

AMENDMENTS TO LB920

Introduced by Judiciary

1 1. Strike the original sections and insert the following
2 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. The Legislature finds that the present system
6 of obtaining a guardian or conservator for an individual, which
7 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, conservatorship, or the appointment of
19 a payee. It is the intent of the Legislature to provide a public
20 guardian or public conservator only to those individuals whose
21 needs cannot be met through less intrusive means of intervention.
22 The Legislature finds that:

23 (1) All individuals in need of a guardian or conservator

1 shall have the opportunity to have one appointed for them;

2 (2) The priorities for appointment as set out prior to
3 the operative date of this act in sections 30-2601 to 30-2661 are
4 appropriate in most instances;

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

9 (4) Guardians and conservators currently appointed may
10 not fulfill the assigned duties in a way that protects the
11 individual or, in fact, abuses or neglects the individual; and

12 (5) 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) Incapacitated person is as defined in section
19 30-2601;

20 (3) Office means the Office of Public Guardian;

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

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

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

1 (7) Public Guardian means the director of the office;

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

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

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

10 Sec. 4. The office:

11 (1) Shall provide competent individuals, designated as
12 the deputy Public Guardian or an associate public guardian, to
13 carry out the duties of a guardian or conservator when a court
14 appoints the Public Guardian because no other person can be
15 identified or is qualified to serve as guardian or conservator for
16 the ward or protected person;

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

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

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

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

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

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

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

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

13 Sec. 5. The office is created within the judicial
14 branch of government and is directly responsible to the State
15 Court Administrator. The State Court Administrator shall appoint a
16 director of the office who shall be known as the Public Guardian.
17 The Public Guardian shall be hired based on a broad knowledge
18 of human development, intellectual disabilities, sociology, and
19 psychology and shall have business acuity and experience in public
20 education and volunteer recruitment. The Public Guardian shall
21 hire a deputy public guardian and up to twelve associate public
22 guardians who shall serve at the pleasure of the Public Guardian
23 and perform such duties as assigned by the Public Guardian. The
24 Public Guardian shall assume all the duties and responsibilities
25 of a guardian and conservator for any individual appointed to
26 his or her supervision and may designate authority to act on his
27 or her behalf to the deputy public guardian and associate public

1 guardians. The Public Guardian shall administer public guardianship
2 and shall serve as staff to the council. The Public Guardian may
3 hire support staff as required.

4 Sec. 6. The Advisory Council on Public Guardianship
5 is created. The council shall be appointed by the State Court
6 Administrator, be comprised of individuals from a variety
7 of disciplines who are knowledgeable in guardianship and
8 conservatorship, and be selected to be representative of the
9 geographical and cultural diversity of the state and to reflect
10 gender fairness. The council shall consist of the following
11 members. The members shall include a representative of the Nebraska
12 County Court Judges Association, an attorney licensed to practice
13 law in this state, social workers, mental health professionals,
14 professionals with expertise in the aging population, developmental
15 disability professionals, and other interested groups or
16 individuals. The State Court Administrator shall not be restricted
17 to the solicited list of nominees in making the appointments.

18 Sec. 7. The initial members of the council shall be
19 appointed for staggered terms of one, two, or three years. All
20 subsequent appointments shall be made for terms of three years.
21 Any vacancy on the council shall be filled in the same manner in
22 which the original appointment was made and shall last for the
23 duration of the term vacated. Appointments to the council shall be
24 made within ninety days after the operative date of this act. The
25 council shall select a chairperson, a vice-chairperson, and such
26 other officers as it deems necessary.

27 Sec. 8. (1) The council shall advise the Public Guardian

1 on the administration of public guardianship.

2 (2) The council shall meet at least four times per year

3 and at other times deemed necessary to perform its functions.

4 Members of the council shall be reimbursed for their actual and

5 necessary expenses as provided in sections 81-1174 to 81-1177.

