conservator;

8           (d) Guardians and conservators under the current system  
9 do not always carry out the assigned duties in a way that protects  
10 the individual and, in fact, sometimes carry out the duties in a  
11 way that abuses or neglects the individual; and

12           (e) For those for whom no person is available for  
13 appointment as guardian or conservator, the Office of Public  
14 Guardian may provide necessary services.

15           Sec. 3. For purposes of the Public Guardianship Act:

16           (1) Council means the Advisory Council on Public  
17 Guardianship;

18           (2) Office means the Office of Public Guardian;

19           (3) Private conservator means an individual or a  
20 corporation with general power to serve as trustee who is not with  
21 the office and who is appointed by the court to act as conservator  
22 for a protected person;

23           (4) Private guardian means any person who is not with the  
24 office and who is appointed by the court to act as guardian for a  
25 ward;

26           (5) Protected person is as defined in section 30-2601;

27           (6) Public Guardian means the director of the office;

1           (7) Successor conservator means an individual or a  
2 corporation with general power to serve as trustee who is recruited  
3 by the office to become a conservator for a protected person  
4 previously served by the office;

5           (8) Successor guardian means a person or entity who is  
6 recruited by the office to become a guardian for a ward previously  
7 served by the office; and

8           (9) Ward is as defined in section 30-2601.

9           Sec. 4. The office is created within the judicial  
10 branch of government and is directly responsible to the State  
11 Court Administrator. The State Court Administrator shall appoint a  
12 director of the office who shall be known as the Public Guardian.  
13 The Public Guardian shall be hired based on a broad knowledge  
14 of human development, intellectual disabilities, sociology, and  
15 psychology and shall have business acuity and experience in public  
16 education and volunteer recruitment. The Public Guardian shall  
17 hire a deputy public guardian and up to twelve associate public  
18 guardians who shall serve at the pleasure of the Public Guardian  
19 and perform such duties as assigned by the Public Guardian. The  
20 Public Guardian shall assume all the duties and responsibilities  
21 of a guardian and conservator for any individual appointed to  
22 his or her supervision and may designate authority to act on his  
23 or her behalf to the deputy public guardian and associate public  
24 guardians. The Public Guardian shall administer public guardianship  
25 and public conservatorship and shall serve as staff to the council.  
26 The Public Guardian may hire support staff as required.

27           Sec. 5. The office:

1           (1) Shall provide immediate response when a guardian or  
2 conservator is needed in an emergency situation;

3           (2) Shall provide an option upon the resignation,  
4 removal, or discharge of a guardian or conservator so that there is  
5 no lapse in service to the ward or protected person;

6           (3) Shall provide equal access and protection for all  
7 individuals in need of guardianship or conservatorship services;

8           (4) Shall promote or provide public education to increase  
9 the awareness of the duties of guardians and conservators and  
10 encourage more people to serve as private guardians or private  
11 conservators;

12           (5) Shall recruit members of the general public or family  
13 members to serve as guardians or conservators and provide adequate  
14 training and support to enhance their success;

15           (6) Shall act as a resource to persons already serving as  
16 guardians or conservators for education, information, and support;

17           (7) Shall safeguard the rights of individuals by  
18 exploring all options available to support individuals in the least  
19 restrictive manner possible and seek full guardianship only as a  
20 last resort; and

21           (8) Shall model the highest standard of practice for  
22 guardians and conservators to improve the performance of all  
23 guardians and conservators in the state.

24           Sec. 6. The Advisory Council on Public Guardianship  
25 is created. The council shall be appointed by the State Court  
26 Administrator, be comprised of individuals from a variety  
27 of disciplines who are knowledgeable in guardianship and

1 conservatorship, and be representative of the geographical and  
2 cultural diversity of the state and reflect gender fairness. The  
3 council shall consist of the following members: A representative  
4 of the Nebraska County Court Judges Association, attorneys  
5 licensed to practice law in this state, social workers, mental  
6 health professionals, professionals with expertise in the aging  
7 population, developmental disability professionals, and other  
8 interested groups or individuals.

