

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1499
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 14, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding sections 14-1101, 14-1104, 14-1105 and 14-1108, to read:

4 14-1101. Training

5 A JUDICIAL OFFICER PRESIDING OVER PROCEEDINGS BROUGHT PURSUANT TO THIS
6 TITLE MUST PARTICIPATE IN TRAINING AS PRESCRIBED BY THE SUPREME COURT.

7 14-1104. Prudent management of costs

8 IN A PROCEEDING BROUGHT PURSUANT TO THIS TITLE:

9 1. THE FIDUCIARY MUST PRUDENTLY MANAGE COSTS AND PROTECT AGAINST
10 INCURRING ANY COSTS THAT EXCEED PROBABLE BENEFITS TO THE WARD, PROTECTED
11 PERSON, DECEDENT'S ESTATE OR TRUST, EXCEPT AS OTHERWISE DIRECTED BY A
12 GOVERNING INSTRUMENT OR COURT ORDER. A FIDUCIARY, FIDUCIARY'S ATTORNEY,
13 ATTORNEY FOR THE WARD OR PROTECTED PERSON AND GUARDIAN AD LITEM HAVE A DUTY
14 TO:

15 (a) ACT IN THE BEST INTEREST OF THE WARD, MINOR WARD, INCAPACITATED
16 PERSON OR PROTECTED PERSON AND THE PERSON'S ESTATE.

17 (b) AVOID ENGAGING IN EXCESSIVE OR UNPRODUCTIVE ACTIVITIES.

18 (c) PRESERVE THE ASSETS OF THE WARD, MINOR WARD, INCAPACITATED PERSON
19 OR PROTECTED PERSON AND THE PERSON'S ESTATE.

20 (d) AFFIRMATIVELY ASSESS THE FINANCIAL COST OF PURSUING ANY ACTION
21 COMPARED TO THE REASONABLY EXPECTED BENEFIT TO THE WARD, MINOR WARD,
22 INCAPACITATED PERSON OR PROTECTED PERSON AND THE PERSON'S ESTATE.

23 2. THE FIDUCIARY, FIDUCIARY'S ATTORNEY, ATTORNEY FOR THE WARD OR
24 PROTECTED PERSON AND GUARDIAN AD LITEM MUST TIMELY DISCLOSE TO THE COURT AND
25 ALL PERSONS ENTITLED TO NOTICE IF THE PERSON HAS A REASONABLE BELIEF THAT
26 PROJECTED COSTS OF COMPLYING WITH A COURT ORDER MAY EXCEED THE PROBABLE
27 BENEFITS TO THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST. IF
28 APPROPRIATE, CONSISTENT WITH DUE PROCESS, THE COURT SHALL ENTER OR MODIFY THE
29 ORDERS AS MAY PROTECT OR FURTHER THE BEST INTEREST OF THE WARD, PROTECTED
30 PERSON, DECEDENT'S ESTATE OR TRUST AGAINST PROJECTED COSTS THAT EXCEED
31 PROBABLE BENEFITS.

32 3. MARKET RATES FOR GOODS AND SERVICES ARE A PROPER, ONGOING
33 CONSIDERATION FOR THE FIDUCIARY AND THE COURT DURING THE INITIAL COURT
34 APPOINTMENT OF A FIDUCIARY OR ATTORNEY, A HEARING ON A BUDGET OBJECTION AND
35 RELATING TO A REQUEST TO SUBSTITUTE A COURT-APPOINTED FIDUCIARY OR ATTORNEY.

1 AT ANY STAGE OF THE PROCEEDINGS, THE COURT MAY ORDER THAT COMPETITIVE BIDS
2 FOR GOODS OR SERVICES BE OBTAINED IN ADVANCE.

3 14-1105. Remedies for unreasonable or abusive conduct;
4 definitions

5 A. IF THE COURT FINDS THAT A DECEDENT'S ESTATE OR TRUST HAS INCURRED
6 PROFESSIONAL FEES OR EXPENSES AS A RESULT OF UNREASONABLE CONDUCT, THE COURT
7 SHALL ORDER THE PERSON WHO ENGAGED IN THE CONDUCT OR THE PERSON'S ATTORNEY,
8 OR BOTH, TO PAY THE DECEDENT'S ESTATE OR TRUST FOR SOME OR ALL OF THE FEES
9 AND EXPENSES AS THE COURT DEEMS JUST UNDER THE CIRCUMSTANCES.

10 B. IN A GUARDIANSHIP OR CONSERVATORSHIP CASE, IF THE COURT FINDS THAT
11 A WARD OR PROTECTED PERSON HAS INCURRED PROFESSIONAL FEES OR EXPENSES AS A
12 RESULT OF UNREASONABLE CONDUCT, THE COURT SHALL ORDER THE PERSON WHO ENGAGED
13 IN THE CONDUCT OR THE PERSON'S ATTORNEY, OR BOTH, TO PAY THE WARD OR
14 PROTECTED PERSON FOR SOME OR ALL OF THE FEES AND EXPENSES AS THE COURT DEEMS
15 JUST UNDER THE CIRCUMSTANCES. IF THE COURT FINDS THE PERSON ENGAGED IN
16 VEXATIOUS CONDUCT, THE COURT MAY ALSO DO EITHER OR BOTH OF THE FOLLOWING:

17 1. ORDER THAT THE PERSON IS NO LONGER ENTITLED TO NOTICE OF, AND MAY
18 NOT PARTICIPATE AS A PARTY IN, ANY FUTURE PROCEEDINGS CONCERNING THE WARD OR
19 PROTECTED PERSON BROUGHT PURSUANT TO THIS TITLE.

20 2. ORDER THAT THE WARD'S OR PROTECTED PERSON'S FIDUCIARY, FIDUCIARY'S
21 ATTORNEY, COURT-APPOINTED ATTORNEY OR REPRESENTATIVE DOES NOT HAVE A DUTY TO
22 RESPOND TO FUTURE REQUESTS MADE BY THE PERSON FOR INFORMATION CONCERNING THE
23 WARD OR PROTECTED PERSON AND TO FUTURE COURT FILINGS MADE BY THE FIDUCIARY,
24 FIDUCIARY'S ATTORNEY, COURT-APPOINTED ATTORNEY OR REPRESENTATIVE, UNLESS
25 EXPLICITLY ORDERED BY THE COURT.

26 C. BEFORE MAKING A REQUEST FOR A REMEDY PURSUANT TO THIS SECTION, A
27 PARTY MUST NOTIFY THE OFFENDING PARTY IN WRITING OF THE PARTY'S INTENT TO
28 SEEK THE REMEDY IF THE OFFENDING CONDUCT IS NOT TERMINATED WITHIN A
29 REASONABLE TIME.

30 D. THE REMEDIES PERMITTED PURSUANT TO THIS SECTION ARE IN ADDITION TO
31 ANY OTHER CIVIL REMEDY OR ANY OTHER PROVISION OF LAW. THE REMEDIES PERMITTED
32 PURSUANT TO THIS SECTION MAY NOT MITIGATE THE FINANCIAL BURDEN ON A WARD,
33 PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST INCURRED AS A RESULT OF
34 UNJUSTIFIED COURT PROCEEDINGS OR UNREASONABLE OR EXCESSIVE DEMANDS MADE ON A
35 FIDUCIARY, FIDUCIARY'S ATTORNEY, COURT-APPOINTED ATTORNEY OR REPRESENTATIVE.

36 E. FOR THE PURPOSES OF THIS SECTION:

37 1. "COURT-APPOINTED ATTORNEY" MEANS AN ATTORNEY APPOINTED PURSUANT TO
38 SECTION 14-5303, SUBSECTION C, SECTION 14-5310, SUBSECTION C, SECTION
39 14-5401.01, SUBSECTION C OR SECTION 14-5407, SUBSECTION B.

1 IN A PROCEEDING BROUGHT PURSUANT TO THIS TITLE, AFTER THE INITIAL
2 APPOINTMENT OF A FIDUCIARY, THE COURT MAY REQUIRE ARBITRATION OF A DISPUTE
3 PURSUANT TO THE REQUIREMENTS OF SECTION 12-133, SUBSECTIONS B THROUGH K, OR
4 ORDER ALTERNATIVE DISPUTE RESOLUTION.

5 Sec. 2. Section 14-1201, Arizona Revised Statutes, is amended to read:
6 14-1201. Definitions

7 In this title, unless the context otherwise requires:

8 1. "Agent" includes an attorney-in-fact under a durable or nondurable
9 power of attorney, a person who is authorized to make decisions concerning
10 another person's health care and a person who is authorized to make decisions
11 for another person under a natural death act.

12 2. "Application" means a written request to the registrar for an order
13 of informal probate or appointment under chapter 3, article 3 of this title.

14 3. "Beneficiary", as it relates to a trust beneficiary, includes a
15 person who has any present or future interest, vested or contingent, and also
16 includes the owner of an interest by assignment or other transfer. As it
17 relates to a charitable trust, beneficiary includes any person entitled to
18 enforce the trust. As it relates to a beneficiary of a beneficiary
19 designation, beneficiary refers to a beneficiary of an insurance or annuity
20 policy, an account with pay on death designation, a security registered in
21 beneficiary form or a pension, profit sharing, retirement or similar benefit
22 plan, or any other nonprobate transfer at death. As it relates to a
23 beneficiary designated in a governing instrument, beneficiary includes a
24 grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a
25 beneficiary designation, a donee, appointee or taker in default of a power of
26 appointment and a person in whose favor a power of attorney or a power held
27 in any person, fiduciary or representative capacity is exercised.

