

SECOND REGULAR SESSION

HOUSE BILL NO. 2778

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEELY.

6522H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 1.020, 115.133, 115.195, 190.600, 402.203, 404.007, 404.410, 404.703, 404.727, 442.035, 451.300, 452.314, 456.1-103, 456.4-401, 456.4-402, 456.4A-411, 473.092, 473.657, 473.743, 473.748, 475.010, 475.011, 475.015, 475.016, 475.020, 475.024, 475.025, 475.030, 475.035, 475.040, 475.045, 475.046, 475.050, 475.055, 475.060, 475.061, 475.062, 475.065, 475.070, 475.075, 475.077, 475.078, 475.079, 475.080, 475.081, 475.082, 475.083, 475.085, 475.091, 475.092, 475.093, 475.094, 475.095, 475.097, 475.100, 475.105, 475.110, 475.115, 475.120, 475.121, 475.123, 475.125, 475.130, 475.132, 475.134, 475.140, 475.145, 475.150, 475.155, 475.160, 475.190, 475.200, 475.205, 475.210, 475.213, 475.230, 475.235, 475.240, 475.245, 475.250, 475.255, 475.260, 475.265, 475.265, 475.270, 475.275, 475.276, 475.280, 475.290, 475.295, 475.300, 475.305, 475.310, 475.315, 475.320, 475.322, 475.325, 475.330, 475.335, 475.336, 475.337, 475.338, 475.339, 475.340, 475.345, 475.350, 475.355, 475.370, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, 475.555, and 565.070, RSMo, sections 302.010 and 302.060 as enacted by senate bill no. 254, ninety-eighth general assembly, first regular session, section 302.010 as enacted by house bill no. 1402, ninety-sixth general assembly, second regular session, and section 302.060 as enacted by senate bill no. 23, ninety-seventh general assembly, first regular session, and to enact in lieu thereof one hundred seventy-seven new sections relating to the probate code, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

Section A. Sections 1.020, 115.133, 115.195, 190.600, 402.203, 404.007, 404.410, 2 404.703, 404.727, 442.035, 451.300, 452.314, 456.1-103, 456.4-401, 456.4-402, 456.4A-411, 3 473.092, 473.657, 473.743, 473.748, 475.010, 475.011, 475.015, 475.016, 475.020, 475.024, 4 475.025, 475.030, 475.035, 475.040, 475.045, 475.046, 475.050, 475.055, 475.060, 475.061, 5 475.062, 475.065, 475.070, 475.075, 475.077, 475.078, 475.079, 475.080, 475.081, 475.082, 6 475.083, 475.085, 475.091, 475.092, 475.093, 475.094, 475.095, 475.097, 475.100, 475.105, 7 475.110, 475.115, 475.120, 475.121, 475.123, 475.125, 475.130, 475.132, 475.134, 475.140, 8 475.145, 475.150, 475.155, 475.160, 475.190, 475.200, 475.205, 475.210, 475.213, 475.230, 9 475.235, 475.240, 475.245, 475.250, 475.255, 475.260, 475.265, 475.265, 475.270, 475.275, 10 475.276, 475.280, 475.290, 475.295, 475.300, 475.305, 475.310, 475.315, 475.320, 475.322, 11 475.325, 475.330, 475.335, 475.336, 475.337, 475.338, 475.339, 475.340, 475.345, 475.350, 12 475.355, 475.370, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 13 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 14 475.542, 475.543, 475.544, 475.551, 475.552, 475.555, and 565.070, RSMo, sections 302.010 15 and 302.060 as enacted by senate bill no. 254, ninety-eighth general assembly, first regular 16 session, section 302.010 as enacted by house bill no. 1402, ninety-sixth general assembly, second 17 regular session, and section 302.060 as enacted by senate bill no. 23, ninety-seventh general 18 assembly, first regular session, are repealed and one hundred seventy-seven new sections enacted 19 in lieu thereof, to be known as sections 1.020, 115.133, 115.195, 190.600, 302.010, 302.060, 20 402.203, 404.007, 404.410, 404.703, 404.727, 442.035, 451.300, 452.314, 456.1-103, 456.4-401, 21 456.4-402, 456.4A-411, 473.092, 473.657, 473.743, 473.748, 475.700, 475.702, 475.704, 22 475.706, 475.708, 475.710, 475.712, 475.714, 475.716, 475.718, 475.720, 475.722, 475.724, 23 475.730, 475.732, 475.734, 475.736, 475.738, 475.740, 475.742, 475.744, 475.746, 475.748, 24 475.750, 475.752, 475.754, 475.756, 475.758, 475.762, 475.764, 475.766, 475.768, 475.770, 25 475.772, 475.774, 475.776, 475.778, 475.780, 475.782, 475.784, 475.786, 475.788, 475.790, 26 475.792, 475.794, 475.796, 475.798, 475.800, 475.802, 475.804, 475.806, 475.808, 475.810, 27 475.812, 475.814, 475.816, 475.818, 475.820, 475.822, 475.826, 475.828, 475.830, 475.832, 28 475.834, 475.838, 475.840, 475.842, 475.844, 475.846, 475.848, 475.850, 475.854, 475.856, 29 475.858, 475.860, 475.862, 475.864, 475.866, 475.868, 475.870, 475.872, 475.874, 475.876, 30 475.878, 475.880, 475.882, 475.884, 475.886, 475.888, 475.890, 475.892, 475.894, 475.896, 31 475.898, 475.900, 475.902, 475.904, 475.906, 475.908, 475.910, 475.912, 475.914, 475.916, 32 475.918, 475.920, 475.922, 475.924, 475.926, 475.930, 475.932, 475.934, 475.936, 475.938, 33 475.940, 475.942, 475.944, 475.946, 475.948, 475.950, 475.952, 475.954, 475.970, 475.971, 34 475.972, 475.973, 475.974, 475.975, 475.985, 475.986, 475.987, 475.988, 475.989, 475.990, 35 475.991, 475.992, 475.993, 475.994, 475.995, 475.1005, 475.1006, 475.1007, 475.1008,

36 475.1015, 475.1016, 475.1017, 475.1030, 475.1032, 475.1034, 475.1036, 475.1038, 475.1040,
37 475.1042, 475.1044, 475.1046, and 565.070, to read as follows:

1.020. As used in the statutory laws of this state, unless otherwise specially provided or
2 unless plainly repugnant to the intent of the legislature or to the context thereof:

3 (1) "Certified mail" or "certified mail with return receipt requested", includes certified
4 mail carried by the United States Postal Service, or any parcel or letter carried by an overnight,
5 express, or ground delivery service that allows a sender or recipient to electronically track its
6 location and provides record of the signature of the recipient;

7 (2) "County or circuit attorney" means prosecuting attorney;

8 (3) **"Disability", means a mental or physical impairment that substantially limits**
9 **one or more major life activities, whether the impairment is congenital or acquired by**
10 **accident, injury, or disease, and where the impairment is verified by medical findings;**

11 (4) "Executor" includes administrator **or personal representative** where the subject
12 matter applies to an administrator **or personal representative**;

13 [(4)] (5) "General election" means the election required to be held on the Tuesday
14 succeeding the first Monday of November, biennially;

15 [(5)] (6) "Guardian", if used in a section in a context relating to property rights or
16 obligations, means conservator of the estate as defined in chapter 475. "Guardianship", if used
17 in a section in a context relating to rights and obligations other than property rights or
18 obligations, means guardian of the person as defined in chapter 475;

19 [(6) "Handicap" means a mental or physical impairment that substantially limits one or
20 more major life activities, whether the impairment is congenital or acquired by accident, injury,
21 or disease, and where the impairment is verified by medical findings;]

22 (7) "Heretofore" means any time previous to the day when the statute containing it takes
23 effect; and "hereafter" means the time after the statute containing it takes effect;

24 (8) "In vacation" includes any adjournment of court for more than one day whenever any
25 act is authorized to be done by or any power given to a court, or judge thereof in vacation, or
26 whenever any act is authorized to be done by or any power given to a clerk of any court in
27 vacation;

28 (9) "Incompetent", if used in a section in a context relating to actual occupational ability
29 without reference to a court adjudication of incompetency, means the actual ability of a person
30 to perform in that occupation. "Incompetent", if used in a section in a context relating to the
31 property rights and obligations of a person, means a [disabled] **financially incapacitated** person
32 as defined in chapter 475. "Incompetent", if used in a section in a context relating to the rights
33 and obligations of a person other than property rights and obligations, means an incapacitated
34 person as defined in chapter 475;

35 (10) "Justice of the county court" means commissioner of the county commission;

36 (11) "Month" and "year". "Month" means a calendar month, and "year" means a
37 calendar year unless otherwise expressed, and is equivalent to the words year of our Lord;

38 (12) The word "person" may extend and be applied to bodies politic and corporate, and
39 to partnerships and other unincorporated associations;

40 (13) "Personal property" includes money, goods, chattels, things in action and evidences
41 of debt;

42 (14) "Place of residence" means the place where the family of any person permanently
43 resides in this state, and the place where any person having no family generally lodges;

44 (15) "Preceding" and "following", when used by way of reference to any section of the
45 statutes, mean the section next preceding or next following that in which the reference is made,
46 unless some other section is expressly designated in the reference;

47 (16) "Property" includes real and personal property;

48 (17) "Real property" or "premises" or "real estate" or "lands" is coextensive with lands,
49 tenements and hereditaments;

50 (18) "State", when applied to any of the United States, includes the District of Columbia
51 and the territories, and the words "United States" includes such district and territories;

52 (19) "Under legal disability" includes persons within the age of minority or of unsound
53 mind **or who are incapacitated or financially incapacitated as those terms are defined in**
54 **chapter 475** or imprisoned;

55 (20) "Ward", if used in a section in a context relating to the property rights and
56 obligations of a person, means a protectee as defined in chapter 475. "Ward", if used in a section
57 in a context relating to the rights and obligations of a person other than property rights and
58 obligations, means a ward as defined in chapter 475;

59 (21) "Will" includes the words testament and codicil;

60 (22) "Written" and "in writing" and "writing word for word" includes printing,
61 lithographing, or other mode of representing words and letters, but in all cases where the
62 signature of any person is required, the proper handwriting of the person, or his mark, is
63 intended.

115.133. 1. Except as provided in subsection 2 of this section, any citizen of the United
2 States who is a resident of the state of Missouri and seventeen years and six months of age or
3 older shall be entitled to register and to vote in any election which is held on or after [his] **the**
4 **person's** eighteenth birthday.

5 2. No person who is adjudged incapacitated shall be entitled to register or vote **unless**
6 **the right to vote has been expressly retained for that person in a judgment or order of the**
7 **court having jurisdiction of that person. A person who has been adjudged partially**

8 **incapacitated retains the right to register and vote unless those rights have been expressly**
9 **denied to that person in a judgment or order of the court having jurisdiction of that**
10 **person.**

11 3. No person shall be entitled to vote:

12 (1) While confined under a sentence of imprisonment;

13 (2) While on probation or parole after conviction of a felony, until finally discharged
14 from such probation or parole; or

15 (3) After conviction of a felony or misdemeanor connected with the right of suffrage.

16 [3.] 4. Except as provided in federal law or federal elections and in section 115.277, no
17 person shall be entitled to vote if the person has not registered to vote in the jurisdiction of [his
18 or her] **the person's** residence prior to the deadline to register to vote.

115.195. 1. At least once each month, the state or local registrar of vital statistics shall
2 provide to the election authority a list of the name and address, if known, of each person over
3 eighteen years of age in its jurisdiction whose death has been reported to him or her and provide
4 a copy of the list of any death reported in the state to the secretary of state. The secretary of state
5 shall notify the election authority of the jurisdiction in which the deceased resided of the
6 information received pursuant to this subsection.

7 2. At least once each month, the clerk of the circuit court of each county and city not
8 within a county shall provide to the election authority a list of the name and address, if known,
9 of each person over eighteen years of age in the court's jurisdiction who has been convicted of
10 any felony, or of a misdemeanor connected with the right of suffrage. A copy of the list shall
11 also be submitted to the secretary of state. The secretary of state shall notify the election
12 authority of the jurisdiction in which an offender resides of the information received pursuant
13 to this subsection.

14 3. At least once each month, the clerk of the probate division of the circuit court of each
15 county and city not within a county shall provide to the election authority a list of the name and
16 address, if known, of each person over eighteen years of age in the court's jurisdiction who has
17 been adjudged incapacitated, **has not had the right to vote retained by order or judgment,**
18 and has not been restored to capacity. A copy of the list shall also be submitted to the secretary
19 of state. The secretary of state shall notify the election authority of the jurisdiction in which such
20 person resides of the information received pursuant to this subsection.

21 4. All state and local registrars and all clerks of probate divisions of the circuit courts and
22 circuit courts shall provide the information specified in this section, without charge, to the
23 election authority or the secretary of state.

190.600. 1. Sections 190.600 to 190.621 shall be known and may be cited as the
2 "Outside the Hospital Do-Not-Resuscitate Act".