9           Sec. 7. The State Court Administrator shall appoint  
10 initial members of the council for staggered terms of one, two,  
11 or three years as designated by the State Court Administrator. All  
12 subsequent appointments shall be made for terms of three years. Any  
13 vacancy on the council shall be filled in the same manner in which  
14 the original appointment was made and for the duration of the term  
15 vacated. Appointments of initial members of the council shall be  
16 made within ninety days after the operative date of this act. The  
17 council shall select a chairperson, a vice-chairperson, and such  
18 other officers as it deems necessary.

19           Sec. 8. (1) The council shall advise the Public  
20 Guardian on the administration of public guardianship and public  
21 conservatorship.

22           (2) The council shall meet at least four times per year  
23 and at other times deemed necessary to perform its functions upon  
24 the call of the chairperson. Members of the council shall be  
25 reimbursed for their actual and necessary expenses as provided in  
26 sections 81-1174 to 81-1177.

27           Sec. 9. Consistent with the purposes and objectives of

1 the Public Guardianship Act and in consultation with the council,  
2 the Public Guardian shall:

3 (1) Develop a uniform system of reporting and collecting  
4 statistical data regarding guardianships and conservatorships;

5 (2) Develop and adopt a standard of practice and code of  
6 ethics for public guardianship and public conservatorship;

7 (3) Prepare a biennial budget for the implementation of  
8 the act;

9 (4) Develop guidelines for a sliding scale of fees to  
10 be charged for public guardianship and public conservatorship  
11 services;

12 (5) Maintain, in conjunction with private and other  
13 public resources, a curricula for training sessions to be made  
14 available for successor guardians and successor conservators and  
15 private guardians and private conservators;

16 (6) Maintain training programs available statewide to  
17 offer the training curricula for interested parties to include:

18 (a) Helping a guardian understand his or her ward's  
19 disabilities and a conservator understand his or her fiduciary  
20 duties with respect to his or her protected person;

21 (b) Helping a guardian encourage increased independence  
22 on the part of his or her ward, as appropriate;

23 (c) Helping a guardian with the preparation and revision  
24 of guardianship plans and reports and a conservator with the  
25 preparation and revision of accountings; and

26 (d) Advising a guardian or conservator on ways to secure  
27 rights, benefits, and services to which his or her ward or

1 protected person is entitled;

2 (7) Promote public awareness of guardianship and  
3 conservatorship, the responsibilities attached, and the need for  
4 more private guardians and private conservators; and

5 (8) Apply for and receive funds from public and private  
6 sources for carrying out the purposes and obligations of the act.

7 Sec. 10. The Supreme Court, upon recommendation by the  
8 Public Guardian, in consultation with the council, shall promulgate  
9 rules to carry out the Public Guardianship Act.

10 Sec. 11. The Public Guardian shall report to the State  
11 Court Administrator as directed by the State Court Administrator.  
12 The Public Guardian shall report to the Chief Justice and the  
13 Legislature on the implementation of the Public Guardianship Act on  
14 or before January 1 of each year. The report to the Legislature  
15 shall be made electronically. The report shall include the number  
16 and types of guardianships and conservatorships for which the  
17 Public Guardian has been appointed, including full guardianships,  
18 limited guardianships, and temporary guardianships, the disposition  
19 of those appointments, the amount of fees charged and collected  
20 under the act, and the status of the waiting list for public  
21 guardianship and public conservatorship services.

22 Sec. 12. A court may order appointment of the Public  
23 Guardian as a guardian or conservator only after notice to the  
24 Public Guardian and a determination that the appointment or order  
25 is necessary and will not result in the Public Guardian having  
26 more appointments than permitted by section 15 of this act. The  
27 determination of necessity may require the court to ascertain

1 whether there is any other alternative to public guardianship or  
2 public conservatorship.

3       Sec. 13. The office shall charge fees pursuant to the  
4 guidelines developed pursuant to section 9 of this act unless  
5 modified or waived by the court.