28 4. "Beneficiary designation" refers to a governing instrument naming a
29 beneficiary of an insurance or annuity policy, of an account with pay on
30 death designation, of a security registered in beneficiary form or of a
31 pension, profit sharing, retirement or similar benefit plan, or any other
32 nonprobate transfer at death.

33 5. "Child" includes a person who is entitled to take as a child under
34 this title by intestate succession from the parent whose relationship is
35 involved. Child excludes a person who is only a stepchild, a foster child, a
36 grandchild or a more remote descendant.

37 6. "Claims", in respect to estates of decedents and protected persons,
38 includes liabilities of the decedent or the protected person, whether arising
39 in contract, in tort or otherwise, and liabilities of the estate that arise

1 at or after the death of the decedent or after the appointment of a
2 conservator, including funeral expenses and expenses of administration.
3 Claims do not include estate or inheritance taxes or demands or disputes
4 regarding title of a decedent or a protected person to specific assets
5 alleged to be included in the estate.

6 7. "Community property" means that property of a husband and wife that
7 is acquired during the marriage and that is community property as prescribed
8 in section 25-211.

9 8. "Conservator" means a person who is appointed by a court to manage
10 the estate of a protected person.

11 9. "Court" means the superior court.

12 10. "Dependent child" means a minor child ~~who~~ WHOM the decedent was
13 obligated to support or an adult child who was in fact being supported by the
14 decedent at the time of the decedent's death.

15 11. "Descendant" means all of the decedent's descendants of all
16 generations, with the relationship of parent and child at each generation.

17 12. "Devise", when used as a noun, means a testamentary disposition of
18 real or personal property and, when used as a verb, means to dispose of real
19 or personal property by will.

20 13. "Devisee" means a person designated in a will to receive a devise.
21 For the purposes of chapter 3 of this title, in the case of a devise to an
22 existing trust or trustee, or to a trustee on trust described by will, the
23 trust or trustee is the devisee and the beneficiaries are not devisees.

24 14. "Disability" means cause for a protective order as described in
25 section 14-5401.

26 15. "Distributee" means any person who has received property of a
27 decedent from that person's personal representative other than as a creditor
28 or purchaser. Distributee includes a testamentary trustee only to the extent
29 of distributed assets or increment that remains in that person's hands. A
30 beneficiary of a testamentary trust to whom the trustee has distributed
31 property received from a personal representative is a distributee of the
32 personal representative. For the purposes of this paragraph, "testamentary
33 trustee" includes a trustee to whom assets are transferred by will, to the
34 extent of the devised assets.

35 16. "Estate" includes the property of the decedent, trust or other
36 person whose affairs are subject to this title as originally constituted and
37 as it exists from time to time during administration. As it relates to a
38 spouse, the estate includes only the separate property and the share of the

1 community property belonging to the decedent or person whose affairs are
2 subject to this title.

3 17. "Exempt property" means that property of a decedent's estate that
4 is described in section 14-2403.

5 18. "Fiduciary" includes a personal representative, guardian,
6 conservator and trustee.

7 19. "Foreign personal representative" means a personal representative
8 appointed by another jurisdiction.

9 20. "Formal proceedings" means proceedings conducted before a judge
10 with notice to interested persons.

11 21. "Governing instrument" means a deed, will, trust, insurance or
12 annuity policy, account with pay on death designation, security registered in
13 beneficiary form, pension, profit sharing, retirement or similar benefit
14 plan, instrument creating or exercising a power of appointment or a power of
15 attorney or a dispositive, appointive or nominative instrument of any similar
16 type.

17 22. "Guardian" means a person who has qualified as a guardian of a
18 minor or incapacitated person pursuant to testamentary or court appointment
19 but excludes a person who is merely a guardian ad litem.

20 23. "GUARDIAN AD LITEM" INCLUDES A PERSON WHO IS APPOINTED PURSUANT TO
21 SECTION 14-1408.

22 ~~23.~~ 24. "Heirs", except as controlled by section 14-2711, means
23 persons, including the surviving spouse and the state, who are entitled under
24 the statutes of intestate succession to the property of a decedent.

25 ~~24.~~ 25. "Incapacitated person" has the same meaning prescribed in
26 section 14-5101.

27 ~~25.~~ 26. "Informal proceedings" means those proceedings conducted
28 without notice to interested persons by an officer of the court acting as a
29 registrar for probate of a will or appointment of a personal representative.

30 ~~26.~~ 27. "Interested person" includes any trustee, heir, devisee,
31 child, spouse, creditor, beneficiary, person holding a power of appointment
32 and other person who has a property right in or claim against a trust estate
33 or the estate of a decedent, ward or protected person. Interested person
34 also includes a person who has priority for appointment as personal
35 representative and other fiduciaries representing interested persons.
36 Interested person, as the term relates to particular persons, may vary from
37 time to time and must be determined according to the particular purposes of,
38 and matter involved in, any proceeding.

1 ~~27.~~ 28. "Issue" of a person means descendant as defined in this
2 section.

3 ~~28.~~ 29. "Joint tenants with the right of survivorship" and "community
4 property with the right of survivorship" includes co-owners of property held
5 under circumstances that entitle one or more to the whole of the property on
6 the death of the other or others but excludes forms of co-ownership
7 registration in which the underlying ownership of each party is in proportion
8 to that party's contribution.

9 ~~29.~~ 30. "Lease" includes any oil, gas or other mineral lease.

10 ~~30.~~ 31. "Letters" includes letters testamentary, letters of
11 guardianship, letters of administration and letters of conservatorship.

12 ~~31.~~ 32. "Minor" means a person who is under eighteen years of age.

13 ~~32.~~ 33. "Mortgage" means any conveyance, agreement or arrangement in
14 which property is encumbered or used as security. Mortgage does not include
15 leases or easements.

16 ~~33.~~ 34. "Nonresident decedent" means a decedent who was domiciled in
17 another jurisdiction at the time of the decedent's death.

18 ~~34.~~ 35. "Organization" means a corporation, limited liability company,
19 business trust, estate, trust, partnership, joint venture, association,
20 government or governmental subdivision or agency or any other legal or
21 commercial entity.

22 ~~35.~~ 36. "Parent" includes any person entitled to take, or who would be
23 entitled to take if the child died without a will, as a parent under this
24 title by intestate succession from the child whose relationship is in
25 question and excludes any person who is only a stepparent, foster parent or
26 grandparent.

27 ~~36.~~ 37. "Payor" means a trustee, insurer, business entity, employer,
28 government, governmental agency or subdivision or any other person who is
29 authorized or obligated by law or a governing instrument to make payments.

30 ~~37.~~ 38. "Person" means an individual or an organization.

31 ~~38.~~ 39. "Personal representative" includes executor, administrator,
32 successor personal representative, special administrator and persons who
33 perform substantially the same function under the law governing their status.
34 A general personal representative excludes a special administrator.

35 ~~39.~~ 40. "Petition" means a written request to the court for an order
36 after notice.

37 ~~40.~~ 41. "Proceeding" includes action at law and suit in equity.

38 ~~41.~~ 42. "Property" has the same meaning prescribed in section
39 14-10103.

1 ~~42.~~ 43. "Protected person" has the same meaning prescribed in section
2 14-5101.

3 ~~43.~~ 44. "Protective proceeding" has the same meaning prescribed in
4 section 14-5101.

5 ~~44.~~ 45. "Registrar" means the official of the court designated to
6 perform the functions of registrar as provided in section 14-1307.

7 ~~45.~~ 46. "Security" includes any note, stock, treasury stock, bond,
8 debenture, evidence of indebtedness, certificate of interest or participation
9 in an oil, gas or mining title or lease or in payments out of production
10 under that title or lease, collateral trust certificate, transferable share
11 or voting trust certificate and, in general, includes any interest or
12 instrument commonly known as a security, or any certificate of interest or
13 participation, any temporary or interim certificate, receipt or certificate
14 of deposit for, or any warrant or right to subscribe to or purchase, any of
15 these securities.

16 ~~46.~~ 47. "Separate property" means that property of a husband or wife
17 that is the spouse's separate property as defined in section 25-213.

18 ~~47.~~ 48. "Settlement", in reference to a decedent's estate, includes
19 the full process of administration, distribution and closing.

20 ~~48.~~ 49. "Special administrator" means a personal representative as
21 described by sections 14-3614 through 14-3618.

22 ~~49.~~ 50. "State" has the same meaning prescribed in section 14-10103.

23 ~~50.~~ 51. "Successor personal representative" means a personal
24 representative, other than a special administrator, who is appointed to
25 succeed a previously appointed personal representative.

26 ~~51.~~ 52. "Successors" means persons, other than creditors, who are
27 entitled to property of a decedent under a will or this title.

28 ~~52.~~ 53. "Supervised administration" refers to the proceedings
29 described in chapter 3, article 5 of this title.

30 ~~53.~~ 54. "Survive" means that a person has neither predeceased an
31 event, including the death of another person, nor is deemed to have
32 predeceased an event under section 14-2104 or 14-2702.

33 ~~54.~~ 55. "Testacy proceeding" means a proceeding to establish a will or
34 determine intestacy.

35 ~~55.~~ 56. "Testator" includes a person of either sex.

