

LEGISLATIVE BILL 920

Approved by the Governor April 2, 2014

Introduced by Coash, 27; Ashford, 20; Brasch, 16; Davis, 43; Harms, 48; Lathrop, 12; McGill, 26; Schilz, 47; Seiler, 33; Watermeier, 1; Wallman, 30.

FOR AN ACT relating to guardianship and conservatorship; to amend sections 30-2601.01, 30-2627, and 30-2639, Reissue Revised Statutes of Nebraska, sections 30-2201, 30-2626, 30-2630.01, and 30-2640, Revised Statutes Cumulative Supplement, 2012, and section 30-2601, Revised Statutes Supplement, 2013; to adopt the Public Guardianship Act; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

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

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

(2) The Legislature finds that:

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

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

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

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

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

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

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

(2) Office means the Office of Public Guardian;

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

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

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

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

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

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

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

Sec. 4. The office is created within the judicial branch of government and is directly responsible to the State Court Administrator. The State Court Administrator shall appoint a director of the office who shall be known as the Public Guardian. The Public Guardian shall be hired based on a broad knowledge of human development, intellectual disabilities, sociology, and psychology and shall have business acuity and experience in public

education and volunteer recruitment. The Public Guardian shall hire a deputy public guardian and up to twelve associate public guardians who shall serve at the pleasure of the Public Guardian and perform such duties as assigned by the Public Guardian. The Public Guardian shall assume all the duties and responsibilities of a guardian and conservator for any individual appointed to his or her supervision and may designate authority to act on his or her behalf to the deputy public guardian and associate public guardians. The Public Guardian shall administer public guardianship and public conservatorship and shall serve as staff to the council. The Public Guardian may hire support staff as required.

Sec. 5. The office:

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

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

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

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

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

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

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

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

Sec. 6. The Advisory Council on Public Guardianship is created. The council shall be appointed by the State Court Administrator, be comprised of individuals from a variety of disciplines who are knowledgeable in guardianship and conservatorship, and be representative of the geographical and cultural diversity of the state and reflect gender fairness. The council shall consist of the following members: A representative of the Nebraska County Court Judges Association, attorneys licensed to practice law in this state, social workers, mental health professionals, professionals with expertise in the aging population, developmental disability professionals, and other interested groups or individuals.

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

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

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

Sec. 9. Consistent with the purposes and objectives of the Public Guardianship Act and in consultation with the council, the Public Guardian shall:

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

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

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

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

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

(6) Maintain training programs available statewide to offer the

training curricula for interested parties to include:

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

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

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

(d) Advising a guardian or conservator on ways to secure rights, benefits, and services to which his or her ward or protected person is entitled;

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

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

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

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

Sec. 12. A court may order appointment of the Public Guardian as a guardian or conservator only after notice to the Public Guardian and a determination that the appointment or order is necessary and will not result in the Public Guardian having more appointments than permitted by section 15 of this act. The determination of necessity may require the court to ascertain whether there is any other alternative to public guardianship or public conservatorship.

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

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

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

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

Sec. 16. (1) When the court appoints the Public Guardian as guardian or conservator for an individual, the Public Guardian immediately succeeds to (a) all powers and duties of a guardian provided in sections 30-2626 and 30-2628, if appointed a guardian, or (b) all powers and duties of a conservator provided in sections 30-2646, 30-2647, 30-2653, 30-2654, 30-2655, 30-2656, and 30-2657, if appointed a conservator.

(2) The Public Guardian shall:

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

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

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

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

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

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

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

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

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

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

(2) A protective proceeding is a proceeding under the provisions of section 30-2630 to determine that a person cannot effectively manage or apply his or her estate to necessary ends, either because the person lacks the ability or is otherwise inconvenienced, or because the person is a minor, and to secure administration of the person's estate by a conservator or other appropriate relief;

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

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

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

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

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

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

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

~~(10)~~ For purposes of article 26 of the Nebraska Probate Code, interested person means children, spouses, those persons who would be the heirs if the ward or person alleged to be incapacitated died without leaving a valid will who are adults and any trustee of any trust executed by the ward or person alleged to be incapacitated. After the death of a ward, interested person also includes the personal representative of a deceased ward's estate, the deceased ward's heirs in an intestate estate, and the deceased ward's devisees in a testate estate. The meaning of interested person as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. If there are no persons identified as interested persons above, then interested person shall also include any person or entity named as a devisee in the most recently executed will of the ward or person alleged to be incapacitated.