6       Sec. 14. (1) Once the Public Guardian is appointed as  
7 guardian or conservator, the office shall make a reasonable effort  
8 to locate a successor guardian or successor conservator. By June  
9 30 and January 1 of each year, the office shall file an aggregate  
10 report with the State Court Administrator describing its efforts to  
11 locate a successor guardian or successor conservator.

12       (2) Upon location of a successor guardian or successor  
13 conservator, the office shall file a motion with the court for  
14 termination or modification of the guardianship or conservatorship.  
15 Availability of a successor guardian or successor conservator shall  
16 be deemed a change in the suitability of the office for carrying  
17 out its powers and duties under section 5 of this act.

18       Sec. 15. The Public Guardian may accept an appointment  
19 as a guardian or conservator for an individual not to exceed an  
20 average of forty individuals per associate public guardian hired by  
21 the office. When the average has been reached, the Public Guardian  
22 shall not accept further appointments. The Public Guardian, upon  
23 reaching the maximum number of appointments, shall notify the State  
24 Court Administrator that the maximum number of appointments has  
25 been reached.

26       Sec. 16. (1) When the court appoints the Public Guardian  
27 as guardian or conservator for an individual, the Public Guardian

1 immediately succeeds to (a) all powers and duties of a guardian  
2 provided in sections 30-2626 and 30-2628, if appointed a guardian,  
3 or (b) all powers and duties of a conservator provided in sections  
4 30-2646, 30-2647, 30-2653, 30-2654, 30-2655, 30-2656, and 30-2657,  
5 if appointed a conservator.

6 (2) The Public Guardian shall:

7 (a) Be considered as an interested party in the welfare  
8 of the ward or protected person for purposes of filing a motion  
9 for termination or modification of a public guardianship or public  
10 conservatorship;

11 (b) Visit the facility in which the ward or protected  
12 person is to be placed if it is proposed that the individual be  
13 placed outside his or her home; and

14 (c) Monitor the ward or protected person and his or  
15 her care and progress on a continuing basis. Monitoring shall,  
16 at a minimum, consist of monthly personal contact with the ward  
17 or protected person. The Public Guardian shall maintain a written  
18 record of each visit with a ward or protected person. The Public  
19 Guardian shall maintain periodic contact with all individuals and  
20 agencies, public or private, providing care or related services to  
21 the ward or protected person.

22 Sec. 17. The Public Guardian may be discharged by a  
23 court with respect to any of the authority granted over a ward or  
24 protected person upon petition of such individual, any interested  
25 party, or the Public Guardian or upon the court's own motion when  
26 it appears that the services of the Public Guardian are no longer  
27 necessary.

1           Sec. 18. The Public Guardianship Cash Fund is created.  
2 The State Court Administrator shall administer the fund. The fund  
3 shall consist of money remitted pursuant to the Public Guardianship  
4 Act. The fund shall only be used to support the Public Guardianship  
5 Act. Any money in the fund available for investment shall be  
6 invested by the state investment officer pursuant to the Nebraska  
7 Capital Expansion Act and the Nebraska State Funds Investment Act.

8           Sec. 19. Section 30-2201, Revised Statutes Cumulative  
9 Supplement, 2012, is amended to read:

10           30-2201 Sections 30-2201 to 30-2902, 30-3901 to 30-3923,  
11 and 30-4001 to 30-4045 and the Public Guardianship Act shall be  
12 known and may be cited as the Nebraska Probate Code.