3 2. As used in sections 190.600 to 190.621, unless the context clearly requires otherwise,
4 the following terms shall mean:

5 (1) "Attending physician":

6 (a) A physician licensed under chapter 334 selected by or assigned to a patient who has
7 primary responsibility for treatment and care of the patient; or

8 (b) If more than one physician shares responsibility for the treatment and care of a
9 patient, one such physician who has been designated the attending physician by the patient or the
10 patient's representative shall serve as the attending physician;

11 (2) "Cardiopulmonary resuscitation" or "CPR", emergency medical treatment
12 administered to a patient in the event of the patient's cardiac or respiratory arrest, and shall
13 include cardiac compression, endotracheal intubation and other advanced airway management,
14 artificial ventilation, defibrillation, administration of cardiac resuscitation medications, and
15 related procedures;

16 (3) "Department", the department of health and senior services;

17 (4) "Emergency medical services personnel", paid or volunteer firefighters, law
18 enforcement officers, first responders, emergency medical technicians, or other emergency
19 service personnel acting within the ordinary course and scope of their professions, but excluding
20 physicians;

21 (5) "Health care facility", any institution, building, or agency or portion thereof, private
22 or public, excluding federal facilities and hospitals, whether organized for profit or not, used,
23 operated, or designed to provide health services, medical treatment, or nursing, rehabilitative,
24 or preventive care to any person or persons. Health care facility includes but is not limited to
25 ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices,
26 infirmaries, renal dialysis centers, long-term care facilities licensed under sections 198.003 to
27 198.186, medical assistance facilities, mental health centers, outpatient facilities, public health
28 centers, rehabilitation facilities, and residential treatment facilities;

29 (6) "Hospital", a place devoted primarily to the maintenance and operation of facilities
30 for the diagnosis, treatment, or care for not less than twenty-four consecutive hours in any week
31 of three or more nonrelated individuals suffering from illness, disease, injury, deformity, or other
32 abnormal physical conditions; or a place devoted primarily to provide for not less than
33 twenty-four consecutive hours in any week medical or nursing care for three or more nonrelated
34 individuals. Hospital does not include any long-term care facility licensed under sections
35 198.003 to 198.186;

36 (7) "Outside the hospital do-not-resuscitate identification" or "outside the hospital DNR
37 identification", a standardized identification card, bracelet, or necklace of a single color, form,
38 and design as described by rule of the department that signifies that the patient's attending

39 physician has issued an outside the hospital do-not-resuscitate order for the patient and has
40 documented the grounds for the order in the patient's medical file;

41 (8) "Outside the hospital do-not-resuscitate order" or "outside the hospital DNR order",
42 a written physician's order signed by the patient and the attending physician, or the patient's
43 representative and the attending physician, in a form promulgated by rule of the department
44 which authorizes emergency medical services personnel to withhold or withdraw
45 cardiopulmonary resuscitation from the patient in the event of cardiac or respiratory arrest;

46 (9) "Outside the hospital do-not-resuscitate protocol" or "outside the hospital DNR
47 protocol", a standardized method or procedure promulgated by rule of the department for the
48 withholding or withdrawal of cardiopulmonary resuscitation by emergency medical services
49 personnel from a patient in the event of cardiac or respiratory arrest;

50 (10) "Patient", a person eighteen years of age or older who is not incapacitated, as
51 defined in section [475.010] **475.700**, and who is otherwise competent to give informed consent
52 to an outside the hospital do-not-resuscitate order at the time such order is issued, and who, with
53 his or her attending physician, has executed an outside the hospital do-not-resuscitate order under
54 sections 190.600 to 190.621. A person who has a patient's representative shall also be a patient
55 for the purposes of sections 190.600 to 190.621, if the person or the person's patient's
56 representative has executed an outside the hospital do-not-resuscitate order under sections
57 190.600 to 190.621;

58 (11) "Patient's representative":

59 (a) An attorney in fact designated in a durable power of attorney for health care for a
60 patient determined to be incapacitated under sections 404.800 to 404.872; or

61 (b) A guardian or limited guardian appointed under chapter 475 to have responsibility
62 for an incapacitated patient.

302.010. Except where otherwise provided, when used in this chapter, the following
2 words and phrases mean:

3 (1) "Circuit court", each circuit court in the state;

4 (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying
5 freight and merchandise, or more than fifteen passengers;

6 (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to
7 secure a defendant's appearance in court, which forfeiture has not been vacated, shall be
8 equivalent to a conviction[,]; except that, when any conviction as a result of which points are
9 assessed pursuant to section 302.302 is appealed, the term "conviction" means the original
10 judgment of conviction for the purpose of determining the assessment of points, and the date of
11 final judgment affirming the conviction shall be the date determining the beginning of any
12 license suspension or revocation pursuant to section 302.304;

13 (4) "Criminal history check", a search of criminal records, including criminal history
14 record information as defined in section 43.500, maintained by the Missouri state highway patrol
15 in the Missouri criminal records repository or by the Federal Bureau of Investigation as part of
16 its criminal history records, including, but not limited to, any record of conviction, plea of guilty
17 or nolo contendere, or finding of guilty in any state for any offense related to alcohol, controlled
18 substances, or drugs;

19 (5) "Director", the director of revenue acting directly or through the director's authorized
20 officers and agents;

21 (6) "Farm tractor", every motor vehicle designed and used primarily as a farm implement
22 for drawing plows, mowing machines and other implements of husbandry;

23 (7) "Highway", any public thoroughfare for vehicles, including state roads, county roads
24 and public streets, avenues, boulevards, parkways, or alleys in any municipality;

25 (8) "Incompetent to drive a motor vehicle", a person who has become physically
26 incapable of meeting the prescribed requirements of an examination for an operator's license, or
27 who has been adjudged by a probate division of the circuit court in a capacity hearing of being
28 incapacitated **unless the court specifically enters an order that the person can drive**;

29 (9) "License", a license issued by a state to a person which authorizes a person to operate
30 a motor vehicle;

31 (10) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks
32 except motorized bicycles, as defined in section 307.180;

33 (11) "Motorcycle", a motor vehicle operated on two wheels; however, this definition
34 shall not include motorized bicycles as defined in section 301.010;

35 (12) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle
36 operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

37 (13) "Moving violation", that character of traffic violation where at the time of violation
38 the motor vehicle involved is in motion, except that the term does not include the driving of a
39 motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170
40 to 304.240, inclusive, relating to sizes and weights of vehicles;

41 (14) "Municipal court", every division of the circuit court having original jurisdiction
42 to try persons for violations of city ordinances;

43 (15) "Nonresident", every person who is not a resident of this state;

44 (16) "Operator", every person who is in actual physical control of a motor vehicle upon
45 a highway;

46 (17) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is
47 the subject of an agreement for the conditional sale or lease thereof with the right of purchase
48 upon performance of the conditions stated in the agreement and with an immediate right of

49 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle
50 is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed
51 the owner for the purpose of sections 302.010 to 302.540;

52 (18) "Record" includes, but is not limited to, papers, documents, facsimile information,
53 microphotographic process, electronically generated or electronically recorded information,
54 digitized images, deposited or filed with the department of revenue;

55 (19) "Residence address", "residence", or "resident address" shall be the location at
56 which a person has been physically present, and that the person regards as home. A residence
57 address is a person's true, fixed, principal, and permanent home, to which a person intends to
58 return and remain, even though currently residing elsewhere;

59 (20) "Restricted driving privilege", a sixty-day driving privilege issued by the director
60 of revenue following a suspension of driving privileges for the limited purpose of driving in
61 connection with the driver's business, occupation, employment, formal program of secondary,
62 postsecondary or higher education, or for an alcohol education or treatment program or certified
63 ignition interlock provider, or a ninety-day interlock restricted privilege issued by the director
64 of revenue for the limited purpose of driving in connection with the driver's business, occupation,
65 employment, seeking medical treatment for such driver or a dependent family member, attending
66 school or other institution of higher education, attending alcohol- or drug-treatment programs,
67 seeking the required services of a certified ignition interlock provider, fulfilling court obligations,
68 including required appearances and probation and parole obligations, religious services, the care
69 of a child or children, including scheduled visitation or custodial obligations pursuant to a court
70 order, fueling requirements for any vehicle utilized, and seeking basic nutritional requirements;

71 (21) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle,
72 either publicly or privately owned, used to transport students to and from school, or to transport
73 pupils properly chaperoned to and from any place within the state for educational purposes. The
74 term "school bus" shall not include a bus operated by a public utility, municipal corporation or
75 common carrier authorized to conduct local or interstate transportation of passengers when such
76 bus is not traveling a specific school bus route but is:

77 (a) On a regularly scheduled route for the transportation of fare-paying passengers; or

78 (b) Furnishing charter service for the transportation of persons enrolled as students on
79 field trips or other special trips or in connection with other special events;

80 (22) "School bus operator", an operator who operates a school bus as defined in
81 subdivision (21) of this section in the transportation of any schoolchildren and who receives
82 compensation for such service. The term "school bus operator" shall not include any person who
83 transports schoolchildren as an incident to employment with a school or school district, such as

84 a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under
85 contract with or employed by a school or school district as a school bus operator;

86 (23) "Signature", any method determined by the director of revenue for the signing,
87 subscribing or verifying of a record, report, application, driver's license, or other related
88 document that shall have the same validity and consequences as the actual signing by the person
89 providing the record, report, application, driver's license or related document;

90 (24) "Substance abuse traffic offender program", a program certified by the division of
91 alcohol and drug abuse of the department of mental health to provide education or rehabilitation
92 services pursuant to a professional assessment screening to identify the individual needs of the
93 person who has been referred to the program as the result of an alcohol- or drug-related traffic
94 offense. Successful completion of such a program includes participation in any education or
95 rehabilitation program required to meet the needs identified in the assessment screening. The
96 assignment recommendations based upon such assessment shall be subject to judicial review as
97 provided in subsection 14 of section 302.304 and subsections 1 and 5 of section 302.540;

98 (25) "Vehicle", any mechanical device on wheels, designed primarily for use, or used
99 on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power,
100 or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs
101 operated by handicapped persons.

302.010. Except where otherwise provided, when used in this chapter, the following
2 words and phrases mean:

3 (1) "Circuit court", each circuit court in the state;

4 (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying
5 freight and merchandise, or more than fifteen passengers;

6 (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to
7 secure a defendant's appearance in court, which forfeiture has not been vacated, shall be
8 equivalent to a conviction[,] ; except that, when any conviction as a result of which points are
9 assessed pursuant to section 302.302 is appealed, the term "conviction" means the original
10 judgment of conviction for the purpose of determining the assessment of points, and the date of
11 final judgment affirming the conviction shall be the date determining the beginning of any
12 license suspension or revocation pursuant to section 302.304;

13 (4) "Criminal history check", a search of criminal records, including criminal history
14 record information as defined in section 43.500, maintained by the Missouri state highway patrol
15 in the Missouri criminal records repository or by the Federal Bureau of Investigation as part of
16 its criminal history records, including, but not limited to, any record of conviction, plea of guilty
17 or nolo contendere, or finding of guilty in any state for any offense related to alcohol, controlled
18 substances, or drugs;

- 19 (5) "Director", the director of revenue acting directly or through the director's authorized
20 officers and agents;
- 21 (6) "Farm tractor", every motor vehicle designed and used primarily as a farm implement
22 for drawing plows, mowing machines and other implements of husbandry;
- 23 (7) "Highway", any public thoroughfare for vehicles, including state roads, county roads
24 and public streets, avenues, boulevards, parkways, or alleys in any municipality;
- 25 (8) "Incompetent to drive a motor vehicle", a person who has become physically
26 incapable of meeting the prescribed requirements of an examination for an operator's license, or
27 who has been adjudged by a probate division of the circuit court in a capacity hearing of being
28 incapacitated **unless the court specifically enters an order that the person can drive**;
- 29 (9) "License", a license issued by a state to a person which authorizes a person to operate
30 a motor vehicle;
- 31 (10) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks
32 except motorized bicycles, as defined in section 307.180;
- 33 (11) "Motorcycle", a motor vehicle operated on two wheels; however, this definition
34 shall not include motorized bicycles as defined in section 301.010;
- 35 (12) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle
36 operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;
- 37 (13) "Moving violation", that character of traffic violation where at the time of violation
38 the motor vehicle involved is in motion, except that the term does not include the driving of a
39 motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170
40 to 304.240, inclusive, relating to sizes and weights of vehicles;
- 41 (14) "Municipal court", every division of the circuit court having original jurisdiction
42 to try persons for violations of city ordinances;
- 43 (15) "Nonresident", every person who is not a resident of this state;
- 44 (16) "Operator", every person who is in actual physical control of a motor vehicle upon
45 a highway;
- 46 (17) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is
47 the subject of an agreement for the conditional sale or lease thereof with the right of purchase
48 upon performance of the conditions stated in the agreement and with an immediate right of
49 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle
50 is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed
51 the owner for the purpose of sections 302.010 to 302.540;
- 52 (18) "Record" includes, but is not limited to, papers, documents, facsimile information,
53 microphotographic process, electronically generated or electronically recorded information,
54 digitized images, deposited or filed with the department of revenue;

55 (19) "Residence address", "residence", or "resident address" shall be the location at
56 which a person has been physically present, and that the person regards as home. A residence
57 address is a person's true, fixed, principal, and permanent home, to which a person intends to
58 return and remain, even though currently residing elsewhere;

59 (20) "Restricted driving privilege", a driving privilege issued by the director of revenue
60 following a suspension of driving privileges for the limited purpose of driving in connection with
61 the driver's business, occupation, employment, formal program of secondary, postsecondary or
62 higher education, or for an alcohol education or treatment program or certified ignition interlock
63 provider;

64 (21) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle,
65 either publicly or privately owned, used to transport students to and from school, or to transport
66 pupils properly chaperoned to and from any place within the state for educational purposes. The
67 term "school bus" shall not include a bus operated by a public utility, municipal corporation or
68 common carrier authorized to conduct local or interstate transportation of passengers when such
69 bus is not traveling a specific school bus route but is:

70 (a) On a regularly scheduled route for the transportation of fare-paying passengers; or

71 (b) Furnishing charter service for the transportation of persons enrolled as students on
72 field trips or other special trips or in connection with other special events;

73 (22) "School bus operator", an operator who operates a school bus as defined in
74 subdivision (21) of this section in the transportation of any schoolchildren and who receives
75 compensation for such service. The term "school bus operator" shall not include any person who
76 transports schoolchildren as an incident to employment with a school or school district, such as
77 a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under
78 contract with or employed by a school or school district as a school bus operator;

79 (23) "Signature", any method determined by the director of revenue for the signing,
80 subscribing or verifying of a record, report, application, driver's license, or other related
81 document that shall have the same validity and consequences as the actual signing by the person
82 providing the record, report, application, driver's license or related document;

83 (24) "Substance abuse traffic offender program", a program certified by the division of
84 alcohol and drug abuse of the department of mental health to provide education or rehabilitation
85 services pursuant to a professional assessment screening to identify the individual needs of the
86 person who has been referred to the program as the result of an alcohol- or drug-related traffic
87 offense. Successful completion of such a program includes participation in any education or
88 rehabilitation program required to meet the needs identified in the assessment screening. The
89 assignment recommendations based upon such assessment shall be subject to judicial review as
90 provided in subsection 14 of section 302.304 and subsections 1 and 5 of section 302.540;

91 (25) "Vehicle", any mechanical device on wheels, designed primarily for use, or used
92 on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power,
93 or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs
94 operated by handicapped persons.