36 ~~56.~~ 57. "Trust" includes an express trust, private or charitable, with
37 any additions, wherever and however created. Trust also includes a trust
38 created or determined by judgment or decree under which the trust is to be
39 administered in the manner of an express trust. Trust excludes other

1 constructive trusts and excludes resulting trusts, conservatorship, personal
2 representatives, trust accounts, custodial arrangements pursuant to chapter
3 7, article 7 of this title, business trusts providing for certificates to be
4 issued to beneficiaries, common trust funds, voting trusts, security
5 arrangements, liquidation trusts and trusts for the primary purpose of paying
6 debts, dividends, interest, salaries, wages, profits, pensions or employee
7 benefits of any kind, trusts created by a city or town for the payment of
8 medical insurance, health care benefits or expenses, long-term or short-term
9 disability, self insurance reserves and similar programs administered by a
10 city or town, legal defense trusts and any arrangement under which a person
11 is nominee or escrowee for another.

12 ~~57.~~ 58. "Trustee" includes an original, additional or successor
13 trustee, whether or not appointed or confirmed by THE court.

14 ~~58.~~ 59. "Ward" has the same meaning prescribed in section 14-5101.

15 ~~59.~~ 60. "Will" includes a codicil and any testamentary instrument that
16 merely appoints an executor, revokes or revises another will, nominates a
17 guardian or expressly excludes or limits the right of an individual or class
18 to succeed to property of the decedent passing by intestate succession.

19 Sec. 3. Title 14, chapter 3, article 1, Arizona Revised Statutes, is
20 amended by adding section 14-3106, to read:

21 14-3106. Disclosure of compensation

22 A. WHEN A PERSONAL REPRESENTATIVE, AN ATTORNEY OR A GUARDIAN AD LITEM
23 WHO INTENDS TO SEEK COMPENSATION FROM THE DECEDENT'S ESTATE FIRST APPEARS IN
24 THE PROCEEDING, THAT PERSON MUST GIVE WRITTEN NOTICE OF THE BASIS OF THE
25 COMPENSATION BY FILING A STATEMENT WITH THE COURT AND PROVIDING A COPY OF
26 THAT STATEMENT TO ALL PARTIES AND TO ALL PERSONS WHO HAVE FILED A DEMAND FOR
27 NOTICE. THE STATEMENT MUST INCLUDE A GENERAL EXPLANATION OF THE COMPENSATION
28 ARRANGEMENT AND HOW THE COMPENSATION WILL BE COMPUTED.

29 B. IF DURING THE PENDENCY OF THE ACTION THE BASIS FOR COMPENSATION IS
30 CHANGED, THE PERSONAL REPRESENTATIVE, ATTORNEY OR GUARDIAN AD LITEM MUST
31 PROVIDE NOTICE OF THAT CHANGE TO ALL PERSONS ENTITLED TO NOTICE PURSUANT TO
32 THIS SECTION NOT LESS THAN THIRTY DAYS BEFORE THE CHANGE BECOMES EFFECTIVE.

33 Sec. 4. Title 14, chapter 5, article 1, Arizona Revised Statutes, is
34 amended by adding sections 14-5109 and 14-5110, to read:

35 14-5109. Disclosure of compensation; determining reasonableness
36 and necessity

37 A. WHEN A GUARDIAN, A CONSERVATOR, AN ATTORNEY OR A GUARDIAN AD LITEM
38 WHO INTENDS TO SEEK COMPENSATION FROM THE ESTATE OF A WARD OR PROTECTED
39 PERSON FIRST APPEARS IN THE PROCEEDING, THAT PERSON MUST GIVE WRITTEN NOTICE

1 OF THE BASIS OF THE COMPENSATION BY FILING A STATEMENT WITH THE COURT AND
2 PROVIDING A COPY OF THE STATEMENT TO ALL PERSONS ENTITLED TO NOTICE PURSUANT
3 TO SECTION 14-5309. THE STATEMENT MUST PROVIDE A GENERAL EXPLANATION OF THE
4 COMPENSATION ARRANGEMENT AND HOW THE COMPENSATION WILL BE COMPUTED. IF
5 DURING THE PENDENCY OF THE ACTION THE BASIS FOR COMPENSATION IS CHANGED, THE
6 GUARDIAN, CONSERVATOR, ATTORNEY OR GUARDIAN AD LITEM MUST PROVIDE NOTICE OF
7 THE CHANGE TO ALL PERSONS ENTITLED TO NOTICE PURSUANT TO THIS SUBSECTION NOT
8 LESS THAN THIRTY DAYS BEFORE THE CHANGE BECOMES EFFECTIVE.

9 B. COMPENSATION PAID FROM AN ESTATE TO A GUARDIAN, CONSERVATOR,
10 ATTORNEY OR GUARDIAN AD LITEM MUST BE REASONABLE AND NECESSARY. TO DETERMINE
11 THE REASONABLENESS AND NECESSITY OF COMPENSATION, THE COURT MUST CONSIDER THE
12 BEST INTEREST OF THE WARD OR PROTECTED PERSON AND THE FOLLOWING FACTORS TO
13 THE EXTENT APPLICABLE:

14 1. WHETHER THE SERVICES PROVIDED ANY BENEFIT OR ATTEMPTED TO ADVANCE
15 THE BEST INTEREST OF THE WARD, MINOR WARD, INCAPACITATED PERSON, PROTECTED
16 PERSON OR ESTATE.

17 2. THE EXTENT THE SERVICES WERE NEEDED OR WERE OF CORRESPONDING VALUE
18 TO THE WARD, MINOR WARD, INCAPACITATED PERSON OR PROTECTED PERSON.

19 3. THE USUAL AND CUSTOMARY FEES CHARGED IN THE RELEVANT PROFESSIONAL
20 COMMUNITY FOR THE SERVICES.

21 4. THE RISKS AND RESPONSIBILITIES ASSOCIATED WITH THE SERVICES.

22 5. THE SIZE AND COMPOSITION OF THE ESTATE.

23 6. THE CHARACTER OF THE WORK PERFORMED INCLUDING ITS DIFFICULTY,
24 INTRICACY, IMPORTANCE AND RESPONSIBILITY IMPOSED.

25 7. THE AMOUNT OF TIME REQUIRED.

26 8. THE SKILL AND EXPERTISE REQUIRED.

27 9. THE ABILITY, TRAINING, EDUCATION, EXPERIENCE, PROFESSIONAL STANDING
28 AND SKILL OF THE PROVIDER OF THE SERVICES.

29 10. THE SUCCESS, FAILURE AND RESULTS OF THE WORK PERFORMED.

30 11. THE EXTENT THAT THE SERVICES WERE PROVIDED IN THE MOST EFFICIENT
31 AND COST-EFFECTIVE MANNER FEASIBLE.

32 12. WHETHER THERE WAS APPROPRIATE DELEGATION TO PARAPROFESSIONALS.

33 13. THE FIDELITY OR DISLOYALTY DISPLAYED BY THE FIDUCIARY, ATTORNEY OR
34 PROFESSIONAL.

35 14. ANY ESTIMATE THE FIDUCIARY, ATTORNEY OR PROFESSIONAL HAS GIVEN OF
36 THE VALUE OF THE SERVICES.

37 15. ANY FEE GUIDELINES ADOPTED BY THE COURT.

1 C. THE PERSON SEEKING COMPENSATION HAS THE BURDEN OF PROVING THE
2 REASONABLENESS AND NECESSITY OF COMPENSATION AND EXPENSES SOUGHT.

3 14-5110. Claim deadline for compensation; definitions

4 A. IN A GUARDIANSHIP, CONSERVATORSHIP OR PROTECTIVE PROCEEDING, UNLESS
5 A LATER CLAIM DEADLINE IS ESTABLISHED IN ADVANCE BY THE COURT:

6 1. A CLAIM FOR COMPENSATION BY ATTORNEYS OR GUARDIANS AD LITEM WHO
7 INTEND TO BE PAID BY THE WARD OR PROTECTED PERSON'S ESTATE IS WAIVED IF NOT
8 SUBMITTED TO THE FIDUCIARY IN WRITING WITHIN FOUR MONTHS AFTER EITHER
9 RENDERING THE SERVICE, INCURRING THE COST, INITIAL APPOINTMENT OF THE
10 FIDUCIARY OR THE EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER. A CLAIM
11 IS DEEMED SUBMITTED ON DELIVERY, MAILING OR ELECTRONIC TRANSMISSION TO THE
12 FIDUCIARY. A SUBSEQUENT APPOINTMENT OF A SUBSTITUTE FIDUCIARY DOES NOT RENEW
13 THE CLAIM PERIOD.

14 2. A CLAIM FOR ACCRUED BUT UNPAID COMPENSATION INCURRED DURING A
15 REPORTING PERIOD BY THE GUARDIAN IS WAIVED IF NOT DISCLOSED IN THE GUARDIAN'S
16 REPORT, OR IN AN AMENDED REPORT FILED WITHIN THREE MONTHS AFTER THE DUE DATE
17 OF THE ANNUAL REPORT. AN AMENDMENT OF THE ANNUAL REPORT DOES NOT RENEW THE
18 CLAIM PERIOD. A CLAIM FOR ACCRUED BUT UNPAID COMPENSATION INCURRED BEFORE
19 THE EFFECTIVE DATE OF THIS SECTION MUST BE DISCLOSED NOT LATER THAN THE DUE
20 DATE FOR THE NEXT GUARDIAN'S REPORT AFTER THE EFFECTIVE DATE OF THIS SECTION
21 OR THE CLAIM IS WAIVED.