13           Sec. 20. Section 30-2601, Revised Statutes Supplement,  
14 2013, is amended to read:

15           30-2601 Unless otherwise apparent from the context, in  
16 the Nebraska Probate Code:

17           (1) Incapacitated person means any person who is impaired  
18 by reason of mental illness, mental deficiency, physical illness  
19 or disability, chronic use of drugs, chronic intoxication, or  
20 other cause (except minority) to the extent that the person  
21 lacks sufficient understanding or capacity to make or communicate  
22 responsible decisions concerning himself or herself;

23           (2) A protective proceeding is a proceeding under the  
24 provisions of section 30-2630 to determine that a person cannot  
25 effectively manage or apply his or her estate to necessary ends,  
26 either because the person lacks the ability or is otherwise  
27 inconvenienced, or because the person is a minor, and to secure

1 administration of the person's estate by a conservator or other  
2 appropriate relief;

3 (3) A protected person is a minor or other person for  
4 whom a conservator has been appointed or other protective order has  
5 been made;

6 (4) A ward is a person for whom a guardian has been  
7 appointed. A minor ward is a minor for whom a guardian has been  
8 appointed solely because of minority;

9 (5) Full guardianship means the guardian has been granted  
10 all powers which may be conferred upon a guardian by law;

11 (6) Guardian means any person appointed to protect a ward  
12 and may include the Public Guardian;

13 (7) Public Guardian is as defined in section 3 of this  
14 act;

15 ~~(6)~~ (8) Limited guardianship means any guardianship which  
16 is not a full guardianship; and

17 (9) Conservator means any person appointed to protect a  
18 protected person and may include the Public Guardian; and

19 ~~(7)~~ (10) For purposes of article 26 of the Nebraska  
20 Probate Code, interested person means children, spouses, those  
21 persons who would be the heirs if the ward or person alleged to be  
22 incapacitated died without leaving a valid will who are adults and  
23 any trustee of any trust executed by the ward or person alleged to  
24 be incapacitated. After the death of a ward, interested person also  
25 includes the personal representative of a deceased ward's estate,  
26 the deceased ward's heirs in an intestate estate, and the deceased  
27 ward's devisees in a testate estate. The meaning of interested

1 person as it relates to particular persons may vary from time to  
2 time and must be determined according to the particular purposes  
3 of, and matter involved in, any proceeding. If there are no persons  
4 identified as interested persons above, then interested person  
5 shall also include any person or entity named as a devisee in the  
6 most recently executed will of the ward or person alleged to be  
7 incapacitated.

8           Sec. 21. Section 30-2601.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           30-2601.01 ~~The State Court Administrator~~ Public Guardian  
11 shall approve training curricula for persons appointed as guardians  
12 and conservators. Such training curricula shall include, but not be  
13 limited to:

14           (1) The rights of wards under sections 30-2601 to 30-2661  
15 and the Public Guardianship Act specifically and under the laws of  
16 the United States generally;

17           (2) The duties and responsibilities of guardians;

18           (3) Reporting requirements;

19           (4) Least restrictive options in the areas of housing,  
20 medical care, and psychiatric care; and

21           (5) Resources to assist guardians in fulfilling their  
22 duties.

23           Sec. 22. Section 30-2626, Revised Statutes Cumulative  
24 Supplement, 2012, is amended to read:

25           30-2626 (a) If a person alleged to be incapacitated has  
26 no guardian and an emergency exists, the court may, pending notice  
27 and hearing, exercise the power of a guardian or enter an ex parte

1 order appointing a temporary guardian to address the emergency.  
2 The order and letters of temporary guardianship shall specify the  
3 powers and duties of the temporary guardian limiting the powers and  
4 duties to those necessary to address the emergency.

5 (b) When the court takes action to exercise the powers of  
6 a guardian or to appoint a temporary guardian under subsection (a)  
7 of this section, an expedited hearing shall be held if requested  
8 by the person alleged to be incapacitated, or by any interested  
9 person, if the request is filed more than ten business days prior  
10 to the date set for the hearing on the petition for appointment  
11 of the guardian. If an expedited hearing is to be held, the  
12 hearing shall be held within ten business days after the request  
13 is received. At the hearing on the temporary appointment, the  
14 petitioner shall have the burden of showing by a preponderance of  
15 the evidence that temporary guardianship continues to be necessary  
16 to address the emergency situation. Unless the person alleged to  
17 be incapacitated has counsel of his or her own choice, the court  
18 may appoint an attorney to represent the person alleged to be  
19 incapacitated at the hearing as provided in section 30-2619.