302.060. 1. The director shall not issue any license and shall immediately deny any
2 driving privilege:

3 (1) To any person who is under the age of eighteen years, if such person operates a motor
4 vehicle in the transportation of persons or property as classified in section 302.015;

5 (2) To any person who is under the age of sixteen years, except as hereinafter provided;

6 (3) To any person whose license has been suspended, during such suspension, or to any
7 person whose license has been revoked, until the expiration of one year after such license was
8 revoked;

9 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

10 (5) To any person who has previously been adjudged to be incapacitated and who at the
11 time of application has not been restored to partial capacity, **unless the court specifically enters**
12 **an order that the person can drive;**

13 (6) To any person who, when required by this law to take an examination, has failed to
14 pass such examination;

15 (7) To any person who has an unsatisfied judgment against such person, as defined in
16 chapter 303, until such judgment has been satisfied or the financial responsibility of such person,
17 as described in section 303.120, has been established;

18 (8) To any person whose application shows that the person has been convicted within
19 one year prior to such application of violating the laws of this state relating to failure to stop after
20 an accident and to disclose the person's identity or driving a motor vehicle without the owner's
21 consent;

22 (9) To any person who has been convicted more than twice of violating state law, or a
23 county or municipal ordinance where the defendant was represented by or waived the right to an
24 attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten
25 years from the date of conviction of the last offense of violating such law or ordinance relating
26 to driving while intoxicated, a person who was so convicted may petition the circuit court of the
27 county in which such last conviction was rendered and the court shall review the person's habits
28 and conduct since such conviction, including the results of a criminal history check as defined
29 in section 302.010. If the court finds that the petitioner has not been found guilty of, and has no
30 pending charges for any offense related to alcohol, controlled substances or drugs and has no
31 other alcohol-related enforcement contacts as defined in section 302.525 during the preceding
32 ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a

33 threat to the public safety of this state, the court shall order the director to issue a license to the
34 petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010
35 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision
36 through court action more than one time;

37 (10) To any person who has been found guilty of acting with criminal negligence while
38 driving while intoxicated to cause the death of another person, or to any person who has been
39 convicted twice within a five-year period of violating state law, county or municipal ordinance
40 of driving while intoxicated, or any other intoxication-related traffic offense as defined in section
41 577.001, except that, after the expiration of five years from the date of conviction of the last
42 offense of violating such law or ordinance, a person who was so convicted may petition the
43 circuit court of the county in which such last conviction was rendered and the court shall review
44 the person's habits and conduct since such conviction, including the results of a criminal history
45 check as defined in section 302.010. If the court finds that the petitioner has not been found
46 guilty of, and has no pending charges for any offense related to alcohol, controlled substances,
47 or drugs and has no other alcohol-related enforcement contacts as defined in section 302.525
48 during the preceding five years, and that the petitioner's habits and conduct show such petitioner
49 to no longer pose a threat to the public safety of this state, the court shall order the director to
50 issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions
51 of sections 302.010 to 302.540;

52 (11) To any person who is otherwise disqualified pursuant to the provisions of this
53 chapter, chapter 303, or section 544.046;

54 (12) To any person who is under the age of eighteen years, if such person's parents or
55 legal guardians file a certified document with the department of revenue stating that the director
56 shall not issue such person a driver's license. Each document filed by the person's parents or
57 legal guardians shall be made upon a form furnished by the director and shall include identifying
58 information of the person for whom the parents or legal guardians are denying the driver's
59 license. The document shall also contain identifying information of the person's parents or legal
60 guardians. The document shall be certified by the parents or legal guardians to be true and
61 correct. This provision shall not apply to any person who is legally emancipated. The parents
62 or legal guardians may later file an additional document with the department of revenue which
63 reinstates the person's ability to receive a driver's license.

64 2. Any person whose license is reinstated under the provisions of subdivision (9) or (10)
65 of subsection 1 of this section shall be required to file proof with the director of revenue that any
66 motor vehicle operated by the person is equipped with a functioning, certified ignition interlock
67 device as a required condition of reinstatement. The ignition interlock device required for
68 reinstatement under this subsection and for obtaining a limited driving privilege under paragraph

69 (a) or (b) of subdivision (8) of subsection 3 of section 302.309 shall have a photo identification
70 technology feature, and a court may require a global positioning system feature for such device.
71 The ignition interlock device shall further be required to be maintained on all motor vehicles
72 operated by the person for a period of not less than six months immediately following the date
73 of reinstatement. If the monthly monitoring reports show that the ignition interlock device has
74 registered any confirmed blood alcohol concentration readings above the alcohol setpoint
75 established by the department of transportation or that the person has tampered with or
76 circumvented the ignition interlock device within the last three months of the six-month period
77 of required installation of the ignition interlock device, then the period for which the person must
78 maintain the ignition interlock device following the date of reinstatement shall be extended until
79 the person has completed three consecutive months with no violations as described in this
80 section. If the person fails to maintain such proof with the director, the license shall be
81 suspended until proof as required by this section is filed with the director.

82 3. Any person who petitions the court for reinstatement of his or her license pursuant to
83 subdivision (9) or (10) of subsection 1 of this section shall make application with the Missouri
84 state highway patrol as provided in section 43.540, and shall submit two sets of fingerprints
85 collected pursuant to standards as determined by the highway patrol. One set of fingerprints
86 shall be used by the highway patrol to search the criminal history repository and the second set
87 shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal
88 history files. At the time of application, the applicant shall supply to the highway patrol the court
89 name and case number for the court where he or she has filed his or her petition for
90 reinstatement. The applicant shall pay the fee for the state criminal history check pursuant to
91 section 43.530 and pay the appropriate fee determined by the Federal Bureau of Investigation for
92 the federal criminal history record. The Missouri highway patrol, upon receipt of the results of
93 the criminal history check, shall forward a copy of the results to the circuit court designated by
94 the applicant and to the department. Notwithstanding the provisions of section 610.120, all
95 records related to any criminal history check shall be accessible and available to the director and
96 the court.

302.060. 1. The director shall not issue any license and shall immediately deny any
2 driving privilege:

3 (1) To any person who is under the age of eighteen years, if such person operates a motor
4 vehicle in the transportation of persons or property as classified in section 302.015;

5 (2) To any person who is under the age of sixteen years, except as hereinafter provided;

6 (3) To any person whose license has been suspended, during such suspension, or to any
7 person whose license has been revoked, until the expiration of one year after such license was
8 revoked;

- 9 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;
- 10 (5) To any person who has previously been adjudged to be incapacitated and who at the
11 time of application has not been restored to partial capacity, **unless the court specifically enters**
12 **an order that the person can drive;**
- 13 (6) To any person who, when required by this law to take an examination, has failed to
14 pass such examination;
- 15 (7) To any person who has an unsatisfied judgment against such person, as defined in
16 chapter 303, until such judgment has been satisfied or the financial responsibility of such person,
17 as defined in section 303.120, has been established;
- 18 (8) To any person whose application shows that the person has been convicted within
19 one year prior to such application of violating the laws of this state relating to failure to stop after
20 an accident and to disclose the person's identity or driving a motor vehicle without the owner's
21 consent;
- 22 (9) To any person who has been convicted more than twice of violating state law, or a
23 county or municipal ordinance where the defendant was represented by or waived the right to an
24 attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten
25 years from the date of conviction of the last offense of violating such law or ordinance relating
26 to driving while intoxicated, a person who was so convicted may petition the circuit court of the
27 county in which such last conviction was rendered and the court shall review the person's habits
28 and conduct since such conviction, including the results of a criminal history check as defined
29 in section 302.010. If the court finds that the petitioner has not been convicted, pled guilty to or
30 been found guilty of, and has no pending charges for any offense related to alcohol, controlled
31 substances or drugs and has no other alcohol-related enforcement contacts as defined in section
32 302.525 during the preceding ten years and that the petitioner's habits and conduct show such
33 petitioner to no longer pose a threat to the public safety of this state, the court shall order the
34 director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the
35 provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the
36 provisions of this subdivision through court action more than one time;
- 37 (10) To any person who has pled guilty to or been convicted of the crime of involuntary
38 manslaughter while operating a motor vehicle in an intoxicated condition, or to any person who
39 has been convicted twice within a five-year period of violating state law, county or municipal
40 ordinance of driving while intoxicated, or any other intoxication-related traffic offense as defined
41 in section 577.023, except that, after the expiration of five years from the date of conviction of
42 the last offense of violating such law or ordinance, a person who was so convicted may petition
43 the circuit court of the county in which such last conviction was rendered and the court shall
44 review the person's habits and conduct since such conviction, including the results of a criminal

45 history check as defined in section 302.010. If the court finds that the petitioner has not been
46 convicted, pled guilty to, or been found guilty of, and has no pending charges for any offense
47 related to alcohol, controlled substances, or drugs and has no other alcohol-related enforcement
48 contacts as defined in section 302.525 during the preceding five years, and that the petitioner's
49 habits and conduct show such petitioner to no longer pose a threat to the public safety of this
50 state, the court shall order the director to issue a license to the petitioner if the petitioner is
51 otherwise qualified pursuant to the provisions of sections 302.010 to 302.540;

52 (11) To any person who is otherwise disqualified pursuant to the provisions of sections
53 302.010 to 302.780, chapter 303, or section 544.046;

54 (12) To any person who is under the age of eighteen years, if such person's parents or
55 legal guardians file a certified document with the department of revenue stating that the director
56 shall not issue such person a driver's license. Each document filed by the person's parents or
57 legal guardians shall be made upon a form furnished by the director and shall include identifying
58 information of the person for whom the parents or legal guardians are denying the driver's
59 license. The document shall also contain identifying information of the person's parents or legal
60 guardians. The document shall be certified by the parents or legal guardians to be true and
61 correct. This provision shall not apply to any person who is legally emancipated. The parents
62 or legal guardians may later file an additional document with the department of revenue which
63 reinstates the person's ability to receive a driver's license.

64 2. Any person whose license is reinstated under the provisions of subdivision (9) or (10)
65 of subsection 1 of this section shall be required to file proof with the director of revenue that any
66 motor vehicle operated by the person is equipped with a functioning, certified ignition interlock
67 device as a required condition of reinstatement. The ignition interlock device required for
68 reinstatement under this subsection and for obtaining a limited driving privilege under paragraph
69 (a) or (b) of subdivision (8) of subsection 3 of section 302.309 shall have photo identification
70 technology and global positioning system features. The ignition interlock device shall further
71 be required to be maintained on all motor vehicles operated by the person for a period of not less
72 than six months immediately following the date of reinstatement. If the monthly monitoring
73 reports show that the ignition interlock device has registered any confirmed blood alcohol
74 concentration readings above the alcohol setpoint established by the department of transportation
75 or that the person has tampered with or circumvented the ignition interlock device, then the
76 period for which the person must maintain the ignition interlock device following the date of
77 reinstatement shall be extended for an additional six months. If the person fails to maintain such
78 proof with the director, the license shall be suspended for the remainder of the six-month period
79 or until proof as required by this section is filed with the director. Upon the completion of the
80 six-month period, the license shall be shown as reinstated, if the person is otherwise eligible.

81 3. Any person who petitions the court for reinstatement of his or her license pursuant to
82 subdivision (9) or (10) of subsection 1 of this section shall make application with the Missouri
83 state highway patrol as provided in section 43.540, and shall submit two sets of fingerprints
84 collected pursuant to standards as determined by the highway patrol. One set of fingerprints
85 shall be used by the highway patrol to search the criminal history repository and the second set
86 shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal
87 history files. At the time of application, the applicant shall supply to the highway patrol the court
88 name and case number for the court where he or she has filed his or her petition for
89 reinstatement. The applicant shall pay the fee for the state criminal history check pursuant to
90 section 43.530 and pay the appropriate fee determined by the Federal Bureau of Investigation for
91 the federal criminal history record. The Missouri highway patrol, upon receipt of the results of
92 the criminal history check, shall forward a copy of the results to the circuit court designated by
93 the applicant and to the department. Notwithstanding the provisions of section 610.120, all
94 records related to any criminal history check shall be accessible and available to the director and
95 the court.

 402.203. 1. A beneficiary who is a person with disabilities as defined in Section
2 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3), or the parent, grandparent, or legal
3 guardian of a beneficiary, or a court, as settlor, may contribute assets of the beneficiary in trust
4 to the board as trustee, for the benefit of the beneficiary as part of a pooled trust described by 42
5 U.S.C. Section 1396p(d)(4)(C). Upon such contribution, the settlor's completion and execution
6 of trust documents provided by the trustee, and the trustee's review, approval and execution of
7 the trust documents, a trust account for the beneficiary shall thereby be created. A trust account
8 to which the assets of a beneficiary are contributed shall be referred to as a "first party trust
9 account" and shall be held and administered in trust for the benefit of the beneficiary as provided
10 in this section.

11 2. The settlor may designate a cotrustee, and a successor or successors to the cotrustee,
12 to act together with the trustee as trustees of the first party trust account; provided that the
13 beneficiary may not act as a cotrustee or successor cotrustee; and provided further that court
14 approval of the beneficiary, cotrustee or successor trustee shall be required in connection with
15 any first party trust account created pursuant to section 473.657 or section [475.093] **475.724**.

16 3. If the board determines, in its good faith judgment, that a cotrustee has breached his
17 or her fiduciary duties, either as a result of an act of commission or omission, then the board may
18 seek removal of such cotrustee and the appointment of a successor cotrustee upon application
19 to a court of competent jurisdiction.

20 4. At the death of the beneficiary, the board of trustees shall provide notice that the trust
21 account has terminated to each state of which the board of trustees has knowledge that such state

22 has provided medical assistance on behalf of the beneficiary under a state plan for medical
23 assistance under Title 42 of the United States Code. After distribution of twenty-five percent of
24 the principal balance of the trust account to the charitable trust, the board of trustees shall pay
25 over and distribute to such states all amounts remaining in the trust account up to an amount
26 equal to the total medical assistance paid by such states on behalf of the beneficiary under the
27 state plan for medical assistance under Title 42 of the United States Code. In the event that the
28 beneficiary has received medical assistance from more than one state with claims on the proceeds
29 for reimbursement of medical assistance payments under Title 42 of the United States Code and
30 there are insufficient assets to pay the entire balance due to each state then the proceeds shall be
31 distributed to each state on a pro rata basis based upon each state's proportionate share of the
32 total medical assistance paid by all states.