22 3. A CLAIM FOR ACCRUED BUT UNPAID COMPENSATION INCURRED DURING AN
23 ACCOUNTING PERIOD BY THE CONSERVATOR IS WAIVED IF NOT DISCLOSED IN THE
24 CONSERVATOR'S ACCOUNT, OR IN AN AMENDED ACCOUNT FILED WITHIN THREE MONTHS
25 AFTER THE DUE DATE OF THE ANNUAL ACCOUNT. AN AMENDMENT OF THE ANNUAL ACCOUNT
26 DOES NOT RENEW THE CLAIM PERIOD. A FIDUCIARY WHO IS BOTH A GUARDIAN AND
27 CONSERVATOR MUST REPORT A CLAIM FOR COMPENSATION AS REQUIRED BY A
28 CONSERVATOR. A CLAIM FOR ACCRUED BUT UNPAID COMPENSATION INCURRED BEFORE THE
29 EFFECTIVE DATE OF THIS SECTION MUST BE DISCLOSED NOT LATER THAN THE DUE DATE
30 FOR THE NEXT CONSERVATOR'S ACCOUNT AFTER THE EFFECTIVE DATE OF THIS SECTION
31 OR THE CLAIM IS WAIVED.

32 B. THIS SECTION DOES NOT APPLY TO AN ATTORNEY SEEKING COMPENSATION
33 BASED ON A CONTINGENCY FEE AGREEMENT.

34 C. FOR THE PURPOSES OF THIS SECTION:

35 1. "COMPENSATION" INCLUDES FEES, COSTS AND REIMBURSABLE EXPENSES.

36 2. "ESTATE" INCLUDES ANY ESTATE ESTABLISHED PURSUANT TO THIS TITLE
37 EXCEPT A TRUST UNLESS THE TRUST IS SUPERVISED BY THE COURT AND THE WARD OR
38 PROTECTED PERSON IS A BENEFICIARY.

1 C. On the filing of a petition, the court shall set a hearing date on
2 the issues of incapacity. Unless the alleged incapacitated person is
3 represented by independent counsel, the court shall appoint an attorney to
4 represent that person in the proceeding. The alleged incapacitated person
5 shall be interviewed by an investigator appointed by the court and shall be
6 examined by a physician, psychologist or registered nurse appointed by the
7 court. The investigator and the person conducting the examination shall
8 submit their reports in writing to the court. In addition to information
9 required under subsection D, the court may direct that either report include
10 other information the court deems appropriate. The investigator also shall
11 interview the person seeking appointment as guardian, visit the present place
12 of abode of the alleged incapacitated person and the place where it is
13 proposed that the person will be detained or reside if the requested
14 appointment is made and submit a report in writing to the court. The alleged
15 incapacitated person is entitled to be present at the hearing and to see or
16 hear all evidence bearing on that person's condition. The alleged
17 incapacitated person is entitled to be represented by counsel, to present
18 evidence, to cross-examine witnesses, including the court-appointed examiner
19 and investigator, and to trial by jury. The court may determine the issue at
20 a closed hearing if the alleged incapacitated person or that person's counsel
21 so requests.

22 D. A report filed pursuant to this section by a physician,
23 psychologist or registered nurse acting within that person's scope of
24 practice shall include the following information:

25 1. A specific description of the physical, psychiatric or
26 psychological diagnosis of the person.

27 2. A comprehensive assessment listing any functional impairments of
28 the alleged incapacitated person and an explanation of how and to what extent
29 these functional impairments may prevent that person from receiving or
30 evaluating information in making decisions or in communicating informed
31 decisions regarding that person.

32 3. An analysis of the tasks of daily living the alleged incapacitated
33 person is capable of performing without direction or with minimal direction.

34 4. A list of all medications the alleged incapacitated person is
35 receiving, the dosage of the medications and a description of the effects
36 each medication has on the person's behavior to the best of the declarant's
37 knowledge.

1 5. A prognosis for improvement in the alleged incapacitated person's
2 condition and a recommendation for the most appropriate rehabilitation plan
3 or care plan.

4 6. Other information the physician, psychologist or registered nurse
5 deems appropriate.

6 Sec. 6. Section 14-5304, Arizona Revised Statutes, is amended to read:
7 14-5304. Findings; order of appointment; limitations; filing

8 A. In exercising its appointment authority pursuant to this chapter,
9 the court shall encourage the development of maximum self-reliance and
10 independence of the incapacitated person.

11 B. The court may appoint a general or limited guardian as requested if
12 it is satisfied by clear and convincing evidence that:

13 1. The person for whom a guardian is sought is incapacitated.

14 2. The appointment is necessary to provide for the demonstrated needs
15 of the incapacitated person.

16 3. The person's needs cannot be met by less restrictive means,
17 including the use of appropriate technological assistance.

18 4. APPOINTMENT OF A PARTICULAR GUARDIAN IS IN THE WARD'S BEST INTEREST
19 CONSIDERING THE WARD'S NEEDS AND FINANCIAL RESOURCES.

20 C. In conformity with the evidence regarding the extent of the ward's
21 incapacity, the court may appoint a limited guardian and specify time limits
22 on the guardianship and limitations on the guardian's powers.

23 D. The guardian shall file an acceptance of appointment with the
24 appointing court.

25 Sec. 7. Section 14-5307, Arizona Revised Statutes, is amended to read:
26 14-5307. Substitution or resignation of guardian; termination

27 of incapacity

28 A. On petition of the ward or any person interested in ~~his~~ THE WARD'S
29 welfare, ~~OR ON THE COURT'S OWN INITIATIVE~~, the court may ~~remove~~ SUBSTITUTE a
30 guardian and appoint a successor if it is in the best ~~interests~~ INTEREST of
31 the ward. ~~THE COURT DOES NOT NEED TO FIND THAT THE GUARDIAN ACTED~~
32 ~~INAPPROPRIATELY TO FIND THAT THE SUBSTITUTION IS IN THE WARD'S BEST INTEREST.~~
33 On petition of the guardian, the court may accept a resignation and make any
34 other order ~~which~~ THAT may be appropriate.

35 ~~B. An order adjudicating incapacity may specify a minimum period, not~~
36 ~~exceeding one year, during which no petition for an adjudication that the~~
37 ~~ward is no longer incapacitated may be filed without special leave. Subject~~
38 ~~to this restriction, the ward or any person interested in his welfare may~~
39 ~~petition the court for an order that the ward is no longer incapacitated and~~

1 ~~for the removal or resignation of the guardian. A request for this order may~~
2 ~~be made by informal letter to the court or judge. Any person who knowingly~~
3 ~~interferes with the transmission of this request may be found in contempt of~~
4 ~~court.~~

5 B. ON ENTERING AN ORDER ADJUDICATING INCAPACITY AND AFTER CONSIDERING
6 THE REASONABLENESS OF THE POSITIONS TAKEN BY THE LITIGANTS, THE STRENGTH OF
7 THE EVIDENCE PRESENTED, INCLUDING THE PROBABILITY THAT THE WARD'S INCAPACITY
8 MAY BE REMOVED IN THE FUTURE, THE BENEFITS TO THE WARD, THE BEST INTEREST OF
9 THE WARD, THE EXPECTED COST TO THE WARD'S ESTATE AND OTHER RELEVANT FACTORS
10 DETERMINED BY THE COURT, AN ORDER ADJUDICATING INCAPACITY OR A SEPARATE ORDER
11 MAY SPECIFY A MINIMUM PERIOD, NOT EXCEEDING ONE YEAR, DURING WHICH A PETITION
12 FOR AN ADJUDICATION THAT THE WARD IS NO LONGER INCAPACITATED OR FOR REMOVAL
13 OR SUBSTITUTION OF A GUARDIAN MAY NOT BE FILED BY ANY PERSON OTHER THAN THE
14 WARD WITHOUT SPECIAL LEAVE OF THE COURT. THE WARD MAY PETITION THE COURT FOR
15 AN ORDER THAT THE WARD IS NO LONGER INCAPACITATED AND FOR THE REMOVAL OR
16 PETITION FOR SUBSTITUTION OF THE GUARDIAN AT ANY TIME. A REQUEST FOR THIS
17 ORDER MAY BE MADE BY INFORMAL LETTER TO THE COURT OR JUDGE. A PERSON WHO
18 KNOWINGLY INTERFERES WITH THE TRANSMISSION OF THIS REQUEST MAY BE FOUND IN
19 CONTEMPT OF COURT.

20 C. AN INTERESTED PERSON SHALL NOT FILE A PETITION FOR ADJUDICATION
21 THAT THE WARD IS NO LONGER INCAPACITATED EARLIER THAN ONE YEAR AFTER THE
22 ORDER ADJUDICATING INCAPACITY WAS ENTERED UNLESS THE COURT PERMITS IT TO BE
23 MADE ON THE BASIS OF AFFIDAVITS THAT THERE IS REASON TO BELIEVE THAT THE WARD
24 IS NO LONGER INCAPACITATED.

25 D. AN INTERESTED PERSON SHALL NOT FILE A PETITION TO SUBSTITUTE A
26 GUARDIAN EARLIER THAN ONE YEAR AFTER THE ORDER ADJUDICATING INCAPACITY WAS
27 ENTERED UNLESS THE COURT PERMITS IT TO BE MADE ON THE BASIS OF AFFIDAVITS
28 THAT THERE IS REASON TO BELIEVE THAT THE CURRENT GUARDIAN WILL ENDANGER THE
29 WARD'S PHYSICAL, MENTAL OR EMOTIONAL HEALTH IF NOT REMOVED.

