

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1260**

Introduced by DeBoer, 10.

Read first time January 20, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to guardianship and conservatorship; to amend  
2 sections 30-4101, 30-4106, 30-4109, 30-4112, and 30-4205, Reissue  
3 Revised Statutes of Nebraska; to change membership of the Advisory  
4 Council on Public Guardianship; to provide duties for the Public  
5 Guardian; to provide for an application process; to change  
6 provisions relating to appointment of the Public Guardian and duties  
7 of guardian ad litem; to harmonize provisions; and to repeal the  
8 original sections.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-4101, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 30-4101 Sections 30-4101 to 30-4118 and section 4 of this act shall  
4 be known and may be cited as the Public Guardianship Act.

5 Sec. 2. Section 30-4106, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 30-4106 The Advisory Council on Public Guardianship is created. The  
8 council shall be appointed by the State Court Administrator, be comprised  
9 of individuals from a variety of disciplines who are knowledgeable in  
10 guardianship and conservatorship, and be representative of the  
11 geographical and cultural diversity of the state and reflect gender  
12 fairness. The council shall consist of the following members: A  
13 representative of the Nebraska County Court Judges Association, a  
14 representative of a hospital licensed under the Health Care Facility  
15 Licensure Act, attorneys licensed to practice law in this state, social  
16 workers, mental health professionals, professionals with expertise in the  
17 aging population, developmental disability professionals, and other  
18 interested groups or individuals.

19 Sec. 3. Section 30-4109, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 30-4109 Consistent with the purposes and objectives of the Public  
22 Guardianship Act and in consultation with the council, the Public  
23 Guardian shall:

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

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

28 (3) Develop and implement an application and process to determine  
29 and prioritize the needs of individuals seeking guardianship or  
30 conservatorship services as provided in section 4 of this act;

31 (4) ~~(3)~~ Prepare a biennial budget for the implementation of the act;

1           ~~(5)~~ ~~(4)~~ Develop guidelines for a sliding scale of fees to be charged  
2 for public guardianship and public conservatorship services;

3           ~~(6)~~ ~~(5)~~ Maintain, in conjunction with private and other public  
4 resources, a curricula for training sessions to be made available for  
5 successor guardians and successor conservators and private guardians and  
6 private conservators;

7           ~~(7)~~ ~~(6)~~ Maintain training programs available statewide to offer the  
8 training curricula for interested parties to include:

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

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

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

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

20           ~~(8)~~ ~~(7)~~ Promote public awareness of guardianship and  
21 conservatorship, the responsibilities attached, and the need for more  
22 private guardians and private conservators; and

23           ~~(9)~~ ~~(8)~~ Apply for and receive funds from public and private sources  
24 for carrying out the purposes and obligations of the act.

25           Sec. 4. (1) The Public Guardian shall, in consultation with the  
26 council and stakeholders identified by the council, develop an  
27 application and process to determine and prioritize the needs of  
28 individuals seeking guardianship or conservatorship services from the  
29 Public Guardian. The process shall include a system of prioritization  
30 based upon a determination of need. The Public Guardian shall make a  
31 description of the system of prioritization available to the public.

1       (2) If an individual is unable or unwilling to provide information  
2 on the application, a representative of the individual or a  
3 representative of a hospital, nursing facility, or other facility  
4 licensed under the Health Care Facility Licensure Act where the  
5 individual is receiving care may submit the application regarding the  
6 individual. The representative may submit such available supporting  
7 documents as the representative deems necessary. An incomplete  
8 application may be submitted with information available to the applicant  
9 or representative and shall be considered by the office for determination  
10 of need and prioritization. An application shall not receive a lower  
11 prioritization because the application is completed by a representative  
12 or because the applicant or representative is unable to obtain complete  
13 information for the application.

14       (3) The office shall review applications and make a recommendation  
15 to the court, prior to any hearing on the matter, as to whether the  
16 Public Guardian should be appointed as guardian or conservator for an  
17 individual.

18       (4) Upon request by an applicant or representative, the office shall  
19 provide information regarding the process of appointing the Public  
20 Guardian as guardian or conservator, the status of an application, and  
21 the anticipated timeline until appointment of a guardian or conservator.

22       Sec. 5. Section 30-4112, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24       30-4112 A court may order appointment of the Public Guardian as a  
25 guardian or conservator only after reviewing the application provided for  
26 in section 4 of this act, notice to the Public Guardian, and a  
27 determination that the appointment or order is necessary and will not  
28 result in the Public Guardian having more appointments than permitted by  
29 section 30-4115. In making the The determination of necessity, may  
30 require the court shall to ascertain whether there is any other  
31 alternative to public guardianship or public conservatorship. In

1 ascertaining the availability of alternatives, the court shall consider  
2 the information provided in the application provided for in section 4 of  
3 this act and such other matters as the court deems appropriate.

4 Sec. 6. Section 30-4205, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 30-4205 (1) The guardian ad litem shall make recommendations to the  
7 court regarding a temporary or permanent guardianship, conservatorship,  
8 or other protective order. The report shall be in writing and provided to  
9 the court, together with the application provided for in section 4 of  
10 this act, at least one week prior to the hearing date. A copy of the  
11 report shall be provided to all interested persons.

12 (2) For a guardianship proceeding, the report shall address whether  
13 the person for whom the guardianship is sought is an incapacitated  
14 person. If the guardian ad litem determines that the person is  
15 incapacitated, the guardian ad litem shall make recommendations as to  
16 whether the court should order a limited or full guardianship. If the  
17 guardian ad litem recommends a limited guardianship, the report shall  
18 include recommendations on the authorities and responsibilities the  
19 guardian and ward shall have. If a full guardianship is recommended, the  
20 report shall specifically address why a full guardianship is necessary to  
21 protect the best interests of the incapacitated person.

22 Sec. 7. Original sections 30-4101, 30-4106, 30-4109, 30-4112, and  
23 30-4205, Reissue Revised Statutes of Nebraska, are repealed.