33 5. To the extent any amounts remain in the trust account after distribution to the
34 charitable trust and the state or states for state reimbursement claims, the remainder shall be
35 distributed to such person, entities, or organizations designated as remainder beneficiaries by the
36 settlor in the trust documents. If any individual remainder beneficiary named by the settlor is not
37 then living, then in the absence of contrary instruction in the trust documents completed by the
38 settlor, such remainder beneficiary's distribution shall be made to such remainder beneficiary's
39 heirs at law, as determined by the laws of the state of the beneficiary's residence at the time of
40 the beneficiary's death.

404.007. As used in sections 404.005 to 404.094, unless the context otherwise requires,
2 the following terms shall mean:

3 (1) "Adult", an individual who has attained the age of twenty-one years, notwithstanding
4 that an individual may be an adult at a different age under other laws of this state;

5 (2) "Benefit plan", any plan, contract, trust or account for the benefit of employees,
6 partners, members of an organization or an individual, in which a person may designate a
7 beneficiary for a plan benefit; the term "benefit plan" is also used to refer to the fiduciary
8 administering the plan;

9 (3) "Broker", a person lawfully engaged in the business of effecting transactions in
10 securities or commodities for the broker's own account or the account of others;

11 (4) "Conservator", a person appointed or qualified by a court to have care and custody
12 of the estate of a minor or a disabled or incapacitated person, whether denominated as general,
13 limited or temporary conservator, or a person legally authorized to perform substantially the
14 same functions;

15 (5) "Court", the circuit court, including the probate division of the circuit court;

- 16 (6) "Custodial property", all property belonging to a minor in the possession and control
17 of a custodian under sections 404.005 to 404.094 and includes the income and proceeds of that
18 property;
- 19 (7) "Custodian", a person so designated in a manner prescribed in sections 404.005 to
20 404.094 and includes a substitute custodian and successor custodian;
- 21 (8) "Donor", a transferor who makes a present or future gift of property to a minor by
22 a transfer under sections 404.005 to 404.094 and includes a person who holds a power of
23 appointment to make a gift of the donor's property in a similar manner;
- 24 (9) "Financial institution", a bank, trust company, savings and loan company or
25 association, or credit union, chartered and supervised under state or federal law;
- 26 (10) "Guardian", a person appointed or qualified by a court to have care and custody of
27 the person of a minor or incapacitated person, whether denominated as general, limited or
28 temporary guardian, or a person legally authorized to perform substantially the same functions;
- 29 (11) "Incapacitated person", a person who is wholly or partially unable by reason of any
30 physical or mental condition to receive and evaluate information or to communicate decisions
31 to such an extent that the person lacks ability or capacity to manage his financial resources and
32 is a disabled or incapacitated person as defined in section [475.010] **475.700**;
- 33 (12) "Legal representative", a decedent's personal representative, the guardian of a person
34 or the conservator of the estate of a person;
- 35 (13) "Member of the minor's family", the minor's parent, grandparent, uncle, aunt,
36 brother, sister and their descendants, whether of the whole blood or the half blood, or by
37 adoption, and the minor's spouse and stepparent;
- 38 (14) "Minor", an individual who has not attained the age of twenty-one years,
39 notwithstanding that the individual may be an adult under other laws of this state; the term
40 "minor" is also used to refer to the beneficiary of a custodianship established under sections
41 404.005 to 404.094 of this act;
- 42 (15) "Person", an individual, corporation, organization, or other legal entity;
- 43 (16) "Personal representative", an executor, administrator, successor personal
44 representative, independent personal representative, or special administrator of a decedent's
45 estate, whether court appointed or qualified, or a person legally authorized to perform
46 substantially the same functions;
- 47 (17) "Property", any present or future interest in property, real or personal, tangible or
48 intangible, legal or equitable, and includes the income and proceeds of that interest in property;
- 49 (18) "State", includes any state of the United States, the District of Columbia, the
50 Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority
51 of the United States;

52 (19) "Transferor", a person who transfers property to a minor under sections 404.005 to
53 404.094 of this act.

404.410. As used in sections 404.400 to 404.660, unless the context otherwise requires,
2 the following terms shall mean:

3 (1) "Adult", an individual who has attained the age of eighteen years, notwithstanding
4 that an adult may be of a different age under sections 404.005 to 404.094, the Missouri transfers
5 to minors law;

6 (2) "Beneficiary", a person for whom property has been transferred to a personal
7 custodian under sections 404.400 to 404.650 for the beneficiary's use and benefit;

8 (3) "Benefit plan", any plan, contract, trust or account for the benefit of employees,
9 partners, members of an organization or an individual, in which a person may designate a
10 beneficiary for a plan benefit. The term "benefit plan" is also used to refer to the fiduciary
11 administering the plan;

12 (4) "Broker", a person lawfully engaged in the business of effecting transactions in
13 securities or commodities for the broker's own account or the account of others;

14 (5) "Conservator", a person appointed or qualified by a court to have care and custody
15 of the estate of a disabled or incapacitated person, whether denominated as general, limited or
16 temporary conservator, or a person legally authorized to perform substantially the same
17 functions;

18 (6) "Court", the circuit court, including the probate division of the circuit court;

19 (7) "Custodial property", all property belonging to a beneficiary in the possession and
20 control of a personal custodian under sections 404.400 to 404.650, and includes the income and
21 proceeds of that property;

22 (8) "Donor", a transferor who makes a present or future gift of property to a beneficiary
23 by a transfer under sections 404.400 to 404.650 and includes a person who holds a power of
24 appointment to make a gift of the donor's property in a similar manner;

25 (9) "Financial institution", a bank, trust company, savings and loan company or
26 association, or credit union chartered and supervised under state or federal law;

27 (10) "Guardian", a person appointed or qualified by a court to have care and custody of
28 the person of an incapacitated person, whether denominated as general, limited or temporary
29 guardian, or a person legally authorized to perform substantially the same functions;

30 (11) "Incapacitated person", a person who is wholly or partially unable by reason of any
31 physical or mental condition to receive and evaluate information or to communicate decisions
32 to such an extent that the person lacks ability or capacity to manage his financial resources and
33 is a disabled or incapacitated person as defined in section [475.010] **475.700**;

34 (12) "Legal representative", a decedent's personal representative, the guardian of a person
35 or the conservator of the estate of a person;

36 (13) "Member of the beneficiary's family", the beneficiary's parent, grandparent, uncle,
37 aunt, brother, sister, son, daughter, grandson, granddaughter and their descendants, whether of
38 the whole blood or the half blood, or by adoption, and the beneficiary's spouse, stepparent and
39 stepchild;

40 (14) "Person", an individual, corporation, organization, or other legal entity;

41 (15) "Personal custodian", a person so designated in a manner prescribed in sections
42 404.400 to 404.650 and includes a substitute personal custodian and successor personal
43 custodian;

44 (16) "Personal representative", an executor, administrator, successor personal
45 representative, independent personal representative or special administrator of a decedent's
46 estate, whether court appointed or qualified, or a person legally authorized to perform
47 substantially the same functions;

48 (17) "Property", any present or future interest in property, real or personal, tangible or
49 intangible, legal or equitable and includes the income and proceeds of that interest in property;

50 (18) "State", any state of the United States, the District of Columbia, the Commonwealth
51 of Puerto Rico, and any territory or possession subject to the legislative authority of the United
52 States;

53 (19) "Transferor", a person who transfers property to a beneficiary under sections
54 404.400 to 404.650.

404.703. As used in sections 404.700 to 404.735 the following terms mean:

2 (1) "Attorney in fact", an individual or corporation appointed to act as agent of a
3 principal in a written power of attorney;

4 (2) "Court", the circuit court including the probate division of the circuit court;

5 (3) ["Disabled" or "incapacitated", a person who is wholly or partially disabled or
6 incapacitated as defined in section 475.010 or in a similar law of the place having jurisdiction
7 of the person whose capacity is in question;

8 (4)] "Durable power of attorney", a written power of attorney in which the authority of
9 the attorney in fact does not terminate in the event the principal becomes disabled or
10 incapacitated or in the event of later uncertainty as to whether the principal is dead or alive and
11 which complies with subsection 1 of section 404.705 or is durable under the laws of any of the
12 following places:

13 (a) The law of the place where executed;

14 (b) The law of the place of the residence of the principal when executed; or

15 (c) The law of a place designated in the written power of attorney if that place has a
16 reasonable relationship to the purpose of the instrument;

17 (4) **"Financially incapacitated" or "incapacitated", a person who is wholly or**
18 **partially financially incapacitated or incapacitated as defined in section 475.700 or in a**
19 **similar law of the place having jurisdiction of the person whose capacity is in question;**

20 (5) "Legal representative", a decedent's personal representative, a guardian of a person
21 or the conservator of the estate of a person, whether denominated as general, limited or
22 temporary, or a person legally authorized to perform substantially the same functions;

23 (6) "Person", an individual, corporation, or other legal entity;

24 (7) "Personal representative", a legal representative of a decedent's estate as defined in
25 section 472.010;

26 (8) "Power of attorney", a written power of attorney, either durable or not durable;

27 (9) "Principal's family", the principal's parent, grandparent, uncle, aunt, brother, sister,
28 son, daughter, grandson, granddaughter and their descendants, whether of the whole blood or the
29 half blood, or by adoption, and the principal's spouse, stepparent and stepchild;

30 (10) "Third person", any individual, corporation or legal entity that acts on a request
31 from, contracts with, relies on or otherwise deals with an attorney in fact pursuant to authority
32 granted by a principal in a power of attorney and includes a partnership, either general or limited,
33 governmental agency, financial institution, issuer of securities, transfer agent, securities or
34 commodities broker, real estate broker, title insurance company, insurance company, benefit
35 plan, legal representative, custodian or trustee.

404.727. 1. The principal may petition the court for an accounting by the principal's
2 attorney in fact or the legal representative of the attorney in fact. If the principal is disabled,
3 incapacitated or deceased, a petition for accounting may be filed by the principal's legal
4 representative, an adult member of the principal's family or any person interested in the welfare
5 of the principal.

6 2. Any requirement for an accounting may be waived or an accounting may be approved
7 by the court without hearing, if the accounting is waived or approved by a principal who is not
8 disabled, or by a principal whose legal capacity has been restored, or by all creditors and
9 distributees of a deceased principal's estate whose claims or distributions theretofore have not
10 been satisfied in full. The approval or waiver shall be in writing, signed by the affected persons
11 and filed with the court.

12 3. For the purposes of subsection 2 of this section, a legal representative or a person
13 providing services to the principal's estate shall not be considered a creditor of the principal's
14 estate; and no express approval or waiver shall be required from the legal representative of a
15 disabled or incapacitated principal if the principal's legal capacity has been restored, or from the

16 personal representative of a deceased principal's estate, or from any other person entitled to
17 compensation or expense for services rendered to a disabled, incapacitated or deceased
18 principal's estate, unless the principal or the principal's estate is unable to pay in full the
19 compensation and expense to which the person rendering the services may be entitled.

20 4. The principal, the principal's attorney in fact, an adult member of the principal's family
21 or any person interested in the welfare of the principal may petition the probate division of the
22 circuit court in the county or city where the principal is then residing to determine and declare
23 whether a principal, who has executed a power of attorney, is a disabled or incapacitated person.

24 5. If the principal is a [disabled] **financially incapacitated** or incapacitated person, on
25 petition of the principal's legal representative, an adult member of the principal's family or any
26 interested person, including a person interested in the welfare of the principal, for good cause
27 shown the court, may:

28 (1) Order the attorney in fact to exercise or refrain from exercising authority in a durable
29 power of attorney in a particular manner or for a particular purpose;

30 (2) Modify the authority of an attorney in fact under a durable power of attorney;

31 (3) Declare suspended a power of attorney that is not durable;

32 (4) Terminate a durable power of attorney;

33 (5) Remove the attorney in fact under a durable power of attorney;

34 (6) Confirm the authority of an attorney in fact or a successor attorney in fact to act under
35 a durable power of attorney; and

36 (7) Issue such other orders as the court finds will be in the best interest of the [disabled]
37 **financially incapacitated** or incapacitated principal, including appointment of a guardian or
38 conservator for the principal.

39 6. If, after notice and hearing, the court determines that there has been a prima facie
40 showing that the principal is a [disabled] **financially incapacitated** or incapacitated person and
41 that the attorney in fact has breached his fiduciary duty to the principal or that there is a
42 reasonable likelihood that he may do so in the immediate future, the court may, in its discretion,
43 issue an order that some or all of the authority granted by the power of attorney be suspended or
44 modified, and that a different attorney in fact be authorized to exercise some or all of the powers
45 granted by the power of attorney. Such attorney in fact may be designated by the court. The
46 court may require any person petitioning for any such order to file a bond in such amount and
47 with such sureties as required by the court to indemnify either the attorney in fact who has been
48 acting on behalf of the principal or the principal and the principal's successors in interest for the
49 expenses, including attorney's fees, incurred by any such persons with respect to such
50 proceeding. The court may, after hearing, allow payment or enter judgment for any such amount
51 in the manner as provided by subsection 6 of section 404.731. None of the actions described in

52 this subsection shall be taken by the court until after hearing upon reasonable notice to all
53 persons identified in a verified statement supplied by the petitioner who is requesting such action
54 identifying the immediate relatives of the principal and any other persons known to the petitioner
55 to be interested in the welfare of the principal; except that in the event of an emergency as
56 determined by the court, the court may, without notice, enter such temporary order as seems
57 proper to the court, but no such temporary order shall be effective for more than thirty days
58 unless extended by the court after hearing on reasonable notice to the persons identified as herein
59 provided.

60 7. If a power of attorney is suspended or terminated by the court or the attorney in fact
61 is removed by the court, the court may require an accounting from the attorney in fact and order
62 delivery of any property belonging to the principal and copies of any necessary records of the
63 attorney in fact concerning the principal's property and affairs to a successor attorney in fact or
64 the principal's legal representative.