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

7 the Public Guardianship Act and in consultation with the council,

8 the Public Guardian shall:

9 (1) Develop a uniform system of reporting and collecting

10 statistical data regarding guardianships and conservatorships;

11 (2) Develop and adopt a standard of practice and code of

12 ethics for public guardianship and public conservatorship;

13 (3) Prepare a yearly budget for the implementation of the

14 act;

15 (4) Develop guidelines for a sliding scale of fees to

16 be charged for public guardianship and public conservatorship

17 services;

18 (5) Maintain, in conjunction with private and other

19 public resources, a curricula for training sessions to be made

20 available for successor guardians and successor conservators and

21 private guardians and private conservators;

22 (6) Maintain training programs available statewide to

23 offer the training curricula for interested parties to include:

24 (a) Helping guardians understand their ward's

25 disabilities and conservators understand their fiduciary duties

26 with respect to their protected person;

27 (b) Helping guardians foster increased independence on

1 the part of their ward;

2 (c) Helping guardians with the preparation and revision
3 of guardianship plans and reports and conservators with their
4 accountings; and

5 (d) Advising guardians and conservators on ways to secure
6 rights, benefits, and services to which their wards and protected
7 persons are entitled;

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

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

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

16 Sec. 11. The Public Guardian shall report to the State
17 Court Administrator as directed by the State Court Administrator.
18 The Public Guardian shall report annually to the Chief Justice
19 of the Supreme Court and the Legislature on the implementation
20 of the Public Guardianship Act on or before January 1 of each
21 year. The report to the Legislature shall be made electronically.
22 The report shall include the number and types of guardianships
23 and conservatorships referred to the office, the disposition of
24 those referrals, and the status of the waiting list for public
25 guardianship services.

26 Sec. 12. A court may order appointment of the Public
27 Guardian only after notice to the Public Guardian and a

1 determination that the appointment or order is necessary and will
2 not result in the office having more appointments than permitted by
3 section 16 of this act. The determination of necessity may require
4 the court to ascertain whether there is any other alternative to
5 public guardianship or public conservatorship.

6 Sec. 13. Fees shall be charged by the office pursuant to
7 the guidelines developed pursuant to section 9 of this act, unless
8 modified or waived by the court.

9 Sec. 14. (1) Once the Public Guardian is appointed as
10 guardian or conservator, the office shall make a reasonable effort
11 to locate a successor guardian or successor conservator for the
12 individual from the private sector. By June 31 and January 1 of
13 each year, the office shall file an aggregate report with the State
14 Court Administrator describing its efforts to locate a successor
15 private guardian or successor private conservator.

16 (2) Upon location of a successor private guardian or
17 successor conservator, the office shall file a motion with the
18 court for termination or modification of the guardianship or
19 conservatorship. Availability of a successor private guardian or
20 private conservator shall be deemed a change in the suitability of
21 the office for carrying out its powers and duties under section 4
22 of this act.

23 Sec. 15. The Public Guardian may accept appointments for
24 individuals not to exceed an average of forty individuals per
25 associate public guardian hired by the office. When the average
26 has been reached, the Public Guardian shall not accept further
27 appointments. The Public Guardian, upon reaching the maximum

1 number of appointments shall forthwith notify the State Court
2 Administrator that the maximum number of appointments has been
3 reached by the office.

4 Sec. 16. (1) When the court appoints the Public Guardian
5 as guardian or conservator for an individual, the Public Guardian,
6 designated deputy public guardian, or associate public guardian
7 immediately succeeds to all powers and duties of a guardian
8 provided in sections 30-2626 and 30-2628, if appointed a guardian,
9 or as a conservator to all powers and duties of a conservator as
10 provided by sections 30-2646, 30-2647, 30-2653, 30-2654, 30-2655,
11 30-2656, and 30-2657, if appointed a conservator.

12 (2) The Public Guardian or designated deputy public
13 guardian or associate public guardian shall:

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

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

20 (c) Monitor the ward or protected person and his or
21 her care and progress on a continuing basis. Monitoring shall,
22 at a minimum, consist of monthly personal contact with the ward
23 or protected person. The Public Guardian, designated deputy public
24 guardian, or associate public guardian shall maintain a written
25 record of each visit with a ward or protected person. The office,
26 through its designees, shall maintain periodic contact with all
27 individuals and agencies, public or private, providing care or

1 related services to the ward or protected person.