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

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

(1) The rights of wards under sections 30-2601 to 30-2661 and the

Public Guardianship Act specifically and under the laws of the United States generally;

- (2) The duties and responsibilities of guardians;
- (3) Reporting requirements;
- (4) Least restrictive options in the areas of housing, medical care, and psychiatric care; and
- (5) Resources to assist guardians in fulfilling their duties.

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

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

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

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

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

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

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

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

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

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

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

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

30-2627 (a) Any competent person or a suitable institution the

Public Guardian may be appointed guardian of a person alleged to be incapacitated, except that it shall be unlawful for any agency providing residential care in an institution or community-based program, or any owner, part owner, manager, administrator, employee, or spouse of an owner, part owner, manager, administrator, or employee of any nursing home, room and board home, assisted-living facility, or institution engaged in the care, treatment, or housing of any person physically or mentally handicapped, infirm, or aged to be appointed guardian of any such person residing, being under care, receiving treatment, or being housed in any such home, facility, or institution within the State of Nebraska. Nothing in this subsection shall prevent the spouse, adult child, parent, or other relative of the person alleged to be incapacitated from being appointed guardian or prevent the guardian officer for one of the Nebraska veterans homes as provided in section 80-327 from being appointed guardian or conservator for the person alleged to be incapacitated. It shall be unlawful for any county attorney or deputy county attorney appointed as guardian for a person alleged to be incapacitated to circumvent his or her duties or the rights of the ward pursuant to the Nebraska Mental Health Commitment Act by consenting to inpatient or outpatient psychiatric treatment over the objection of the ward.

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

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

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

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

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

(2) The spouse of the incapacitated person;

(3) An adult child of the incapacitated person;

(4) A parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent;

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

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

(7) The Public Guardian.

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

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

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

Sec. 24. Section 30-2630.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

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

(b) When the court takes action to exercise the powers of a conservator or to appoint a temporary conservator under subsection (a) of this section, an expedited hearing shall be held if requested by the person alleged to be in need of protection, or by any interested person, if the request is filed more than ten business days prior to the date set for the hearing on the petition for appointment of the conservator. If an expedited hearing is to be held, the hearing shall be held within ten business days after the request is received. At the hearing on the temporary appointment, the petitioner shall have the burden of showing by a preponderance of the evidence that temporary conservatorship continues to be necessary to address the emergency situation.

Unless the person alleged to be in need of protection has counsel of his or her own choice, the court may appoint an attorney to represent the person at the hearing as provided in section 30-2636.

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

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

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

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

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

(h) A temporary conservator may be removed at any time. A temporary conservator shall make any report the court requires, except that a temporary conservator shall not be required to provide the national criminal history record check and report under section 30-2602.02. In other respects the provisions of the Nebraska Probate Code concerning conservators apply to temporary conservators.

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

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

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

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

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

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

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

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

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

(4) The spouse of the protected person;

(5) An adult child of the protected person;

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

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

(8) A person nominated by the person who is caring for him or her or

paying benefits to him or her;—

(9) The Public Guardian.

(c) When appointing a conservator, the court shall take into consideration the expressed wishes of the person to be protected. A person having priority listed in subdivision (2), (4), (5), (6), or (7) of subsection (b) of this section may nominate in writing a person to serve in his or her stead. With respect to persons having equal priority, the court shall select the person it deems best qualified of those willing to serve. The court, acting in the best interest of the protected person, may pass over a person having priority and appoint a person having lower priority or no priority.

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

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

30-2640 For estates with a net value of more than ten thousand dollars, the bond for a conservator shall be in the amount of the aggregate capital value of the personal property of the estate in the conservator's control plus one year's estimated income from all sources minus the value of securities and other assets deposited under arrangements requiring an order of the court for their removal. The bond of the conservator shall be conditioned upon the faithful discharge of all duties of the trust according to law, with sureties as the court shall specify. The court, in lieu of sureties on a bond, may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land owned by the conservator. For good cause shown, the court may eliminate the requirement of a bond or decrease or increase the required amount of any such bond previously furnished. The court shall not require a bond if the protected person executed a written, valid power of attorney that specifically nominates a guardian or conservator and specifically does not require a bond. The court shall consider as one of the factors of good cause, when determining whether a bond should be required and the amount thereof, the protected person's choice of any attorney in fact or alternative attorney in fact. No bond shall be required of any financial institution, as that term is defined in subdivision (12) of section 8-101, or any officer, director, employee, or agent of the financial institution serving as a conservator, or any trust company serving as a conservator. The Public Guardian shall not be required to post bond.

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

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