65 8. In a proceeding under sections 404.700 to 404.735 or in any other proceeding, or upon
66 petition of an attorney in fact or successor, the court may:

67 (1) Require or permit an attorney in fact under a durable power of attorney to account;

68 (2) Authorize the attorney in fact under a durable power of attorney to enter into any
69 transaction, or approve, ratify, confirm and validate any transaction entered into by the attorney
70 in fact that the court finds is, was or will be beneficial to the principal and which the court has
71 power to authorize for a guardian or conservator under chapter 475; and

72 (3) Relieve the attorney in fact of any obligation to exercise authority for a disabled or
73 incapacitated principal under a durable power of attorney.

74 9. Unless previously barred by adjudication, consent or limitation, any cause of action
75 against an attorney in fact or successor for breach of duty to the principal shall be barred as to
76 any principal who has received an account or other statement fully disclosing the matter unless
77 a proceeding to assert the cause of action is commenced within two years after receipt of the
78 account or statement by [him] **or her** or, if the principal is a disabled or incapacitated person, by
79 a guardian or conservator of his estate; provided that, if a disabled or incapacitated person has
80 no guardian or conservator of his estate at the time an account or statement is presented, then the
81 cause of action shall not be barred until one year after the removal of the principal's disability
82 or incapacity, one year after the appointment of a conservator for the principal, or one year after
83 the death of the principal. The cause of action thus barred does not include any action to recover
84 from an attorney in fact or successor for fraud, misrepresentation or concealment related to the
85 settlement of any transaction involving the agency relationship of the attorney in fact with the
86 principal.

442.035. 1. If any property, real or personal, including homestead property, is held by
2 a husband and wife as tenants by the entirety, whether such entirety estate was created before
3 or is created after July 1, 1997, and if one spouse is an adult and competent and the other spouse
4 is under the age of eighteen or [disabled] **financially incapacitated** as defined in chapter 475,
5 or if both spouses are under the age of eighteen or [disabled] **financially incapacitated**, or if one
6 spouse is under the age of eighteen and the other is [disabled] **financially incapacitated**, the
7 conservator of any such spouse, subject to the provisions of subsections 2 and 3 shall have full
8 power to act for such conservator's protectee and to do all things with respect to the property that
9 the protectee could do if such protectee were an adult and competent; and without limiting the
10 generality of the foregoing, the conservator acting with the other spouse or the other conservator
11 may sell, convey, exchange, mortgage or pledge to secure loans of cash or purchase money,
12 lease, invest, reinvest, partition the property or its proceeds in equal shares, convert the property
13 or its proceeds into a tenancy in common in equal shares, or otherwise dispose of the property.

14 2. The power confirmed in a conservator by this section shall at all times be subject to
15 the approval, control, and supervision of the probate division of the circuit court having venue
16 of the conservatorship. Either the conservator or the adult and competent spouse may petition
17 or apply to the appropriate court for approval of an agreed proposed disposition of property held
18 by entireties. In the event the court finds that the proposed disposition is fair and equitable to
19 the protectee taking into consideration all of the circumstances of the case including the proper
20 interests of the other spouse, the court shall make appropriate authorization of disposition and
21 such orders as are necessary and proper in the case. Insofar as is practicable, procedure in the
22 probate division of the circuit court shall be in accord with the procedure provided in chapter 475
23 for a similar type of disposition of property. The court in its discretion may tax the costs against
24 both parties in equal or unequal shares, or solely against one party, or solely against the other
25 party.

26 3. If one of the spouses who hold by entireties is the conservator of the other spouse,
27 such conservator shall not represent such conservator's protectee in any negotiations for
28 agreement respecting disposition of the entirety property or in any proceedings for approval of
29 an agreed proposed disposition of such property, but in all such matters the protectee shall be
30 represented by a guardian ad litem. In such cases, on petition or application by the adult and
31 competent spouse, acting individually or as conservator, for disposition of the entirety property,
32 the court shall appoint a guardian ad litem to represent the protectee in the matter of a proposed
33 disposition of the property, and the guardian ad litem shall represent the protectee in any
34 negotiations for agreement with the adult and competent spouse and in any proceedings for
35 approval of the agreed proposed disposition of the property. In the event the agreed proposed
36 disposition is approved by the court, the guardian ad litem shall be discharged and the

37 conservator shall resume such conservator's full conservatorship and shall do all things necessary
38 to carry into effect the disposition of the property as approved pursuant to authorization and
39 orders by the court. In the event no agreement is reached after a reasonable time with reference
40 to disposition of the property, the guardian ad litem shall be discharged.

41 4. This section has no application to the conveyance, encumbrance or sale of property
42 by a person under the age of eighteen who holds such property as a tenant by the entirety and
43 who is authorized by law to make such conveyance, encumbrance or sale in person.

451.300. The spouse of any person who is under conservatorship may join with the
2 conservator in making partition of his or her own real estate held in joint tenancy, or in common,
3 and may, jointly with the conservator, make any release or other conveyance necessary and
4 proper for that purpose; and he or she may sell and convey his or her own real estate by joining
5 with the conservator in such sale and conveyance, to be under the order and supervision of the
6 proper court, and deeds executed jointly by himself or herself and such conservator shall have
7 the same force and effect as if done with his or her spouse if such spouse had been under no
8 disability; and in all cases where the real estate of such person shall be sold by his or her
9 conservator in due conformity to law, he or she may relinquish his or her right in such real estate
10 as fully as if his or her spouse joined in the deed of release; and when a person is found to be
11 [disabled] **financially incapacitated** as defined in chapter 475, and his or her spouse is the
12 owner of real estate in this state that he or she desires to convey, then, upon provision made for
13 such [disabled] **financially incapacitated** person, according to his or her needs, and according
14 to the ability, situation in life and circumstances of his or her spouse, and to his or her safely
15 secured under the order and control of the proper court, the conservator of such [disabled]
16 **financially incapacitated** person may, under the order and approval of the court, join in a deed,
17 on behalf of such [disabled] **financially incapacitated** person, for the purpose of conveying his
18 or her homestead, interest in such real estate; and if he or she has no conservator, then the court
19 may appoint a guardian ad litem pursuant to chapter 475 who may, in like manner, upon the
20 conditions and under the order of the court, join with the spouse on his or her behalf in such
21 deed; and such conveyance, when executed, as aforesaid, by either the conservator or the
22 guardian ad litem and the spouse of such person, shall be as valid and effectual to convey any
23 land owned by such spouse, including his or her homestead, and shall have the effect of releasing
24 the spouse's homestead in the real estate as fully as if he or she had, under no disability, of his
25 or her own free will, executed and acknowledged the same; provided, that no such order of
26 conveyance shall be made by the court until application made thereto, in writing, by such spouse,
27 setting forth the facts, and twenty days' public notice given of the time and place of hearing such
28 application has been given by publication in a weekly newspaper of general circulation published
29 in the county.

452.314. Notwithstanding any other provision of law to the contrary, a guardian for an
2 incapacitated person may file [a] :

3 **(1) Any motion permissible under chapter 452 that may be filed on behalf of such**
4 **incapacitated person;**

5 **(2) A** petition for dissolution of the marriage of, or if the incapacitated person has a
6 history of religious objection to divorce, the guardian may file for a legal separation for such
7 incapacitated person and may give testimony in support of the allegations contained in the
8 petition, if the guardian has reasonable cause to believe that the incapacitated person has been
9 the victim of abuse by the spouse of such incapacitated person.

456.1-103. In sections 456.1-101 to 456.11-1106:

2 (1) "Action," with respect to an act of a trustee, includes a failure to act;

3 (2) "Ascertainable standard" means a standard relating to an individual's health,
4 education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or Section
5 2541(c)(1) of the Internal Revenue Code;

6 (3) "Beneficiary" means a person that:

7 (a) has a present or future beneficial interest in a trust, vested or contingent; or

8 (b) in a capacity other than that of trustee, holds a power of appointment over trust
9 property;

10 (4) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose
11 described in subsection 1 of section 456.4-405;

12 (5) "Conservator" means a person described in subdivision (3) of section [475.010]
13 **475.700**. This term does not include a conservator ad litem;

14 (6) "Conservator ad litem" means a person appointed by the court pursuant to the
15 provisions of section 475.097;

16 (7) "Environmental law" means a federal, state, or local law, rule, regulation, or
17 ordinance relating to protection of the environment;

18 (8) "Financial institution" means a non-foreign bank, savings and loan or trust company
19 chartered, regulated and supervised by the Missouri division of finance, the office of the
20 comptroller of the currency, the office of thrift supervision, the National Credit Union
21 Administration, or the Missouri division of credit union supervision. The term "non-foreign
22 bank" shall mean a bank that is not a foreign bank within the meaning of subdivision (1) of
23 section 361.005;

24 (9) "Guardian" means a person described in subdivision (7) of section [475.010]
25 **475.700**. The term does not include a guardian ad litem;

26 (10) "Interested persons" include beneficiaries and any others having a property right in
27 or claim against a trust estate which may be affected by a judicial proceeding. It also includes

28 fiduciaries and other persons representing interested persons. The meaning as it relates to
29 particular persons may vary from time to time and must be determined according to the particular
30 purposes of, and matter involved in, any proceeding;

31 (11) "Interests of the beneficiaries" means the beneficial interests provided in the terms
32 of the trust;

33 (12) "Internal Revenue Code" means the United States Internal Revenue Code of 1986,
34 as in effect on January 1, 2005, or as later amended;

35 (13) "Jurisdiction," with respect to a geographic area, includes a state or country;

36 (14) "Person" means an individual, corporation, business trust, estate, trust, partnership,
37 limited liability company, association, joint venture, government; governmental subdivision,
38 agency, or instrumentality; public corporation, or any other legal or commercial entity;

39 (15) "Permissible distributee" means a beneficiary who is currently eligible to receive
40 distributions of trust income or principal, whether mandatory or discretionary;

41 (16) "Power of withdrawal" means a presently exercisable power of a beneficiary to
42 withdraw assets from the trust without the consent of the trustee or any other person;

43 (17) "Principal place of administration" of a trust is the trustee's usual place of business
44 where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no
45 such place of business, unless otherwise designated by the terms of the trust as provided in
46 section 456.1-108. In the case of cotrustees, the principal place of administration is, in the
47 following order of priority:

48 (a) The usual place of business of the corporate trustee if there is but one corporate
49 cotrustee;

50 (b) The usual place of business or residence of the trustee who is a professional fiduciary
51 if there is but one such trustee and no corporate cotrustee; or

52 (c) The usual place of business or residence of any of the cotrustees;

53 (18) "Professional fiduciary" means an individual who represents himself or herself to
54 the public as having specialized training, experience or skills in the administration of trusts;

55 (19) "Property" means anything that may be the subject of ownership, whether real or
56 personal, legal or equitable, or any interest therein;

57 (20) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's
58 qualification is determined:

59 (a) is a permissible distributee;

60 (b) would be a permissible distributee if the interests of the permissible distributees
61 described in paragraph (a) of this subdivision terminated on that date; or

62 (c) would be a permissible distributee if the trust terminated on that date;

63 (21) "Record" means information that is inscribed on a tangible medium or that is stored
64 in an electronic or other medium and is retrievable in perceivable form;

65 (22) "Revocable," as applied to a trust, means that the settlor has the legal power to
66 revoke the trust without the consent of the trustee or a person holding an adverse interest,
67 regardless of whether the settlor has the mental capacity to do so in fact;

68 (23) "Settlor" means a person, including a testator, who creates, or contributes property
69 to, a trust. If more than one person creates or contributes property to a trust, each person is a
70 settlor of the portion of the trust property attributable to that person's contribution except to the
71 extent another person has the power to revoke or withdraw that portion pursuant to the terms of
72 the trust;

73 (24) "Sign" means, with present intent to authenticate or adopt a record:

74 (a) to execute or adopt a tangible symbol; or

75 (b) to attach to or logically associate with the record an electronic sound, symbol, or
76 process;

77 (25) "Spendthrift provision" means a term of a trust which restrains either the voluntary
78 or involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's interest;

79 (26) "State" means a state of the United States, the District of Columbia, Puerto Rico,
80 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
81 of the United States. The term includes an Indian tribe or band recognized by federal law or
82 formally acknowledged by a state;

83 (27) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's
84 provisions as expressed in the trust instrument or as may be established by other evidence that
85 would be admissible in a judicial proceeding;

86 (28) "Trust instrument" means an instrument executed by the settlor that contains terms
87 of the trust, including any amendments thereto;

88 (29) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.
456.4-401. A trust may be created by:

2 (1) transfer of property to another person as trustee during the settlor's lifetime or by will
3 or other disposition taking effect upon the settlor's death;

4 (2) declaration by the owner of property that the owner holds identifiable property as
5 trustee;

6 (3) exercise of a power of appointment in favor of a trustee; or

7 (4) a court under section [475.092] **475.722**, [475.093] **475.724**, or 511.030, or 42 U.S.C.
8 Section 1396p(d)(4).

456.4-402. 1. Other than for a trust created by section [475.092] **475.722**, [475.093]
2 **475.724**, or 511.030, or 42 U.S.C. Section 1396p(d)(4), a trust is created only if:

- 3 (1) the settlor has capacity to create a trust;
4 (2) the settlor indicates an intention to create the trust;
5 (3) the trust has a definite beneficiary or is:
6 (a) a charitable trust;
7 (b) a trust for the care of an animal, as provided in section 456.4-408; or
8 (c) a trust for a noncharitable purpose, as provided in section 456.4-409;
9 (4) the trustee has duties to perform; and
10 (5) the same person is not the sole trustee and sole beneficiary.
- 11 2. A beneficiary is definite if the beneficiary can be ascertained now or in the future,
12 subject to any applicable rule against perpetuities.
- 13 3. A power in a trustee to select a beneficiary from an indefinite class is valid. If the
14 power is not exercised within a reasonable time, the power fails and the property subject to the
15 power passes to the persons who would have taken the property had the power not been
16 conferred.

456.4A-411. 1. Except for a trust established by a court under section [475.092]
2 **475.722**, [475.093] **475.724**, 511.030, or 42 U.S.C. Section 1396p(d)(4), a noncharitable
3 irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries,
4 without court approval, even if the modification or termination is inconsistent with a material
5 purpose of the trust. A settlor's power to consent to a trust's termination or modification may be
6 exercised by an agent under a power of attorney only to the extent expressly authorized by the
7 power of attorney or the terms of the trust; by the settlor's conservator with the approval of the
8 court supervising the conservatorship if an agent is not so authorized; or by the settlor's
9 conservator ad litem with the approval of the court if an agent is not so authorized and a
10 conservator has not been appointed.