30 E. TO MODIFY ANY TYPE OF GUARDIANSHIP ORDER, AN INTERESTED PERSON MUST
31 SUBMIT AN AFFIDAVIT OR VERIFIED PETITION SETTING FORTH DETAILED FACTS
32 SUPPORTING THE REQUESTED MODIFICATION AND SHALL GIVE NOTICE AND A COPY OF THE
33 AFFIDAVIT OR VERIFIED PETITION TO OTHER PARTIES TO THE PROCEEDING. THESE
34 OTHER PARTIES MAY FILE OPPOSING AFFIDAVITS. THE COURT SHALL DENY THE
35 PETITION UNLESS IT FINDS THAT ADEQUATE CAUSE FOR HEARING THE PETITION IS
36 ESTABLISHED BY THE FILED DOCUMENTS, IN WHICH CASE IT SHALL SET A DATE FOR
37 HEARING ON WHY THE REQUESTED MODIFICATION SHOULD NOT BE GRANTED.

1 ~~F.~~ F. Before removing a guardian, accepting the resignation of a
2 guardian or ordering that a ward's incapacity has terminated, the court,
3 following the same procedures to safeguard the rights of the ward as apply to
4 a petition for appointment of a guardian, may send an investigator to the
5 residence of the present guardian and to the place where the ward resides or
6 is detained to observe conditions and report in writing to the court.

7 Sec. 8. Section 14-5308, Arizona Revised Statutes, is amended to read:

8 14-5308. Court appointed investigators; qualifications; duties

9 A. An investigator appointed by the court under sections 14-5303 and
10 14-5407 shall have a background in law, nursing or social work and shall have
11 no personal interest in the proceedings.

12 B. The investigator shall conduct an investigation before the court
13 appoints a guardian or a conservator to allow the court to determine the
14 appropriateness of that appointment. As directed by the court, the
15 investigator shall conduct additional investigations to determine if it is
16 necessary to continue the appointment.

17 C. In conducting investigations the investigator shall:

18 1. Interview the alleged incapacitated person or the protected person
19 and the proposed guardian or conservator.

20 2. Visit the alleged incapacitated person's or the protected person's
21 current or proposed place of residence.

22 3. Interview nursing home or care home care givers and the home's
23 manager or administrator.

24 4. Transport the alleged incapacitated person or the protected person
25 as directed by the court.

26 D. In conducting interviews under this section the investigator may
27 examine any court record, medical record or financial record that relates to
28 the investigation.

29 E. As a condition of appointment as an investigator the court shall
30 require the applicant to furnish a full set of fingerprints to enable the
31 court to conduct a criminal background investigation to determine the
32 applicant's suitability. The court shall submit the completed fingerprint
33 card to the department of public safety. The department shall provide the
34 applicant's criminal history record information to the court pursuant to
35 section 41-1750. The department of public safety shall conduct criminal
36 history records checks pursuant to section 41-1750 and applicable federal
37 law. The department of public safety is authorized to submit fingerprint
38 card information to the federal bureau of investigation for a national
39 criminal history records check.

1 F. AN INVESTIGATOR APPOINTED BY THE COURT PURSUANT TO SECTIONS 14-5303
2 AND 14-5407, AND ANY PERSON OR ENTITY CLOSELY RELATED TO THE INVESTIGATOR,
3 SHALL NOT RECEIVE ADDITIONAL COMPENSATION OR BE APPOINTED AS A FIDUCIARY,
4 ATTORNEY OR PROFESSIONAL IN THE SAME CASE OR FOR THE SAME PERSON WHO WAS THE
5 SUBJECT OF THE PRIOR INVESTIGATION. FOR THE PURPOSES OF THIS SUBSECTION,
6 "CLOSELY RELATED" INCLUDES A SPOUSE, CHILD, PARENT, SIBLING, GRANDPARENT,
7 AUNT, UNCLE OR COUSIN OF THE INVESTIGATOR AND ANY BUSINESS, PARTNERSHIP,
8 CORPORATION, LIMITED LIABILITY COMPANY, TRUST OR OTHER ENTITY THAT THE
9 INVESTIGATOR OR A CLOSELY RELATED PERSON HAS A FINANCIAL INTEREST IN, IS
10 EMPLOYED BY OR RECEIVES COMPENSATION OR FINANCIAL BENEFIT FROM. THIS
11 SUBSECTION DOES NOT APPLY TO A PUBLIC FIDUCIARY.

12 Sec. 9. Section 14-5311, Arizona Revised Statutes, is amended to read:
13 14-5311. Who may be guardian; priorities

14 A. Any qualified person may be appointed guardian of an incapacitated
15 person, subject to the requirements of section 14-5106.

16 B. The court may consider the following persons for appointment as
17 guardian in the following order:

18 1. A guardian or conservator of the person or a fiduciary appointed or
19 recognized by the appropriate court of any jurisdiction in which the
20 incapacitated person resides.

21 2. An individual or corporation nominated by the incapacitated person
22 if the person has, in the opinion of the court, sufficient mental capacity to
23 make an intelligent choice.

24 3. The person nominated in the incapacitated person's most recent
25 durable power of attorney.

26 4. The spouse of the incapacitated person.

27 5. An adult child of the incapacitated person.

28 6. A parent of the incapacitated person, including a person nominated
29 by will or other writing signed by a deceased parent.

30 7. Any relative of the incapacitated person with whom the
31 incapacitated person has resided for more than six months before the filing
32 of the petition.

33 8. The nominee of a person who is caring for or paying benefits to the
34 incapacitated person.

35 9. If the incapacitated person is a veteran, the spouse of a veteran
36 or the minor child of a veteran, the department of veterans' services.

37 10. A fiduciary, INCLUDING A PUBLIC FIDUCIARY, OR A guardian, ~~or~~
38 conservator OR OTHER APPROPRIATE PERSON.

1 C. A person listed in subsection B, paragraph 4, 5, 6, 7 or 8 OF THIS
2 SECTION may nominate in writing a person to serve in that person's place.
3 With respect to persons who have equal priority, the court shall select the
4 one the court determines is best qualified to serve.

5 D. For good cause the court may pass over a person who has priority
6 and appoint a person who has a lower priority or no priority. FOR THE
7 PURPOSES OF THIS SUBSECTION, "GOOD CAUSE" INCLUDES THE ESTIMATED COST OF THE
8 FIDUCIARY'S FEE AND THE ABILITY OF THE WARD TO PAY THE FEE WITHOUT ADVERSELY
9 AFFECTING THE WARD'S FINANCIAL ABILITY TO PROVIDE FOR THE WARD'S REASONABLE
10 AND NECESSARY LIVING EXPENSES.

11 Sec. 10. Section 14-5314, Arizona Revised Statutes, is amended to
12 read:

13 14-5314. Compensation of appointees; definitions

14 A. If not otherwise compensated for services rendered, an
15 investigator, accountant, lawyer, physician, registered nurse, psychologist
16 or guardian who is appointed pursuant to this article, including an
17 independent lawyer representing the alleged incapacitated person pursuant to
18 section 14-5303, subsection C, is entitled to reasonable compensation from
19 the estate of the ward if the petition is granted, AS A CLAIM AGAINST THE
20 ESTATE, or from the petitioner if the petition is denied. PAYMENTS FROM THE
21 ESTATE SHALL NOT BE MADE TO THESE PERSONS UNTIL THE COURT ENTERS A FINANCIAL
22 ORDER AUTHORIZING PAYMENT.

23 B. If the petitioner withdraws the petition or if the petition is
24 dismissed because of the petitioner's failure to prosecute, the court may
25 order that the compensation of the investigator, accountant, lawyer,
26 physician, registered nurse, psychologist or guardian appointed pursuant to
27 this article, including an independent lawyer representing the alleged
28 incapacitated person pursuant to section 14-5303, subsection C, be paid
29 either from the ward's estate or by the petitioner, depending on the facts
30 and circumstances. In making this determination, the court may consider any
31 evidence it deems appropriate.

32 C. A lawyer who is employed by the guardian to represent the guardian
33 in the guardian's appointment or duties as guardian is entitled to reasonable
34 compensation from the ward's estate if the petition is granted. If the
35 petitioner withdraws the petition or if the court dismisses the petition
36 because of the petitioner's failure to prosecute, the court may order that
37 the compensation of the proposed guardian's lawyer be paid either from the
38 ward's estate or by the petitioner, depending on the facts and circumstances.

1 In making these determinations, the court may consider any evidence it deems
2 appropriate.

3 D. A lawyer who is employed by the petitioner to represent the
4 petitioner in seeking the appointment of a guardian is entitled to reasonable
5 compensation from the ward's estate if the petition is granted.

6 E. If the court compensates the provider of a service, the court may
7 charge the estate for the reasonable cost of the service and shall deposit
8 these monies in the probate fund pursuant to section 14-5433.

9 F. If compensation by the ward or the petitioner is not feasible the
10 court shall determine and pay reasonable compensation for services rendered
11 by an investigator, accountant, lawyer, physician, registered nurse,
12 psychologist or guardian appointed in a guardianship proceeding.

13 G. For the purposes of this section:

14 1. "Guardian" includes both a guardian and a temporary guardian.

15 2. "Petition" means a petition filed pursuant to section 14-5303,
16 subsection A or section 14-5310, subsection A.

17 3. "Ward" includes an alleged incapacitated person.