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

24 (d) At the expedited hearing, the court may render a  
25 judgment authorizing the temporary guardianship to continue beyond  
26 the original ten-day period. The judgment shall prescribe the  
27 specific powers and duties of the temporary guardian in the letters

1 of temporary guardianship and shall be effective for a single  
2 ninety-day period. For good cause shown, the court may extend the  
3 temporary guardianship for successive ninety-day periods.

4 (e) The temporary guardianship shall terminate at the  
5 end of the ninety-day period in which the temporary guardianship  
6 is valid or at any time prior thereto if the court deems the  
7 circumstances leading to the order for temporary guardianship no  
8 longer exist or if an order has been entered as a result of a  
9 hearing pursuant to section 30-2619 which has been held during the  
10 ninety-day period.

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

15 (g) If the petitioner requests the entry of an order of  
16 temporary guardianship pursuant to subsection (a) of this section  
17 without requesting an ex parte order, the court may hold an  
18 expedited hearing pursuant to subsections (b) through (e) of this  
19 section.

20 (h) If an appointed guardian is not effectively  
21 performing his or her duties and the court further finds that the  
22 welfare of the incapacitated person requires immediate action, it  
23 may, pending notice and hearing in accordance with section 30-2220,  
24 appoint a temporary guardian for the incapacitated person for a  
25 specified period not to exceed ninety days. For good cause shown,  
26 the court may extend the temporary guardianship for successive  
27 ninety-day periods. A temporary guardian appointed pursuant to

1 this subsection has only the powers and duties specified in the  
2 previously appointed guardian's letters of guardianship, and the  
3 authority of any permanent guardian previously appointed by the  
4 court is suspended so long as a temporary guardian has authority.

5 (i) A temporary guardian may be removed at any time. A  
6 temporary guardian shall make any report the court requires, except  
7 that a temporary guardian shall not be required to provide the  
8 check or report under section 30-2602.02. In other respects the  
9 provisions of the Nebraska Probate Code concerning guardians apply  
10 to temporary guardians.

11 (j) The court may appoint the Public Guardian as the  
12 temporary guardian pursuant to the Public Guardianship Act.

13 Sec. 23. Section 30-2627, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 30-2627 (a) Any competent person or a suitable  
16 ~~institution~~ the Public Guardian may be appointed guardian of  
17 a person alleged to be incapacitated, except that it shall  
18 be unlawful for any agency providing residential care in an  
19 institution or community-based program, or any owner, part owner,  
20 manager, administrator, employee, or spouse of an owner, part  
21 owner, manager, administrator, or employee of any nursing home,  
22 room and board home, assisted-living facility, or institution  
23 engaged in the care, treatment, or housing of any person physically  
24 or mentally handicapped, infirm, or aged to be appointed guardian  
25 of any such person residing, being under care, receiving treatment,  
26 or being housed in any such home, facility, or institution within  
27 the State of Nebraska. Nothing in this subsection shall prevent

1 the spouse, adult child, parent, or other relative of the person  
2 alleged to be incapacitated from being appointed guardian or  
3 prevent the guardian officer for one of the Nebraska veterans homes  
4 as provided in section 80-327 from being appointed guardian or  
5 conservator for the person alleged to be incapacitated. It shall  
6 be unlawful for any county attorney or deputy county attorney  
7 appointed as guardian for a person alleged to be incapacitated to  
8 circumvent his or her duties or the rights of the ward pursuant  
9 to the Nebraska Mental Health Commitment Act by consenting to  
10 inpatient or outpatient psychiatric treatment over the objection  
11 of the ward.