11 2. Upon termination of a trust under subsection 1 of this section, the trustee shall
12 distribute the trust property as agreed by the beneficiaries.

13 3. If not all of the beneficiaries consent to a proposed modification or termination of the
14 trust under subsection 1 of this section, the modification or termination may be approved by the
15 court if the court is satisfied that:

16 (1) if all of the beneficiaries had consented, the trust could have been modified or
17 terminated under subsection 1 of this section; and

18 (2) the interests of a beneficiary who does not consent will be adequately protected.

473.092. At any time during a proceeding commenced pursuant to this chapter, or, after
2 the death of a [ward] **protectee**, at any time during a proceeding commenced pursuant to chapter
3 475, upon petition by any person who could have applied to the court pursuant to section 473.090
4 or section 473.097, if the court finds the requirements of either section would have been initially

5 met, the court may order the pending matter be completed under section 473.090 or section
6 473.097 and proceed pursuant to either section as authorized by statute. The court may proceed
7 with or without notice to any interested party.

473.657. 1. Distribution to a distributee may be made to the distributee or to a person
2 holding a power of attorney properly executed by the distributee in accordance with the law of
3 the place of execution, or to the distributee's personal representative, guardian, or conservator.

4 2. Distribution may be made to the trustees of a trust account established pursuant to
5 sections 402.199 to 402.208 if the court finds that the distributee qualifies as a life beneficiary
6 under subdivision (1) of section 402.200 and that such distribution would be in the best interest
7 of the distributee as prescribed by section [475.093] **475.724**.

473.743. It shall be the duty of the public administrator to take into [his or her] **the**
2 **public administrator's** charge and custody the estates of all deceased persons, and the person
3 and estates of all minors, and the estates or person and estate of all incapacitated persons in [his
4 or her] **the public administrator's** county, in the following cases:

- 5 (1) When a stranger dies intestate in the county without relations, or dies leaving a will,
6 and the personal representative named is absent, or fails to qualify;
- 7 (2) When persons die intestate without any known heirs;
- 8 (3) When persons unknown die or are found dead in the county;
- 9 (4) When money, property, papers or other estate are left in a situation exposed to loss
10 or damage, and no other person administers on the same;
- 11 (5) When any estate of any person who dies intestate therein, or elsewhere, is left in the
12 county liable to be injured, wasted or lost, when the intestate does not leave a known husband,
13 widow or heirs in this state;
- 14 (6) The persons of all minors under the age of fourteen years, whose parents are dead,
15 and who have no legal guardian or conservator;
- 16 (7) The estates of all minors whose parents are dead, or, if living, refuse or neglect to
17 qualify as conservator, or, having qualified have been removed, or are, from any cause,
18 incompetent to act as such conservator, and who have no one authorized by law to take care of
19 and manage their estate;
- 20 (8) The estates or person and estate of all [disabled] **financially incapacitated** or
21 incapacitated persons, **as defined in chapter 475**, in [his or her] **the public administrator's**
22 county who have no legal guardian or conservator, and no one competent to take charge of such
23 estate, or to act as such guardian or conservator, can be found, or is known to the court having
24 jurisdiction, who will qualify;

25 (9) Where from any other good cause, the court shall order [him] **the public**
26 **administrator** to take possession of any estate to prevent its being injured, wasted, purloined
27 or lost;

28 (10) When moneys are delivered to the public administrator from the county coroner;

29 (11) The public administrator shall act as trustee when appointed by the circuit court or
30 the probate division of the circuit court.

473.748. 1. As used in this section, the terms conservator, guardian, protectee, and ward
2 shall have the same definitions as in section [475.010] **475.700**.

3 2. Any term, provision, consideration, or covenant in any contract for treatment, goods,
4 or services shall be unenforceable if such term, provision, consideration, or covenant requires
5 a public administrator who is acting as a guardian or conservator to personally pay, assume, or
6 guarantee the debt or account of a ward or protectee.

[475.010.] **475.700**. When used in this chapter, unless otherwise apparent from the
2 context, the following terms mean:

3 (1) "Adult", a person who has reached the age of eighteen years;

4 (2) "Claims", liabilities of the protectee arising in contract, in tort or otherwise, before
5 or after the appointment of a conservator, and liabilities of the estate which arise at or after the
6 adjudication of [disability] **financial incapacity** or after the appointment of a conservator of the
7 estate, including expenses of the adjudication and of administration. The term does not include
8 demands or disputes regarding title of the protectee to specific assets alleged to be included in
9 the estate;

10 (3) "Conservator", one appointed by a court to have the care and custody of the estate
11 of a minor or a [disabled] **financially incapacitated** person. A "limited conservator" is one
12 whose duties or powers are limited. The term "conservator", as used in this chapter, includes
13 limited conservator unless otherwise specified or apparent from the context;

14 (4) **"Conservator ad litem", one appointed by the court in which particular**
15 **litigation is pending regarding the management of financial resources, to represent a**
16 **minor, a financially incapacitated person, or an unborn person in that particular**
17 **proceeding or as otherwise specified in this code;**

18 (5) "Custodial parent", the parent of a minor who has been awarded sole or joint physical
19 custody of such minor, or the parent of an incapacitated person who has been appointed as
20 guardian of such person, by an order or judgment of a court of this state or of another state or
21 territory of the United States, or if there is no such order or judgment, the parent with whom the
22 minor or incapacitated person primarily resides;

23 [(5) "Disabled" or "disabled person", one who is:

24 (a) Unable by reason of any physical or mental condition to receive and evaluate
25 information or to communicate decisions to such an extent that the person lacks ability to
26 manage his financial resources; or

27 (b) The term "disabled" or "disabled person", as used in this chapter includes the terms
28 partially disabled or partially disabled person unless otherwise specified or apparent from the
29 context;]

30 (6) "Eligible person" or "qualified person", a natural person, social service agency,
31 corporation or national or state banking organization qualified to act as guardian of the person
32 or conservator of the estate pursuant to the provisions of [section 475.055] **sections 475.736 and**
33 **475.764;**

34 (7) **"Financially incapacitated" or "financially incapacitated person", one who is:**

35 **(a) Unable by reason of any physical, mental, or cognitive condition to receive and**
36 **evaluate information or to communicate decisions to such an extent that the person lacks**
37 **ability to manage the person's financial resources; or**

38 **(b) The term "financially incapacitated" or financially incapacitated person", as**
39 **used in this chapter includes the terms partially financially incapacitated or partially**
40 **financially incapacitated person unless otherwise specified or apparent from the context;**

41 **(8) "Guardian", one appointed by a court to have the care and custody of the person of**
42 **a minor or of an incapacitated person. A "limited guardian" is one whose duties or powers are**
43 **limited. A "standby guardian" is one approved by the court to temporarily assume the duties of**
44 **guardian of a minor or of an incapacitated person under section [475.046] 475.750 or 475.802.**
45 **The term "guardian", as used in this chapter, includes limited guardian and standby guardian**
46 **unless otherwise specified or apparent from the context;**

47 **[(8)] (9) "Guardian ad litem", one appointed by a court[,]** in which particular litigation
48 is pending, to represent a minor, an incapacitated person, [a disabled person,] or an unborn
49 person in that particular proceeding or as otherwise specified in this code;

50 **[(9)] (10) "Habilitation", [instruction, training, guidance or treatment designed to enable**
51 **and encourage a intellectually disabled or developmentally disabled person as defined in chapter**
52 **630 to acquire and maintain those life skills needed to cope more effectively with the demands**
53 **of his or her own person and of his or her environment] a process of treatment, training, care,**
54 **or specialized attention which seeks to enhance and maximize the ability of a person with**
55 **an intellectual disability or a developmental disability to cope with the environment and**
56 **to live as determined by the person as much as possible;**

57 **[(10)] (11) "Incapacitated person", one who is unable by reason of any physical [or] ,**
58 **mental, or cognitive condition to receive and evaluate information or to communicate decisions**
59 **to such an extent that [he or she] the person, even with appropriate services and assistive**

60 **technology**, lacks capacity to [meet] **manage the person's** essential requirements for food,
61 clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely
62 to occur. The term "incapacitated person" as used in this chapter includes the term partially
63 incapacitated person unless otherwise specified or apparent from the context;

64 **(12) "Interested person", spouses, children, parents, adult members of a ward's or**
65 **protectee's family, any persons interested in the welfare of the ward or protectee, creditors**
66 **or any others having a property right or claim against the estate of a protectee being**
67 **administered, trustees of a trust of which the ward or protectee is a beneficiary, agents of**
68 **a durable power of attorney for a ward or protectee, and includes children of a protectee**
69 **who may have a property right or claim against or an interest in the estate of a protectee.**
70 **The meaning of "interested person" may vary at different stages and different parts of a**
71 **proceeding and shall be determined according to the particular purpose and matter**
72 **involved;**

73 [(11)] **(13) "Least restrictive [environment] alternative "**, [that there shall be imposed
74 on the personal liberty of the ward only such restraint as is necessary to prevent the ward from
75 injuring himself or herself and others and to provide the ward with such care, habilitation and
76 treatment as are appropriate for the ward considering his or her physical and mental condition
77 and financial means] **with respect to the guardianship order and the exercise of power by**
78 **the guardian, refers to a course of action or an alternative that allows the incapacitated**
79 **person to live, learn, and work with minimum restrictions on him or her. It means**
80 **choosing the decision or approach which:**

81 **(a) Places the least possible restriction on the person's personal liberty and exercise**
82 **of rights and that promotes the greatest possible inclusion of the person into his or her**
83 **community; and**

84 **(b) Is consistent with meeting his or her essential requirements for health, safety,**
85 **habilitation, treatment, and recovery and protecting him or her from abuse, neglect, and**
86 **financial exploitation;**

87 [(12)] **(14) "Manage financial resources"**, either those actions necessary to obtain,
88 administer, and dispose of real and personal property, intangible property, business property,
89 benefits, income or any assets, or those actions necessary to prevent waste, loss or dissipation
90 of property, or those actions necessary to provide for the care and support of such person or
91 anyone legally dependent upon such person by a person of ordinary skills and intelligence
92 commensurate with his or her training and education;

93 [(13)] **(15) "Minor"**, any person who is under the age of eighteen years;

94 [(14)] **(16) "Parent"**, the biological or adoptive mother or father of a child whose parental
95 rights have not been terminated under chapter 211, including:

96 (a) A person registered as the father of the child by reason of an unrevoked notice of
97 intent to claim paternity under section 192.016;

98 (b) A person who has acknowledged paternity of the child and has not rescinded that
99 acknowledgment under section 193.215; and

100 (c) A person presumed to be the natural father of the child under section 210.822;

101 [(15)] (17) "Partially [disabled] **financially incapacitated** person", one who is unable
102 by reason of any physical [or] , mental, **or cognitive** condition to receive and evaluate
103 information or to communicate decisions to such an extent that such person lacks capacity to
104 manage, in part, his or her financial resources;

105 [(16)] (18) "Partially incapacitated person", one who is unable by reason of any physical
106 [or] , mental, **or cognitive** condition to receive and evaluate information or to communicate
107 decisions to the extent that such person lacks capacity to meet, in part, essential requirements for
108 food, clothing, shelter, safety, or other care without court-ordered assistance;

109 [(17)] (19) "Protectee", a person for whose estate a conservator or limited conservator
110 has been appointed or with respect to whose estate a transaction has been authorized by the court
111 under section [475.092] **475.722** without appointment of a conservator or limited conservator;

112 [(18)] (20) "Seriously ill", a significant likelihood that a person will become
113 incapacitated or die within twelve months;

114 [(19)] (21) "Social service agency", a charitable organization organized and incorporated
115 as a not-for-profit corporation under the laws of this state and which qualifies as an exempt
116 organization within the meaning of Section 501(c)(3), or any successor provision thereto of the
117 federal Internal Revenue Code;

118 [(20)] (22) "Standby guardian", one who is authorized to have the temporary care and
119 custody of the person of a minor or of an incapacitated person under the provisions of section
120 [475.046] **475.750 or 475.802**;

121 [(21)] (23) "Treatment", the prevention, amelioration or cure of a person's physical and
122 mental illnesses or incapacities;

123 [(22)] (24) "Ward", a minor or an incapacitated person for whom a guardian, limited
124 guardian, or standby guardian has been appointed.

[475.016.] **475.702. 1.** If there has been an adjudication of incompetency before
2 September 28, 1983, any person so adjudicated shall be deemed totally incapacitated and totally
3 disabled as defined in section [475.010] **475.700**, until such time as the probate division of the
4 circuit court of the county of proper venue, upon the annual review proceeding prescribed by
5 section [475.082] **475.830** or otherwise, may review the nature of the incapacity or disability of
6 the person so adjudicated and alter the nature of the adjudication if, as a consequence of the
7 review, it appears to the court that the person is not both totally incapacitated and totally disabled

8 as defined in section [475.010] **475.700**. A guardian of the person appointed before September
9 28, 1983, shall be deemed a guardian as defined in section [475.010] **475.700**. A guardian of the
10 estate appointed before September 28, 1983, shall be deemed a conservator as defined in section
11 [475.010] **475.700**.

12 **2. If there has been an adjudication of incapacity or partial incapacity since**
13 **September 28, 1983, and before August 28, 2016, any person so adjudicated shall continue**
14 **to be deemed to be incapacitated or partially incapacitated until such time as the probate**
15 **division of the circuit court of the county of proper venue determines otherwise.**

16 **3. If there has been an adjudication of disability or partial disability since**
17 **September 28, 1983, and before August 28, 2016, any person so adjudicated shall be**
18 **deemed to be financially incapacitated or partially financially incapacitated until such time**
19 **as the probate division of the circuit court of the county of proper venue determines**
20 **otherwise.**

21 **4. Existing guardians and conservators shall have one year after August 28, 2016,**
22 **to meet any annual and other reporting and planning requirements that are different than**
23 **the requirements under this chapter prior to August 28, 2016.**

[475.020.] **475.704.** The provisions of chapter 472, unless therein restricted to decedents'
2 estates, apply to guardianships and conservatorships. Where sections in chapter 473 are
3 specifically incorporated by reference by any provision of sections [475.010] **475.700** to
4 [475.370] **475.1046**, they shall be applied as if "decedent" or "deceased" read "ward" or
5 "protectee", "executor" or "administrator" or "personal representative" read "guardian",
6 "conservator" and the like, as the case may be, as far as applicable to guardianships and
7 conservatorships and not inconsistent with the provisions of sections [475.010] **475.700** to
8 [475.370] **475.1046**. In other cases, where no rule is set forth for guardianships and
9 conservatorships in sections [475.010] **475.700** to [475.370] **475.1046**, the rule regarding
10 decedents' estates in this law shall likewise apply to guardianships and conservatorships when
11 applicable thereto and not inconsistent with the provisions of sections [475.010] **475.700** to
12 [475.370] **475.1046**, unless a contrary rule of court is duly promulgated or declared; provided
13 that the provisions of sections 473.780 to 473.840, relating to independent administration, shall
14 not apply to guardianships or conservatorships.