18 Sec. 11. Section 14-5404, Arizona Revised Statutes, is amended to
19 read:

20 14-5404. Original petition for appointment or protective order

21 A. The person allegedly in need of protection, any person who is
22 interested in that person's estate or affairs, including that person's
23 parent, guardian or custodian, or any person who would be adversely affected
24 by lack of effective management of that person's estate and affairs may
25 petition for the appointment of a conservator or for any other appropriate
26 protective order.

27 B. The petition shall set forth, to the extent known:

28 1. The interest of the petitioner.

29 2. The name, age, residence and address of the person allegedly in
30 need of protection.

31 3. The name, address and priority for appointment of the person whose
32 appointment is sought.

33 4. The name and address of the guardian, if any, of the person
34 allegedly in need of protection.

35 5. The name and address of the nearest relative of the person
36 allegedly in need of protection known to the petitioner.

37 6. A general statement of the estate of the person allegedly in need
38 of protection with an estimate of its value, including any compensation,
39 insurance, pension or allowance to which the person is entitled.

1 the laws and regulations governing the veterans administration, is prima
2 facie evidence of the necessity for appointment of a conservator.

3 D. The person allegedly in need of protection is entitled to be
4 present at the hearing, to be represented by counsel, to present evidence and
5 to cross-examine witnesses, including any court appointed examiner and
6 investigator. The issue may be determined at a closed hearing if the person
7 allegedly in need of protection or that person's counsel so requests.

8 E. After the hearing, ~~upon~~ ON a finding that a basis for the
9 appointment of a conservator or any other protective order has been
10 established AND THAT APPOINTMENT OF A PARTICULAR CONSERVATOR IS IN THE BEST
11 INTEREST OF THE PROTECTED PERSON CONSIDERING THAT PERSON'S NEEDS AND
12 FINANCIAL RESOURCES, the court shall make an appointment or other appropriate
13 protective order.

14 F. AFTER A CONSERVATOR HAS BEEN APPOINTED THE COURT MAY DISCHARGE THE
15 PROTECTED PERSON'S ATTORNEY IF THE COURT FINDS THAT THE COST OF THE CONTINUED
16 REPRESENTATION EXCEEDS THE PROBABLE BENEFIT TO THE PROTECTED PERSON. UNTIL
17 DISCHARGED, THE PROTECTED PERSON'S ATTORNEY HAS A CONTINUING DUTY TO REVIEW
18 THE CONSERVATOR'S INVENTORY, PROPOSED BUDGETS AND ACCOUNTS AND TO NOTIFY THE
19 COURT OF ANY OBJECTIONS OR CONCERNS THE ATTORNEY IDENTIFIES WITH RESPECT TO
20 THE CONSERVATOR'S INVENTORY, PROPOSED BUDGETS AND ACCOUNTS.

21 Sec. 13. Section 14-5410, Arizona Revised Statutes, is amended to
22 read:

23 14-5410. Who may be appointed conservator: priorities

24 A. The court may appoint an individual or a corporation, with general
25 power to serve as trustee, as conservator of the estate of a protected person
26 subject to the requirements of section 14-5106. The following are entitled
27 to consideration for appointment in the order listed:

28 1. A conservator, guardian of property or other like fiduciary
29 appointed or recognized by the appropriate court of any other jurisdiction in
30 which the protected person resides.

31 2. An individual or corporation nominated by the protected person if
32 the protected person is at least fourteen years of age and has, in the
33 opinion of the court, sufficient mental capacity to make an intelligent
34 choice.

35 3. The person nominated in the protected person's most recent durable
36 power of attorney.

37 4. The spouse of the protected person.

38 5. An adult child of the protected person.

1 6. A parent of the protected person, or a person nominated by the will
2 of a deceased parent.

3 7. Any relative of the protected person with whom the protected person
4 has resided for more than six months before the filing of the petition.

5 8. The nominee of a person who is caring for or paying benefits to the
6 protected person.

7 9. If the protected person is a veteran, the spouse of a veteran or
8 the minor child of a veteran, the department of veterans' services.

9 10. A fiduciary, INCLUDING A PUBLIC FIDUCIARY, OR A guardian, ~~or~~
10 conservator OR OTHER APPROPRIATE PERSON.

11 B. A person listed in subsection A, paragraph 4, 5, 6, 7 or 8 of this
12 section may nominate in writing a person to serve in that person's place.
13 With respect to persons having equal priority, the court shall select the one
14 it determines is best qualified to serve. The court, for good cause, may
15 pass over a person having priority and appoint a person having a lower
16 priority or no priority. FOR THE PURPOSES OF THIS SUBSECTION, "GOOD CAUSE"
17 INCLUDES THE ESTIMATED COST OF THE FIDUCIARY AND OTHER PROFESSIONAL FEES AND
18 THE ABILITY OF THE PROTECTED PERSON TO PAY THE FEE WITHOUT ADVERSELY
19 AFFECTING THE PROTECTED PERSON'S FINANCIAL ABILITY TO PROVIDE FOR THE
20 PROTECTED PERSON'S REASONABLE AND NECESSARY LIVING EXPENSES.

21 Sec. 14. Section 14-5414, Arizona Revised Statutes, is amended to
22 read:

23 14-5414. Compensation and expenses: definitions

24 A. If not otherwise compensated for services rendered, any
25 investigator, accountant, lawyer, physician, registered nurse, psychologist
26 or conservator who is appointed in a protective proceeding, including ~~a~~ AN
27 INDEPENDENT lawyer ~~of~~ REPRESENTING the person alleged to be in need of
28 protection pursuant to section 14-5407, subsection B, is entitled to
29 reasonable compensation from the estate of the protected person if the
30 petition is granted, AS A CLAIM AGAINST THE ESTATE, or from the petitioner if
31 the petition is denied. IF THE COURT ORDERS A BUDGET PURSUANT TO SECTION
32 14-5418.01, PAYMENTS FROM THE ESTATE SHALL NOT BE MADE TO THESE PERSONS UNTIL
33 THE COURT INFORMALLY APPROVES OR FORMALLY APPROVES, DISAPPROVES OR MODIFIES
34 THE INITIAL OPERATING BUDGET.

35 B. If the petitioner withdraws the petition or if the court dismisses
36 the petition because of the petitioner's failure to prosecute, the court may
37 order that the compensation of the investigator, accountant, lawyer,
38 physician, registered nurse, psychologist or conservator who is appointed
39 pursuant to this article, including a lawyer of the person alleged to be in

1 need of protection pursuant to section 14-5407, subsection B, be paid either
2 from the protected person's estate or by the petitioner, depending on the
3 facts and circumstances. In making these determinations, the court may
4 consider any evidence it deems appropriate.

5 C. A lawyer who is employed by the conservator to represent the
6 conservator in the conservator's appointment or duties as conservator is
7 entitled to reasonable compensation from the estate if the petition is
8 granted. If the petitioner withdraws the petition or if the petition is
9 dismissed because of the petitioner's failure to prosecute, the court may
10 order that the compensation of the proposed conservator's lawyer be paid
11 either from the protected person's estate or by the petitioner, depending on
12 the facts and circumstances. In determining which party shall pay, the court
13 may consider any evidence it deems appropriate.

14 D. A lawyer who is employed by the petitioner to represent the
15 petitioner in seeking the appointment of a conservator is entitled to
16 reasonable compensation from the protected person's estate if the petition is
17 granted.

18 E. If the court pays for any of these services it may charge the
19 estate for reasonable compensation. The clerk shall deposit monies it
20 collects in the probate fund pursuant to section 14-5433.

21 F. Compensation payable to the department of veterans' services, when
22 acting as a conservator of the estate of a veteran or a veteran's surviving
23 spouse or minor child or the incapacitated spouse of a protected veteran,
24 shall not be more than five per cent of the amount of monies received during
25 the period covered by the conservatorship. A copy of the petition and notice
26 of hearing shall be given to the proper officer of the veterans
27 administration in the manner provided in the case of any hearing on a
28 guardian's account or any other pleading. A commission or compensation is
29 not allowed on the monies or other assets received from a prior conservator
30 or on the amount received from liquidation of loans or other investments.

31 G. For the purposes of this section:

32 1. "Conservator" includes a conservator, temporary conservator or
33 special conservator.

34 2. "Petition" means a petition filed pursuant to section 14-5401.01,
35 subsection A or section 14-5404, subsection A.

36 3. "Protected person" includes a person who is alleged to be in need
37 of protection.

38 Sec. 15. Repeal

39 Section 14-5415, Arizona Revised Statutes, is repealed.

1 Sec. 16. Title 14, chapter 5, article 4, Arizona Revised Statutes, is
2 amended by adding a new section 14-5415, to read:

3 14-5415. Resignation or substitution of conservator

4 A. ON PETITION OF THE PROTECTED PERSON OR ANY PERSON INTERESTED IN THE
5 PROTECTED PERSON'S WELFARE, OR ON THE COURT'S OWN INITIATIVE, THE COURT MAY
6 SUBSTITUTE A CONSERVATOR AND APPOINT A SUCCESSOR IF IT IS IN THE BEST
7 INTEREST OF THE PROTECTED PERSON. THE COURT DOES NOT NEED TO FIND THAT THE
8 CONSERVATOR ACTED INAPPROPRIATELY TO FIND THAT THE SUBSTITUTION IS IN THE
9 PROTECTED PERSON'S BEST INTEREST. ON PETITION OF THE CONSERVATOR, THE COURT
10 MAY ACCEPT A RESIGNATION AND MAKE ANY OTHER ORDER THAT MAY BE APPROPRIATE.