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

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

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

17 30-2201 Sections 30-2201 to 30-2902, 30-3901 to 30-3923,
18 and 30-4001 to 30-4045 and sections 1 to 18 of this act shall be
19 known and may be cited as the Nebraska Probate Code.

20 Sec. 20. Section 30-2601, Revised Statutes Supplement,
21 2013, is amended to read:

22 30-2601 Unless otherwise apparent from the context, in
23 the Nebraska Probate Code:

24 (1) Incapacitated person means any person who is impaired
25 by reason of mental illness, mental deficiency, physical illness
26 or disability, chronic use of drugs, chronic intoxication, or
27 other cause (except minority) to the extent that the person

1 lacks sufficient understanding or capacity to make or communicate
2 responsible decisions concerning himself or herself;

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

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

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

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

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

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

22 ~~(6)~~ (8) Limited guardianship means any guardianship which
23 is not a full guardianship; and

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

26 ~~(7)~~ (10) For purposes of article 26 of the Nebraska
27 Probate Code, interested person means children, spouses, those

1 persons who would be the heirs if the ward or person alleged to be
2 incapacitated died without leaving a valid will who are adults and
3 any trustee of any trust executed by the ward or person alleged to
4 be incapacitated. After the death of a ward, interested person also
5 includes the personal representative of a deceased ward's estate,
6 the deceased ward's heirs in an intestate estate, and the deceased
7 ward's devisees in a testate estate. The meaning of interested
8 person as it relates to particular persons may vary from time to
9 time and must be determined according to the particular purposes
10 of, and matter involved in, any proceeding. If there are no persons
11 identified as interested persons above, then interested person
12 shall also include any person or entity named as a devisee in the
13 most recently executed will of the ward or person alleged to be
14 incapacitated.

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

17 30-2601.01 ~~The State Court Administrator~~ Office of Public
18 Guardian shall approve training curricula for persons appointed as
19 guardians and conservators. Such training curricula shall include,
20 but not be limited to:

21 (1) The rights of wards under sections 30-2601 to 30-2661
22 specifically and under the laws of the United States generally;

23 (2) The duties and responsibilities of guardians;

24 (3) Reporting requirements;

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

27 (5) Resources to assist guardians in fulfilling their

1 duties.

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

4 30-2626 (a) If a person alleged to be incapacitated has
5 no guardian and an emergency exists, the court may, pending notice
6 and hearing, exercise the power of a guardian or enter an ex parte
7 order appointing a temporary guardian to address the emergency.
8 The order and letters of temporary guardianship shall specify the
9 powers and duties of the temporary guardian limiting the powers and
10 duties to those necessary to address the emergency.

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

26 (c) If an expedited hearing is requested, notice shall
27 be served as provided in section 30-2625. The notice shall specify

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

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

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

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

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

26 (h) If an appointed guardian is not effectively
27 performing his or her duties and the court further finds that the

1 welfare of the incapacitated person requires immediate action, it
2 may, pending notice and hearing in accordance with section 30-2220,
3 appoint a temporary guardian for the incapacitated person for a
4 specified period not to exceed ninety days. For good cause shown,
5 the court may extend the temporary guardianship for successive
6 ninety-day periods. A temporary guardian appointed pursuant to
7 this subsection has only the powers and duties specified in the
8 previously appointed guardian's letters of guardianship, and the
9 authority of any permanent guardian previously appointed by the
10 court is suspended so long as a temporary guardian has authority.

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

17 (j) The court may appoint the Public Guardian as the
18 temporary guardian when there is no suitable guardian available.