475.706. 1. The probate division of the courts of this state has jurisdiction over
2 **guardianship for minors domiciled or present in this state subject to the Missouri Uniform**
3 **Child Custody Jurisdiction and Enforcement Act, under sections 452.700 to 452.930. The**
4 **probate division of the courts of this state has jurisdiction over protective proceedings or**
5 **conservatorship for minors domiciled in or having property located in this state.**

6 **2. The probate division of the courts of this state has jurisdiction over guardianship**
7 **and protective proceedings or conservatorship for an adult individual as set in the Missouri**
8 **Uniform Adult Guardianship Protective Proceedings Jurisdiction Act, under sections**
9 **475.970 to 475.1017.**

10 **3. The probate divisions of the courts of this state have jurisdiction over issues of**
11 **the adjudication of incapacity, partial incapacity, financial incapacity, or partial incapacity**
12 **and the appointment of a guardian, limited guardian, conservator, or limited conservator**
13 **of an adult child eighteen years of age or older whose parents have a pending matter under**
14 **chapter 452 or 210 for child custody or visitation of that child. The probate division shall**
15 **have jurisdiction over the matters of child custody and visitation after such adjudication**
16 **and appointment of a guardian for an adult child. The court that has jurisdiction under**
17 **chapter 452 or 210 of the adult child's parents shall have the authority to enter orders only**
18 **as to child support after such adjudication and appointment of a guardian by the probate**
19 **division.**

475.708. 1. Custody orders issued by the juvenile division under chapter 211 shall
2 **take precedence over any guardianship order relating to custody for minors issued under**
3 **this chapter. Such questions may be certified to the juvenile division for hearing,**
4 **determination, or recommendation under section 211.051.**

5 **2. The probate division may transfer a guardianship proceeding involving the**
6 **custody of a minor to the family court under section 487.090, or may transfer a**
7 **guardianship proceeding to any other court in which a custody order has been granted, or**
8 **is being sought, with respect to the same minor.**

9 **3. If another court has granted custody to one or both parents of a minor, the**
10 **probate division may proceed with a guardianship proceeding involving a minor and the**
11 **appointment of a guardian in the probate division will operate to terminate the custody**
12 **order of the other court.**

~~[475.035.]~~ **475.710. 1. The venue for the appointment of a guardian or conservator shall**
2 **be:**

3 (1) In the county in this state where the minor or alleged incapacitated or [disabled]
4 **financially incapacitated** person is domiciled; [or]

5 (2) If the minor or alleged incapacitated or [disabled] **financially incapacitated** person
6 has no domicile in this state, then in the county in which the minor or alleged incapacitated or
7 [disabled] **financially incapacitated** person actually resides, or if he or she does not reside in
8 any county, then in any county wherein there is any property of the minor or alleged
9 incapacitated or [disabled] **financially incapacitated** person; [or]

10 (3) In the county, or on any federal reservation within the county, wherein the minor or
11 alleged incapacitated or [disabled] **financially incapacitated** person or his or her property is
12 found; or

13 (4) In a county of this state which is within a judicial circuit which has prior and
14 continuing jurisdiction over the minor pursuant to subdivision (1) of subsection 1 of section
15 211.031.

16 **2. If the minor has resided in a county other than the county of the minor's domicile**
17 **for more than six months, or if a natural guardian or other person with rights to custody**
18 **of the minor does not object to venue in the county where the minor resides, the court of**
19 **that county may assume venue for the purpose of appointment of a guardian or**
20 **conservator.**

21 **3. If the alleged incapacitated or [disabled] financially incapacitated** person has resided
22 in a county other than the county of [his or her] **the person's** domicile for more than [one year]
23 **six months**, the court of that county may assume venue for the purpose of appointment of a
24 guardian or conservator.

25 [3.] **4.** If proceedings are commenced in more than one county, they shall be stayed
26 except in the county where first commenced until final determination of venue in the county
27 where first commenced. The proceeding is deemed commenced by the filing of a petition; and
28 the proceeding first legally commenced to appoint a conservator of the estate extends to all of
29 the property of the protectee in this state.

[475.040.] **475.712.** If it appears to the court, acting on the petition of the guardian, the
2 conservator, the respondent or of a ward over the age of fourteen, or on its own motion, at any
3 time before the termination of the guardianship or conservatorship, that the proceeding was
4 commenced in the wrong county, or that the domicile or residence of the ward or protectee has
5 been changed to another county, or in case of conservatorship of the estate that it would be for
6 the best interest of the [ward or disabled person] **protectee** and [his] **the protectee's** estate, the
7 court may order the proceeding with all papers, files and a transcript of the proceedings
8 transferred to the probate division of the circuit court of another county. The court to which the
9 transfer is made shall take jurisdiction of the case, place the transcript of record and proceed to
10 the final settlement of the case as if the appointment originally had been made by it.

[475.011.] **475.714.** Nothing in this chapter shall be construed to constitute evidence of
2 incapacity or partial incapacity of a person solely because such person refuses medical treatment
3 upon the grounds that such person has consistently relied on prayer for healing in accordance
4 with the religion of any church which teaches reliance on spiritual means for healing.

[475.370.] **475.716.** 1. If the estate of any incapacitated ward or protectee is insufficient
2 to pay [his] **the ward's or protectee's** debts, to maintain [himself and] **the ward or the ward's**

3 or protectee's family, or educate [his] **the ward's or protectee's** children, [his] **the** guardian or
4 conservator may apply to the county commission of the proper county, by petition, setting forth
5 the particulars, and praying for an appropriation from the county treasury for the support of [his]
6 **the** ward or protectee.

7 2. The petition shall be accompanied by a true and perfect account of the guardianship
8 or conservatorship, an inventory of the estate and effects, and a list of the debts due from such
9 incapacitated **or financially incapacitated** person, and it shall be verified by the affidavit of the
10 petitioner.

11 3. If the county commission is satisfied that the estate and effects are insufficient for the
12 purposes above specified, it may order such sum to be paid to the guardian or conservator, out
13 of the county treasury, as to it shall appear reasonable, and cause a warrant to be issued
14 accordingly.

15 4. But no allowance shall be made, at any one time, for a period longer than one year,
16 nor shall the order be made at any time, unless the guardian or conservator has duly accounted,
17 and settled with the probate division of the circuit court, for the moneys and effects which have
18 come to [his] **the guardian's or conservator's** hands for the support of [his] **the** ward or
19 protectee, out of the county treasury or otherwise.

**475.718. 1. If the life of a person is threatened and that person's consent to a
2 necessary medical or surgical procedure cannot be obtained, a court, on petition or a
3 second count of a petition filed under section 475.766 for an adult or 475.738 for a minor,
4 after hearing, may authorize consent on behalf of such person.**

5 **2. Any hearing conducted under to subsection 1 of this section, involving a life
6 threatening medical emergency, may be conducted within or without the county at the
7 medical facility where the person has been admitted with such notice and in such form as
8 is practicable considering the time limitations imposed due to the condition of person. The
9 fact of attempted oral notice to persons interested in the welfare of the person shall be
10 made a part of the record of the hearing.**

**475.720. 1. No guardian of the person shall have authority to seek admission of the
2 guardian's ward to a mental health or developmental disability facility, as defined in
3 chapters 630 to 633, for more than thirty days for any purpose without court order except
4 as otherwise provided by law.**

5 **2. Under an application alleging that the admission of the ward to a particular
6 mental health or developmental disability facility is appropriate and in the best interest of
7 the ward, the court may authorize the guardian or limited guardian to admit the ward to
8 such facility. Such application shall be accompanied by a licensed physician's statement
9 setting forth the factual basis for the need for continued admission including a statement**

10 of the ward's current diagnosis, plan of care, treatment, or habilitation and the probable
11 duration of the admission.

12 **3. If the court finds that the application establishes the need for inpatient care,**
13 **habilitation, or treatment of the ward in a mental health or developmental disability**
14 **facility without the adduction of further evidence, it shall issue an order authorizing the**
15 **guardian to admit the ward to such facility in accordance with the provisions of section**
16 **632.120 or section 633.120.**

17 **4. The court may, in its discretion, appoint an attorney to represent the ward. The**
18 **attorney shall meet with the ward and may request a hearing on the application. If a**
19 **hearing is requested, the court shall set the application for hearing. If there is no request**
20 **for hearing, the court may rule on the application without a hearing. The attorney for the**
21 **ward shall be allowed a reasonable fee for the attorney's services rendered to be assessed**
22 **as costs under sections 475.758 and 475.818.**

23 **5. Proceedings under this section may be combined with a petition for adjudication**
24 **proceedings under sections 475.766 for an adult and 475.738 for a minor.**

[475.092.] **475.722** 1. If it is established in a proceeding conducted in a manner similar
2 to a proceeding for the appointment of a conservator of the estate that a person is a minor or
3 **[disabled] financially incapacitated**, or has a physical or mental disability as defined under state
4 or federal law, the court, without appointing a conservator, may authorize, direct or ratify any
5 transaction necessary or desirable to achieve any security, service, or care arrangement meeting
6 the foreseeable needs of the person.

7 2. When it has been established in such a proceeding that the person is a minor or
8 **[disabled] financially incapacitated**, or has a physical or mental disability as defined under state
9 or federal law, the court, without appointing a conservator, may authorize, direct or ratify any
10 contract or other transaction relating to the person's financial affairs or involving such person's
11 estate if the court determines that the transaction is in the best interests of the person and if such
12 action would otherwise be within the power of the court. A transaction pursuant to this section
13 may include the establishment by the court or other grantor of an inter vivos trust, including a
14 trust that complies with the provisions of 42 U.S.C. Section 1396p(d)(4), on behalf of the person
15 provided that upon such person's death, after the payment of trustees' fees, any payments to the
16 state Medicaid agency that are required by the provisions of 42 U.S.C. Section 1396p(d)(4) are
17 made and, provided further, that any creditor of the person other than the state of Missouri shall
18 also be paid all sums due for such person's care, maintenance and support, to the extent trust
19 property is sufficient therefor, and, provided, such trust shall terminate upon such person's death
20 and any amounts remaining in the trust after the foregoing payments shall be distributed to the
21 remainder beneficiaries designated in the trust or as designated pursuant to the exercise of a

22 power of appointment set forth in the trust. This section shall not be interpreted to require all
23 such trusts to be established by a court proceeding.

24 3. Before approving a protective arrangement or other transaction pursuant to this
25 section, the court shall consider the interests of creditors and dependents of the person and, in
26 view of such person's [disability] **financial incapacity**, whether such person needs the
27 continuing protection of a conservator. The court may appoint a special conservator to assist in
28 the accomplishment of any protective arrangement or other transaction authorized pursuant to
29 this section who shall have the authority conferred by the order and serve until discharged by
30 order after report to the court of all matters done pursuant to the order of appointment.

31 4. Notwithstanding any other law to the contrary, the trustee of any trust created or
32 approved by a Missouri court prior to August 28, 1999, for the benefit of a person who is a minor
33 or [disabled] **financially incapacitated**, or has a physical or mental disability as defined under
34 state or federal law shall not be liable to the state of Missouri or to any creditor of such person
35 if, on August 28, 1999, the trust does not have sufficient assets to reimburse the state of Missouri
36 for medical assistance paid on such person's behalf pursuant to a state plan as provided in Title
37 42 of the United States Code or to reimburse a creditor for sums due for such person's care,
38 maintenance and support. Any such trust which is in existence as of August 28, 1999, shall be
39 subject to subsection 2 of this section, as amended, notwithstanding any provisions of such trust
40 to the contrary. The trustee shall not be liable for any distributions or payments made prior to
41 August 28, 1999, pursuant to the terms of such trust.

[475.093.] **475.724.** 1. If the court finds that the establishment of a trust would be in the
2 protectee's best interest, the court may authorize the establishment of a trust account for the
3 benefit of a protectee pursuant to sections 402.199 to 402.208, if it finds that the protectee
4 qualifies as a life beneficiary pursuant to subdivision (1) of section 402.200, or the court may
5 authorize the establishment of such trust for the benefit of a protectee pursuant to section
6 [475.092] **475.722.**

7 2. A trust account established pursuant to sections 402.199 to 402.208 will be in the best
8 interest of the protectee, notwithstanding the fact that a sum not exceeding twenty-five percent
9 of the principal balance as defined in subdivision (9) of section 402.200 will be distributed to the
10 charitable trust of the Missouri family trust as prescribed by section 402.203.

[475.025.] **475.730.** In all cases not otherwise provided for by law, the father and mother,
2 with equal powers, rights and duties, while living, and in case of the death of either parent the
3 survivor, or when there is no lawful father, then the mother, if living, is the natural guardian of
4 their children, and has the custody and care of their persons and education. When the estate of
5 a minor is derived from a parent, the parent as natural guardian has all of the powers of a
6 conservator appointed by a court, with respect to property derived from [him] **the parent**, except

7 that no court order or authorization is necessary to exercise these powers and the natural guardian
8 may invest, sell and reinvest the estate of the minor in such property as is reasonable and prudent.

[475.024.] **475.732.** A parent of a minor, by a properly executed power of attorney, may
2 delegate to another individual, for a period not exceeding one year, any of [his or her] **the**
3 **parent's** powers regarding care or custody of the minor child, except [his or her] **the parent's**
4 power to consent to marriage or adoption of the minor child.