11 B. ON ENTERING A PROTECTIVE ORDER, AND AFTER CONSIDERING THE
12 REASONABLENESS OF THE POSITIONS TAKEN BY THE LITIGANTS, THE STRENGTH OF THE
13 EVIDENCE PRESENTED, INCLUDING THE PROBABILITY THAT THE NEED FOR PROTECTION OF
14 THE PROTECTED PERSON MAY BE REMOVED IN THE FUTURE, THE BENEFITS TO AND BEST
15 INTEREST OF THE PROTECTED PERSON, THE EXPECTED COST TO THE PROTECTED PERSON'S
16 ESTATE AND OTHER RELEVANT FACTORS DETERMINED BY THE COURT, A PROTECTIVE ORDER
17 OR SEPARATE ORDER MAY SPECIFY A MINIMUM PERIOD, NOT EXCEEDING ONE YEAR,
18 DURING WHICH A PETITION FOR AN ADJUDICATION THAT THE PROTECTED PERSON IS NO
19 LONGER IN NEED OF PROTECTION OR FOR SUBSTITUTION OF A CONSERVATOR MAY NOT BE
20 FILED BY ANY PERSON OTHER THAN THE PROTECTED PERSON WITHOUT SPECIAL LEAVE OF
21 THE COURT. THE PROTECTED PERSON MAY PETITION THE COURT FOR AN ORDER THAT THE
22 PROTECTED PERSON IS NO LONGER IN NEED OF PROTECTION AND FOR THE REMOVAL OF
23 THE CONSERVATOR OR PETITION FOR SUBSTITUTION OF THE CONSERVATOR AT ANY TIME.
24 A REQUEST FOR THIS ORDER MAY BE MADE BY INFORMAL LETTER TO THE COURT OR
25 JUDGE. A PERSON WHO KNOWINGLY INTERFERES WITH THE TRANSMISSION OF THIS
26 REQUEST MAY BE FOUND IN CONTEMPT OF COURT.

27 C. AN INTERESTED PERSON SHALL NOT FILE A PETITION FOR ADJUDICATION
28 THAT THE PROTECTED PERSON IS NO LONGER IN NEED OF PROTECTION EARLIER THAN ONE
29 YEAR AFTER THE ENTRY OF A PROTECTIVE ORDER UNLESS THE COURT PERMITS THE
30 PERSON TO FILE THE PETITION ON THE BASIS OF AFFIDAVITS THAT THERE IS REASON
31 TO BELIEVE THAT THE PROTECTED PERSON IS NO LONGER IN NEED OF PROTECTION.

32 D. AN INTERESTED PERSON SHALL NOT FILE A PETITION TO SUBSTITUTE A
33 CONSERVATOR EARLIER THAN ONE YEAR AFTER THE ENTRY OF A PROTECTIVE ORDER,
34 UNLESS THE COURT PERMITS THE PERSON TO FILE THE PETITION ON THE BASIS OF
35 AFFIDAVITS THAT THERE IS REASON TO BELIEVE THAT THE CURRENT CONSERVATOR WILL
36 ENDANGER THE PROTECTED PERSON'S ESTATE IF THE CONSERVATOR IS NOT SUBSTITUTED.

37 E. TO MODIFY ANY TYPE OF CONSERVATORSHIP ORDER AN INTERESTED PERSON
38 MUST SUBMIT AN AFFIDAVIT OR VERIFIED PETITION SETTING FORTH DETAILED FACTS
39 SUPPORTING THE REQUESTED MODIFICATION AND SHALL GIVE NOTICE, WITH A COPY OF

1 THE AFFIDAVIT OR VERIFIED PETITION, TO OTHER PARTIES TO THE PROCEEDING.
2 THESE PARTIES MAY FILE OPPOSING AFFIDAVITS. THE COURT SHALL DENY THE
3 PETITION UNLESS IT FINDS THAT ADEQUATE CAUSE FOR HEARING THE PETITION IS
4 ESTABLISHED BY THE FILED DOCUMENTS, IN WHICH CASE IT SHALL SET A DATE FOR
5 HEARING ON WHY THE REQUESTED MODIFICATION SHOULD NOT BE GRANTED.

6 F. BEFORE IT ORDERS THAT NEED FOR PROTECTION NO LONGER EXISTS,
7 SUBSTITUTING A CONSERVATOR OR ACCEPTING THE RESIGNATION OF A CONSERVATOR, THE
8 COURT, FOLLOWING THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS OF THE PROTECTED
9 PERSON THAT APPLY TO A PETITION FOR APPOINTMENT OF A CONSERVATOR, MAY REQUIRE
10 APPROPRIATE ACCOUNTS AND ENTER APPROPRIATE ORDERS TO PRESERVE AND PROTECT THE
11 ASSETS OF THE ESTATE, TO REQUIRE REIMBURSEMENT OR PAYMENT AS NEEDED AND TO
12 TRANSFER ASSETS OR TITLE THERETO TO APPROPRIATE SUCCESSORS.

13 Sec. 17. Section 14-5418, Arizona Revised Statutes, is amended to
14 read:

15 14-5418. Inventory and records

16 A. Within ~~ninety~~ SIXTY days after appointment, a conservator shall
17 prepare and file with the court an inventory of the ~~estate owned by~~ ASSETS
18 AND LIABILITIES OF the protected person on the date of the conservator's
19 appointment, listing it with reasonable detail and indicating the fair market
20 value OF EACH ASSET AND THE AMOUNT OF EACH LIABILITY as of the date of
21 appointment ~~of each item listed~~.

22 B. The conservator shall provide a copy of the inventory to the
23 protected person if the protected person can be located, has attained ~~the age~~
24 ~~of~~ fourteen years OF AGE, and has sufficient mental capacity to understand
25 these matters, and to any parent or guardian with whom the protected person
26 resides. The conservator shall keep suitable records of the conservator's
27 administration and exhibit the records on request of any interested person.

28 C. UNLESS OTHERWISE ORDERED BY THE COURT, A PERSON WHO IS ENTITLED TO
29 NOTICE OF THE CONSERVATOR'S ANNUAL ACCOUNT PURSUANT TO SECTION 14-5419,
30 SUBSECTION C MAY REQUEST IN WRITING THAT THE CONSERVATOR:

31 1. ALLOW THE PERSON TO VIEW THE PROTECTED PERSON'S FINANCIAL RECORDS,
32 THE CONSERVATOR'S BILLING STATEMENTS, THE BILLING STATEMENTS OF THE
33 CONSERVATOR'S ATTORNEY OR OTHER RECORDS RELATED TO THE PROTECTED PERSON UNDER
34 THE CONSERVATOR'S CONTROL.

35 2. PROVIDE THE REQUESTING PERSON WITH COPIES OF THESE DOCUMENTS.
36 UNLESS OTHERWISE ORDERED BY THE COURT, THE CONSERVATOR SHALL ALLOW THE PERSON
37 TO VIEW OR PROVIDE COPIES OF THE REQUESTED DOCUMENTS TO THE PERSON AS SOON AS
38 PRACTICABLE BUT NO LATER THAN THIRTY DAYS AFTER RECEIVING THE REQUEST.

1 Sec. 18. Title 14, chapter 5, article 4, Arizona Revised Statutes, is
2 amended by adding section 14-5418.01, to read:

3 14-5418.01. Annual operating budgets

4 A. IF ORDERED BY THE COURT, NOT LATER THAN SIXTY DAYS AFTER THE
5 CONSERVATOR'S APPOINTMENT AND ANNUALLY ON THE ANNIVERSARY OF THE
6 CONSERVATOR'S APPOINTMENT, THE CONSERVATOR, AFTER CONSULTING WITH THE
7 PROTECTED PERSON'S ATTORNEY AND ANY GUARDIAN AD LITEM FOR THE PROTECTED
8 PERSON, MUST PREPARE AND FILE WITH THE COURT A PROPOSED ANNUAL OPERATING
9 BUDGET FOR THE ADMINISTRATION OF THE CONSERVATORSHIP ESTATE. THE FIRST
10 ANNUAL OPERATING BUDGET MUST COVER THE DATE OF THE CONSERVATOR'S INITIAL
11 APPOINTMENT THROUGH AND INCLUDING THE END DATE OF THE CONSERVATOR'S FIRST
12 ACCOUNTING PERIOD.

13 B. THE PROPOSED ANNUAL OPERATING BUDGET REQUIRED BY THIS SECTION MUST
14 CONTAIN THOSE CATEGORIES, INCLUDING CATEGORIES FOR FIDUCIARY FEES AND
15 ATTORNEY FEES, AS PRESCRIBED BY THE SUPREME COURT.

16 C. AT THE TIME THE CONSERVATOR FILES THE ANNUAL OPERATING BUDGET WITH
17 THE COURT, THE CONSERVATOR MUST SIMULTANEOUSLY PROVIDE A COPY OF THE PROPOSED
18 ANNUAL OPERATING BUDGET TO ALL PERSONS ENTITLED TO NOTICE OF THE
19 CONSERVATOR'S ACCOUNTS PURSUANT TO SECTION 14-5419, SUBSECTION C.