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

21 30-2627 (a) Any competent person or a suitable
22 ~~institution~~ the Public Guardian may be appointed guardian of
23 a person alleged to be incapacitated, except that it shall
24 be unlawful for any agency providing residential care in an
25 institution or community-based program, or any owner, part owner,
26 manager, administrator, employee, or spouse of an owner, part
27 owner, manager, administrator, or employee of any nursing home,

1 room and board home, assisted-living facility, or institution
2 engaged in the care, treatment, or housing of any person physically
3 or mentally handicapped, infirm, or aged to be appointed guardian
4 of any such person residing, being under care, receiving treatment,
5 or being housed in any such home, facility, or institution within
6 the State of Nebraska. Nothing in this subsection shall prevent
7 the spouse, adult child, parent, or other relative of the person
8 alleged to be incapacitated from being appointed guardian or
9 prevent the guardian officer for one of the Nebraska veterans homes
10 as provided in section 80-327 from being appointed guardian or
11 conservator for the person alleged to be incapacitated. It shall
12 be unlawful for any county attorney or deputy county attorney
13 appointed as guardian for a person alleged to be incapacitated to
14 circumvent his or her duties or the rights of the ward pursuant
15 to the Nebraska Mental Health Commitment Act by consenting to
16 inpatient or outpatient psychiatric treatment over the objection
17 of the ward.

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

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

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

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

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

4 (2) The spouse of the incapacitated person;

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

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

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

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

14 (7) The Public Guardian.

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

22 (d) In its order of appointment, unless waived by the
23 court, the court shall require any person appointed as guardian
24 to successfully complete within three months of such appointment a
25 training program approved by the ~~State Court Administrator~~. Office
26 of Public Guardian. If the person appointed as guardian does not
27 complete the training program, the court shall issue an order to

1 show cause why such person should not be removed as guardian.

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

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

8 30-2630.01 (a) If a person alleged to be in need
9 of protection under section 30-2630 has no conservator and an
10 emergency exists, the court may, pending notice and hearing,
11 exercise the power of a conservator or enter an emergency
12 protective order appointing a temporary conservator, who may be
13 the Public Guardian, to address the emergency.

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

1 represent the person at the hearing as provided in section 30-2636.

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

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

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

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

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

1 section.

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

3 A temporary conservator shall make any report the court requires,
4 except that a temporary conservator shall not be required to
5 provide the national criminal history record check and report
6 under section 30-2602.02. In other respects the provisions of the
7 Nebraska Probate Code concerning conservators apply to temporary
8 conservators.

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

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

27 (b) Persons who are not disqualified under subsection

1 (a) of this section and who exhibit the ability to exercise the
2 powers to be assigned by the court have priority for appointment as
3 conservator in the following order:

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

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

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

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

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

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

20 (4) The spouse of the protected person;

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

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

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

27 (8) A person nominated by the person who is caring for

1 him or her or paying benefits to him or her; ~~or-~~

2 (9) The Public Guardian.

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

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

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

22 30-2640 For estates with a net value of more than ten
23 thousand dollars, the bond for a conservator shall be in the
24 amount of the aggregate capital value of the personal property of
25 the estate in the conservator's control plus one year's estimated
26 income from all sources minus the value of securities and other
27 assets deposited under arrangements requiring an order of the court

1 for their removal. The bond of the conservator shall be conditioned
2 upon the faithful discharge of all duties of the trust according
3 to law, with sureties as the court shall specify. The court, in
4 lieu of sureties on a bond, may accept other security for the
5 performance of the bond, including a pledge of securities or a
6 mortgage of land owned by the conservator. For good cause shown,
7 the court may eliminate the requirement of a bond or decrease or
8 increase the required amount of any such bond previously furnished.
9 The court shall not require a bond if the protected person executed
10 a written, valid power of attorney that specifically nominates a
11 guardian or conservator and specifically does not require a bond.
12 The court shall consider as one of the factors of good cause,
13 when determining whether a bond should be required and the amount
14 thereof, the protected person's choice of any attorney in fact or
15 alternative attorney in fact. No bond shall be required of any
16 financial institution, as that term is defined in subdivision (12)
17 of section 8-101, or any officer, director, employee, or agent of
18 the financial institution serving as a conservator, or any trust
19 company serving as a conservator. The Public Guardian shall not be
20 required to post bond.

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

22 Sec. 28. Original sections 30-2601.01, 30-2627, and
23 30-2639, Reissue Revised Statutes of Nebraska, sections 30-2201,
24 30-2626, 30-2630.01, and 30-2640, Revised Statutes Cumulative
25 Supplement, 2012, and section 30-2601, Revised Statutes Supplement,
26 2013, are repealed.