12 (b) Persons who are not disqualified under subsection  
13 (a) of this section and who exhibit the ability to exercise the  
14 powers to be assigned by the court have priority for appointment as  
15 guardian in the following order:

16 (1) A person nominated most recently by one of the  
17 following methods:

18 (i) A person nominated by the incapacitated person in a  
19 power of attorney or a durable power of attorney;

20 (ii) A person acting under a power of attorney or durable  
21 power of attorney; or

22 (iii) A person nominated by an attorney in fact who is  
23 given power to nominate in a power of attorney or a durable power  
24 of attorney executed by the incapacitated person;

25 (2) The spouse of the incapacitated person;

26 (3) An adult child of the incapacitated person;

27 (4) A parent of the incapacitated person, including a

1 person nominated by will or other writing signed by a deceased  
2 parent;

3 (5) Any relative of the incapacitated person with whom he  
4 or she has resided for more than six months prior to the filing of  
5 the petition;

6 (6) A person nominated by the person who is caring for  
7 him or her or paying benefits to him or her;:-

8 (7) The Public Guardian.

9 (c) When appointing a guardian, the court shall take into  
10 consideration the expressed wishes of the allegedly incapacitated  
11 person. The court, acting in the best interest of the incapacitated  
12 person, may pass over a person having priority and appoint a person  
13 having lower priority or no priority. With respect to persons  
14 having equal priority, the court shall select the person it deems  
15 best qualified to serve.

16 (d) In its order of appointment, unless waived by the  
17 court, the court shall require any person appointed as guardian  
18 to successfully complete within three months of such appointment a  
19 training program approved by the ~~State Court Administrator~~. Public  
20 Guardian. If the person appointed as guardian does not complete the  
21 training program, the court shall issue an order to show cause why  
22 such person should not be removed as guardian.

23 (e) The court may require a guardian to furnish a bond  
24 in an amount and conditioned in accordance with the provisions  
25 of sections 30-2640 and 30-2641. The Public Guardian shall not be  
26 required to post bond.

27 Sec. 24. Section 30-2630.01, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2           30-2630.01 (a) If a person alleged to be in need  
3 of protection under section 30-2630 has no conservator and an  
4 emergency exists, the court may, pending notice and hearing,  
5 exercise the power of a conservator or enter an emergency  
6 protective order appointing a temporary conservator, who may be  
7 the Public Guardian, to address the emergency.

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

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

27           (d) At the expedited hearing, the court may render a

1 judgment authorizing the temporary conservatorship to continue  
2 beyond the original ten-day period. The judgment shall prescribe  
3 the specific powers and duties of the temporary conservator in the  
4 letters of temporary conservatorship and shall be effective for a  
5 ninety-day period. For good cause shown, the court may extend the  
6 temporary conservatorship for successive ninety-day periods.

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

14 (f) If the court denies the request for the ex parte  
15 order, the court may, in its discretion, enter an order for an  
16 expedited hearing pursuant to subsections (b) through (e) of this  
17 section.

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

23 (h) A temporary conservator may be removed at any time.  
24 A temporary conservator shall make any report the court requires,  
25 except that a temporary conservator shall not be required to  
26 provide the national criminal history record check and report  
27 under section 30-2602.02. In other respects the provisions of the

1 Nebraska Probate Code concerning conservators apply to temporary  
2 conservators.

3 Sec. 25. Section 30-2639, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 30-2639 (a) The court may appoint an individual, ~~or~~ a  
6 corporation with general power to serve as trustee, or the Public  
7 Guardian as conservator of the estate of a protected person, except  
8 that it shall be unlawful for any agency providing residential  
9 care in an institution or community-based program or any owner,  
10 part owner, manager, administrator, employee, or spouse of an  
11 owner, part owner, manager, administrator, or employee of any  
12 nursing home, room and board home, assisted-living facility, or  
13 institution engaged in the care, treatment, or housing of any  
14 person physically or mentally handicapped, infirm, or aged to be  
15 appointed conservator of any such person residing, being under  
16 care, receiving treatment, or being housed in any such home,  
17 facility, or institution within the State of Nebraska. Nothing in  
18 this subsection shall prevent the spouse, adult child, parent, or  
19 other relative of the person in need of protection from being  
20 appointed conservator.