20 D. THE CONSERVATOR MUST FILE A PROPOSED AMENDMENT TO THE OPERATING
21 BUDGET WITH THE COURT AND MUST PROVIDE A COPY OF THE PROPOSED AMENDMENT TO
22 ALL PERSONS ENTITLED TO A COPY OF THE PROPOSED ANNUAL OPERATING BUDGET WITHIN
23 THIRTY DAYS AFTER REASONABLY PROJECTING THAT THE EXPENDITURES FOR ANY
24 SPECIFIC CATEGORY WILL EXCEED THE APPROVED BUDGET BY MORE THAN TEN PER CENT
25 OR TWO THOUSAND DOLLARS, WHICHEVER IS GREATER, UNLESS A DIFFERENT THRESHOLD
26 FOR AMENDMENT IS PRESCRIBED BY THE COURT.

27 E. UNLESS OTHERWISE ORDERED BY THE COURT, A PROPOSED ANNUAL OPERATING
28 BUDGET, INCLUDING A PROPOSED AMENDMENT, IS DEEMED INFORMALLY APPROVED AS
29 FILED UNLESS WITHIN FOURTEEN DAYS AFTER THE FILING DATE THE COURT SETS THE
30 PROPOSED BUDGET OR PROPOSED AMENDMENT FOR HEARING OR AN INTERESTED PERSON
31 FILES WITH THE COURT A WRITTEN OBJECTION SPECIFYING THE CATEGORIES THAT ARE
32 BEING CHALLENGED AND THE BASIS OF THE CHALLENGE. ON THE FILING OF A WRITTEN
33 OBJECTION, THE COURT MAY OVERRULE ALL OR PART OF THE OBJECTION, ORDER A REPLY
34 BY THE CONSERVATOR OR SET A HEARING ON THE REMAINING OBJECTION. FOLLOWING A
35 REPLY OR HEARING, THE COURT MAY FORMALLY APPROVE, DISAPPROVE OR MODIFY THE
36 PROPOSED BUDGET OR PROPOSED AMENDMENT IF THE COURT DETERMINES THAT THIS IS IN
37 THE PROTECTED PERSON'S BEST INTEREST. AT A HEARING, THE CONSERVATOR HAS THE
38 BURDEN TO PROVE THAT THE CONTESTED BUDGET ITEM IS REASONABLE, NECESSARY AND
39 IN THE BEST INTEREST OF THE PROTECTED PERSON.

1 F. IF THE COURT FINDS IT IS IN THE BEST INTEREST OF THE PROTECTED
2 PERSON, THE COURT MAY IMPOSE RESTRICTIONS ON THE POWERS, DUTIES AND
3 EXPENDITURES OF THE CONSERVATOR DURING ANY PERIOD BEFORE A BUDGET IS FORMALLY
4 OR INFORMALLY APPROVED.

5 G. IF THE COURT FINDS IT IS IN THE BEST INTEREST OF THE PROTECTED
6 PERSON, THE COURT MAY WAIVE THE REQUIREMENT FOR AN INITIAL OR SUBSEQUENT
7 OPERATING BUDGET.

8 Sec. 19. Section 14-5419, Arizona Revised Statutes, is amended to
9 read:

10 14-5419. Accounts; definition

11 A. Except as provided pursuant to subsection F of this section, every
12 conservator must account to the court for the administration of the estate
13 not less than annually on the anniversary date of qualifying as conservator
14 and also on resignation or removal, and on termination of the protected
15 person's minority or disability, except that for good cause shown on the
16 application of an interested person, the court may relieve the conservator of
17 filing annual or other accounts by an order entered in the minutes.

18 B. IF DURING THE PERIOD COVERED BY THE CONSERVATOR'S ACCOUNT THE
19 EXPENDITURES IN A CATEGORY EXCEED THE APPROVED BUDGET FOR THAT CATEGORY BY
20 MORE THAN THE THRESHOLD FOR AMENDMENT, THE EXPENDITURES IN EXCESS OF THE
21 THRESHOLD FOR AMENDMENT ARE PRESUMED NOT REASONABLE OR NECESSARY. IF THE
22 EXPENDITURES IN A CATEGORY DO NOT EXCEED THE APPROVED BUDGET FOR THAT
23 CATEGORY BY MORE THAN THE THRESHOLD FOR AMENDMENT, THE EXPENDITURES FOR THAT
24 CATEGORY ARE PRESUMED REASONABLE AND NECESSARY. THE PRESUMPTION PRESCRIBED
25 IN THIS SUBSECTION MAY BE REBUTTED BY A PREPONDERANCE OF THE EVIDENCE. FOR
26 THE PURPOSES OF THIS SUBSECTION, "THRESHOLD FOR AMENDMENT" MEANS TEN PER CENT
27 OF THE EXPENDITURE CATEGORY OR TWO THOUSAND DOLLARS, WHICHEVER IS GREATER,
28 UNLESS A DIFFERENT THRESHOLD IS SET BY THE COURT.

29 ~~B.~~ C. The court may take any appropriate action on filing of annual
30 or other accounts. In connection with any account, the court may require a
31 conservator to submit to a physical check of the estate in the conservator's
32 control, to be made in any manner the court may specify.

33 ~~C.~~ D. An adjudication allowing an intermediate or final account can
34 be made only on petition, notice and a hearing. Notice must be given to:

- 35 1. The protected person.
36 2. A guardian of the protected person if one has been appointed,
37 unless the same person is serving as both guardian and conservator.

1 3. If no guardian has been appointed or the same person is serving as
2 both guardian and conservator, a spouse or, if the spouse is the conservator,
3 there is no spouse or the spouse is incapacitated, a parent or an adult child
4 who is not serving as a conservator.

5 4. A representative appointed for the protected person, if the court
6 determines in accordance with section 14-1408 that representation of the
7 interest of the protected person would otherwise be inadequate.

8 ~~D.~~ E. An order, made on notice and a hearing, allowing an
9 intermediate account of a conservator, adjudicates as to the conservator's
10 liabilities concerning the matters considered in connection therewith. An
11 order, made on notice and a hearing, allowing a final account adjudicates as
12 to all previously unsettled liabilities of the conservator to the protected
13 person or the protected person's successors relating to the conservatorship.

14 ~~E.~~ F. In any case in which the estate consists, in whole or in part,
15 of benefits paid by the veterans administration to the conservator or the
16 conservator's predecessor for the benefit of the protected person, the
17 veterans administration office that has jurisdiction over the area is
18 entitled to a copy of any account filed under ~~chapter 5, article 4 of this~~
19 ~~title~~ ARTICLE. Each year in which an account is not filed with the court,
20 the conservator, if requested, shall submit an account to the appropriate
21 veterans administration office. If an account is not submitted as requested,
22 or if it is found unsatisfactory by the veterans administration, the court on
23 receipt of notice of the deficiency shall require the conservator to
24 immediately file an account with the court promptly.

25 ~~F.~~ G. Unless prohibited by order of the court, the conservator may
26 file with the court, in lieu of a final account, a verified statement stating
27 that:

28 1. The protected person has died. The conservator shall attach a
29 certified copy of the protected person's death certificate to the statement.

30 2. The protected person's successors have all waived in writing their
31 right to have the conservator submit to the court a final account of the
32 conservator's administration of the protected person's estate. The
33 conservator shall attach the originals of the written waivers to the
34 statement.

35 3. The conservator has delivered a copy of a closing statement to the
36 protected person's successors. The conservator shall attach a copy of the
37 closing statement to the statement.

1 ~~G~~. H. The closing statement that is to be delivered to the protected
2 person's successors shall be a verified statement stating the following:

3 1. The protected person has died and the date of the person's death.

4 2. The persons receiving the closing statement have a right to have
5 the conservator submit to the court a final account of the conservator's
6 administration of the protected person's estate.

7 3. If the person wishes to have the final accounting reviewed by the
8 court, the person should not sign a waiver that waives this right.

9 4. If all persons receiving the closing statement choose to waive the
10 right to have the conservator submit to the court a final account, the final
11 account will not be reviewed by the court.

12 5. A list of the property owned by the protected person, as of the
13 date of the protected person's death, is attached to the closing statement
14 and that the list states the fair market value of the property as of the date
15 of the protected person's death.

16 6. The conservator, by the closing statement, shall inform the
17 protected person's successors that if they waive court review of the
18 conservator's final account, the conservatorship will be terminated, the
19 conservator will be discharged from all liabilities relating to the
20 conservatorship, the bond or other security posted by the conservator will be
21 exonerated and any restrictions previously imposed on the assets of the
22 conservatorship will be lifted.

23 ~~H~~. I. The conservator shall file an affidavit with the court that
24 states that the closing statement was sent or delivered to the protected
25 person's successors on a date before the date that the protected person's
26 successors signed the written waiver.

27 ~~I~~. J. Unless proceedings are pending against the conservator, on the
28 filing of the statement described in subsection ~~F~~ G of this section and the
29 affidavit described in subsection ~~H~~ I of this section, the court shall enter
30 an order terminating the conservatorship, discharging the conservator from
31 all liabilities relating to the conservatorship, exonerating and releasing
32 any bond or other security posted by the conservator and releasing any
33 restrictions previously imposed on the assets of the conservatorship.

34 ~~J~~. K. For the purposes of this section, "protected person's
35 successors" means:

36 1. The personal representative of the protected person's estate if the
37 personal representative and the conservator are not the same person.

1 2. If the conservator and the personal representative of the protected
2 person's estate are the same person and if the protected person died
3 intestate, the protected person's heirs.

4 3. If the conservator and the personal representative of the protected
5 person's estate are the same person and if the protected person died testate,
6 the devisees under the protected person's will that has been admitted to
7 probate."

8 Amend title to conform

LINDA GRAY

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