21 (b) Persons who are not disqualified under subsection  
22 (a) of this section and who exhibit the ability to exercise the  
23 powers to be assigned by the court have priority for appointment as  
24 conservator in the following order:

25 (1) A person nominated most recently by one of the  
26 following methods:

27 (i) A person nominated by the protected person in a power

1 of attorney or durable power of attorney;

2 (ii) A person acting under a power of attorney or durable  
3 power of attorney; or

4 (iii) A person nominated by an attorney in fact who is  
5 given power to nominate in a power of attorney or a durable power  
6 of attorney executed by the protected person;

7 (2) A conservator, guardian of property, or other like  
8 fiduciary appointed or recognized by the appropriate court of any  
9 other jurisdiction in which the protected person resides;

10 (3) An individual or corporation nominated by the  
11 protected person if he or she is fourteen or more years of age and  
12 has, in the opinion of the court, sufficient mental capacity to  
13 make an intelligent choice;

14 (4) The spouse of the protected person;

15 (5) An adult child of the protected person;

16 (6) A parent of the protected person or a person  
17 nominated by the will of a deceased parent;

18 (7) Any relative of the protected person with whom he or  
19 she has resided for more than six months prior to the filing of the  
20 petition;

21 (8) A person nominated by the person who is caring for  
22 him or her or paying benefits to him or her;

23 (9) The Public Guardian.

24 (c) When appointing a conservator, the court shall take  
25 into consideration the expressed wishes of the person to be  
26 protected. A person having priority listed in subdivision (2), (4),  
27 (5), (6), or (7) of subsection (b) of this section may nominate

1 in writing a person to serve in his or her stead. With respect to  
2 persons having equal priority, the court shall select the person it  
3 deems best qualified of those willing to serve. The court, acting  
4 in the best interest of the protected person, may pass over a  
5 person having priority and appoint a person having lower priority  
6 or no priority.

7 (d) In its order of appointment, unless waived by the  
8 court, the court shall require any person appointed as conservator  
9 to successfully complete within three months of such appointment a  
10 training program approved by the ~~State Court Administrator~~. Public  
11 Guardian. If the person appointed as conservator does not complete  
12 the training program, the court shall issue an order to show cause  
13 why such person should not be removed as conservator.

14 Sec. 26. Section 30-2640, Revised Statutes Cumulative  
15 Supplement, 2012, is amended to read:

16 30-2640 For estates with a net value of more than ten  
17 thousand dollars, the bond for a conservator shall be in the  
18 amount of the aggregate capital value of the personal property of  
19 the estate in the conservator's control plus one year's estimated  
20 income from all sources minus the value of securities and other  
21 assets deposited under arrangements requiring an order of the court  
22 for their removal. The bond of the conservator shall be conditioned  
23 upon the faithful discharge of all duties of the trust according  
24 to law, with sureties as the court shall specify. The court, in  
25 lieu of sureties on a bond, may accept other security for the  
26 performance of the bond, including a pledge of securities or a  
27 mortgage of land owned by the conservator. For good cause shown,

1 the court may eliminate the requirement of a bond or decrease or  
2 increase the required amount of any such bond previously furnished.  
3 The court shall not require a bond if the protected person executed  
4 a written, valid power of attorney that specifically nominates a  
5 guardian or conservator and specifically does not require a bond.  
6 The court shall consider as one of the factors of good cause,  
7 when determining whether a bond should be required and the amount  
8 thereof, the protected person's choice of any attorney in fact or  
9 alternative attorney in fact. No bond shall be required of any  
10 financial institution, as that term is defined in subdivision (12)  
11 of section 8-101, or any officer, director, employee, or agent of  
12 the financial institution serving as a conservator, or any trust  
13 company serving as a conservator. The Public Guardian shall not be  
14 required to post bond.

15           Sec. 27. This act becomes operative on January 1, 2015.

16           Sec. 28. Original sections 30-2601.01, 30-2627, and  
17 30-2639, Reissue Revised Statutes of Nebraska, sections 30-2201,  
18 30-2626, 30-2630.01, and 30-2640, Revised Statutes Cumulative  
19 Supplement, 2012, and section 30-2601, Revised Statutes Supplement,  
20 2013, are repealed.