[475.045.] **475.734.** 1. Except in cases where they fail or refuse to give required security
2 or are adjudged unfit for the duties of guardianship or conservatorship, or waive their rights to
3 be appointed, the following persons, if otherwise qualified, shall be appointed as guardians or
4 conservators of minors:

5 (1) The parent or parents of the minor, except as provided in section [475.030] **475.754**;

6 (2) If any minor over the age of fourteen years has no qualified parent living, a person
7 nominated by the minor, unless the court finds appointment contrary to the best interests of the
8 minor;

9 (3) Where both parents of a minor are dead, any person appointed under this section or
10 section [475.046] **475.750** by the will of the last surviving parent, who has not been adjudged
11 unfit or incompetent for the duties of guardian or conservator.

12 2. Unfitness of any of the persons mentioned in subsection 1 for the duties of
13 guardianship or conservatorship may be adjudged by the court after due notice and hearing.

14 3. If no appointment is made under subsection 1 of this section, the court shall appoint
15 as guardian or conservator of a minor the most suitable person who is willing to serve and whose
16 appointment serves the best interests of the child to a stable and permanent placement.

475.736. 1. Except as herein otherwise provided:

2 (1) **Any adult person may be appointed guardian of a minor or conservator of the**
3 **minor's estate, or both; except that, a parent shall not be denied appointment as guardian**
4 **of a minor for the reason that the parent is a minor;**

5 (2) **Any corporation authorized to do business in this state and empowered by its**
6 **charter so to act or any national banking association authorized so to act in this state may**
7 **be appointed conservator of the estate of a minor. No corporation other than a social**
8 **service agency may be appointed to serve as guardian of the incapacitated person.**

9 2. **No person or corporation, other than the public administrator of the county,**
10 **shall be appointed guardian or conservator unless the appointee has filed a consent to act.**
11 **Except as otherwise provided by this section, no person or corporation licensed as a facility**
12 **by the Missouri department of mental health or the Missouri department of social services,**
13 **nor any administrator, owner, operator, manager, or employee of such a facility shall be**
14 **appointed guardian of the person or conservator of the estate of any resident of that**

15 facility, unless related within the fourth degree of consanguinity or affinity to the resident.
16 No full-time judge of any court of this state and no clerk, deputy clerk, or division clerk
17 shall be appointed as guardian of the person or conservator of the estate, but a judge,
18 clerk, deputy clerk, or division clerk may serve as a guardian or conservator for a ward
19 or protectee who is a spouse or is within the third degree of relationship by consanguinity
20 or affinity as calculated according to civil law. No natural person under eighteen years of
21 age, other than as provided in subsection 1 of this section; no incapacitated or financially
22 incapacitated person; and no substance abuser shall be appointed guardian of the person
23 or conservator of the estate. No person whose letters of guardianship or conservatorship
24 are revoked shall be appointed guardian or conservator within two years after the
25 revocation. No one shall be appointed guardian of the person or conservator of the estate
26 unless qualified to perform the duties of said office or offices.

27 3. A person becomes a guardian or conservator of a minor upon issuance of letters
28 of guardianship or conservatorship by the court. A person so appointed need not reside
29 within this state in order to accept or serve as guardian or conservator, unless the court
30 finds that such person, taking into consideration the person's place of residence, is unable
31 to effectively perform the duties of guardian or conservator as provided by this code. The
32 guardianship or conservatorship status continues until terminated, without regard to the
33 location from time to time, whether within or outside of this state, of the guardian and
34 ward or conservator and protectee.

35 4. Subsections 3 and 4 of section 473.117, section 473.689, and section 475.1036 are
36 applicable to nonresident guardians and conservators.

 475.738. Any person may file a petition for the appointment of himself or herself
2 or some other qualified person as guardian of a minor. Such petition shall state:

3 (1) The name, age, domicile, actual place of residence, and post office address of the
4 minor if known and if any of these facts is unknown, the efforts made to ascertain that fact;

5 (2) The estimated value of the minor's real and personal property, and the location
6 and value of any real property owned by the minor outside of this state;

7 (3) If the minor has no domicile or place of residence in this state, the county in
8 which the property or major part thereof of the minor is located;

9 (4) The name and address of the parents of the minor and whether they are living
10 or dead;

11 (5) The name and address of the spouse, and the names, ages, and addresses of all
12 living children of the minor;

13 (6) The name and address of the person having custody of the person of the minor
14 or who claims to have custody of the minor;

15 (7) The name and address of any guardian of the person or conservator of the
16 estate of the minor appointed in this or any other state;

17 (8) If appointment is sought for a natural person, other than the public
18 administrator, the names and addresses of wards and protectees for whom such person is
19 already guardian or conservator;

20 (9) The name and address of the trustees and the purpose of any trust of which the
21 minor is a qualified beneficiary;

22 (10) The reasons why the appointment of a guardian is sought;

23 (11) A petition for the appointment of a guardian of a minor may be filed for the
24 sole and specific purpose of school registration or medical insurance coverage. Such a
25 petition shall clearly set out this limited request and shall not be combined with a petition
26 for conservatorship;

27 (12) If the petitioner suggests the appointment of co-guardians or co-conservators,
28 or both, a statement of the reasons why such appointment is sought and whether the
29 petitioner suggests that the co-guardians or co-conservators, if appointed, may act
30 independently or whether they may act only together or only together with regard to
31 specified matters; and

32 (13) Whether the petitioner knows of any other court having jurisdiction over the
33 minor and the name of the court, if known.

475.740. 1. Any person may file a petition in the probate division of the circuit
2 court of the county of proper venue for the appointment of himself or herself or some other
3 qualified person as conservator of the estate of a minor. The petition shall contain the
4 same allegations as are set forth in subdivisions (1), (8), and (10) of subsection 2 of section
5 475.738 with respect to the appointment of a guardian for an incapacitated person and that
6 the respondent is under the age of eighteen years.

7 **2.** A petition for appointment of a conservator or limited conservator of the estate
8 may be combined with a petition for appointment of a guardian or limited guardian of the
9 person. In such a combined petition, allegations need not be repeated.

475.742. When application is made for the appointment of a guardian or
2 conservator for two or more minors who are children of a common parent, or are parent
3 and child, or are husband and wife, it is not necessary that a separate petition, bond, or
4 other paper be filed for each minor and the guardianship or conservatorship of all may be
5 considered as one proceeding; except that, there shall be a separate accounting when the
6 guardianship or conservatorship terminates as to one ward or protectee but not as to the
7 others.

[475.070.] **475.744.** 1. Before appointing a guardian or conservator for a minor, notice of the petition therefor shall be served upon the following unless they have signed such petition or have waived notice thereof:

- 4 (1) The minor, if over fourteen years of age;
- 5 (2) The parents of the minor;
- 6 (3) The spouse of the minor;
- 7 (4) If directed by the court:
 - 8 (a) Any person who has been appointed guardian or any person having care and custody
 - 9 of the minor;
 - 10 (b) Any department, bureau or agency of the United States or of this state or any political
 - 11 subdivision thereof, which makes or awards compensation, pension, insurance or other
 - 12 allowance for the benefit of the ward's estate;
 - 13 (c) Any department, bureau or agency of this state or any political subdivision thereof
 - 14 or any charitable organization of this state, which may be charged with the supervision, control
 - 15 or custody of the minor.

16 2. If the minor is over fourteen years of age, there shall be personal service upon [him]

17 **the minor** if personal service can be had. Service on others may be had in accordance with

18 section 472.100.

19 3. If a petition for the appointment of a guardian of a minor is filed for the sole and

20 specific purpose of school registration or medical insurance coverage, upon the filing of an

21 affidavit by the petitioner stating that, after due and diligent effort to the best of [his or her] **the**

22 **petitioner's** ability, the whereabouts or identity of either or both parents of the minor remains

23 unknown, the court may proceed with the appointment of such a guardian without having

24 obtained service upon the parents of the minor.

25 **4. The provisions of the Uniform Child Custody Jurisdiction and Enforcement Act**

26 **under sections 452.700 to 452.930 are applicable to the proceedings for the appointment**

27 **of a guardian for a minor. The natural parents shall be served with process and afforded**

28 **the opportunity to file an answer under the rules of civil procedure, as in other civil cases,**

29 **rather than under the less formal procedures of the probate code, unless the natural**

30 **parents have filed an appropriate pleading indicating their consent to the relief being**

31 **sought.**

475.746. Every conservator of the estate of a minor, before entering upon the duties

2 **of the conservator's office, shall execute and file a bond, approved by the court, procured**

3 **at the expense of the estate with sufficient surety in an amount fixed by the court. Sections**

4 **473.157 to 473.217, relating to the bonds of personal representatives, except subsection 1**

5 of section 473.157 and subsection 1 of section 473.160, are applicable to the bonds of
6 conservators.

475.748. 1. If it appears to the court that a guardian should be appointed for a
2 minor, the court may appoint a guardian of the person. The appointment of guardians of
3 minors shall be made in accordance with section 475.735; except that, if a person entitled
4 to appointment as a guardian or entitled to select a guardian fails to appear after notice or
5 to apply for such appointment or make selection in accordance with the order of the court,
6 the court may appoint any suitable person as guardian.

7 2. If it is found that the person for whom a conservator of the estate is sought is a
8 minor, the court may appoint a conservator of the estate, who may be the same person
9 appointed guardian of the person.

475.750. 1. A custodial parent may designate a person to act as standby guardian
2 of a minor by a will that complies with the requirements of section 474.320 or by a separate
3 written instrument which is dated and is either duly executed and acknowledged by the
4 custodial parent or is signed by the custodial parent in the presence of at least two
5 disinterested witnesses and subscribed by the witnesses. If the custodial parent executes
6 more than one document designating a standby guardian and there is a conflict between
7 the documents as to the person designated, the document bearing the latest date shall
8 control.

9 2. If a custodial parent who has designated a standby guardian is or becomes
10 seriously ill, the custodial parent or the person designated as standby guardian may file a
11 petition in the probate division of the circuit court of the county which would be of proper
12 venue for the appointment of a guardian of the minor seeking appointment of the
13 designated person as standby guardian. A copy of the will or separate written instrument
14 designating the standby guardian and a consent to act as standby guardian signed by the
15 person designated shall be filed with the petition, which petition shall state:

16 (1) The name, age, domicile, actual place of residence, and mailing address of the
17 minor;

18 (2) The name and address of the custodial parent and of the designated standby
19 guardian;

20 (3) The name and address of each parent of the minor and whether that parent is
21 living or dead;

22 (4) The name and address of the spouse, if applicable, and the names, ages, and
23 addresses of all living children of the minor;

24 **(5) If the person for whom appointment of a standby guardian is sought has been**
25 **adjudicated incapacitated, the date of adjudication and the name and address of the court**
26 **which entered the judgment; and**

27 **(6) The reasons why the appointment of a standby guardian is sought.**

28

29 **Proceedings on the petition shall be conducted in the same manner as would be applicable**
30 **in a case for appointment of a successor guardian under section 475.936.**

31 **3. The court shall determine appointment of a standby guardian in accordance with**
32 **the best interests of the minor after considering all relevant factors, including:**

33 **(1) Whether there is a parent other than the custodial parent and, if so, whether the**
34 **other parent is willing, able, and fit to assume the duties of a parent;**

35 **(2) The suitability of a person nominated by the minor if he or she is, at the time**
36 **of hearing, able to communicate a reasonable choice; and**

37 **(3) The desirability of providing arrangements for the care, custody, and control**
38 **of the minor which shall minimize stress and disruption and avoid the minor's placement**
39 **in foster or similar care pending appointment of a guardian if the custodial parent is**
40 **adjudicated incapacitated or dies.**

41 **4. If it appears to the court that a standby guardian should be appointed for a**
42 **minor, the court may appoint a standby guardian.**

43 **5. The authority of a person to act as standby guardian for a minor shall only take**
44 **effect as follows:**

45 **(1) If the person has previously been appointed by the court as standby guardian,**
46 **upon the granting of letters of standby guardianship to the person previously appointed**
47 **as provided in the order appointing the standby guardian; or**

48 **(2) If the person has not previously been appointed by the court as standby**
49 **guardian, either because a petition for appointment has not been filed or because a petition**
50 **has been filed but the proceedings are still pending, upon the first to occur of the following:**

51 **(a) The consent of the custodial parent in a writing duly executed and**
52 **acknowledged by the custodial parent;**

53 **(b) Entry of an order adjudicating the custodial parent to be incapacitated; or**

54 **(c) The death of the custodial parent.**

55

56 **The person shall, within ten days after he or she begins to act as standby guardian, notify**
57 **the court in writing of that fact and of the reasons therefor. The court may grant letters**
58 **of standby guardianship to the person or, if the court deems it advisable, conduct a hearing**

59 to determine the propriety of the person having begun, and continuing, to act as standby
60 guardian and the propriety of issuing letters of standby guardianship to the person.

61 6. A person acting as standby guardian of a minor shall, within sixty days after he
62 or she begins to act, petition the court for appointment of the standby guardian or some
63 other qualified person as guardian of the minor. Proceedings on the petition shall be
64 conducted in the same manner as would be applicable in a case for appointment of a
65 successor guardian under section 475.936.

66 7. Nothing in this section shall be construed to:

67 (1) Deprive a parent of the parent's legal rights with respect to a minor who is a
68 child of that parent, including court-ordered visitation with the child, nor to authorize a
69 grant of authority to a standby guardian which would supersede any such rights; or

70 (2) Relieve a parent of the parent's legal obligations or duties to a minor who is a
71 child of that parent, including a duty to support the child in accordance with a court or
72 administrative order.

73 8. Except to the extent determined by the court to be inconsistent with the
74 provisions of this section or as expressly provided in this section, the laws applicable to
75 guardianship proceedings shall apply to all proceedings under this section.

475.752. 1. If the whole estate of a minor does not exceed the value of ten thousand
2 dollars, the court may, in its discretion, without the appointment of a conservator or the
3 giving of bond, authorize:

4 (1) The deposit in a depository authorized to receive fiduciary funds, payable to the
5 conservator of the estate when appointed or to the minor upon the minor attaining the age
6 of eighteen years;

7 (2) The delivery thereof to a suitable person designated by the court, deliverable
8 to the conservator of the estate when appointed or to the minor upon the minor attaining
9 the age of eighteen years; or

10 (3) The payment or delivery thereof to the parent of the minor, or to the person
11 having care or custody of the minor or to the minor directly.

12

13 The person receiving such money or other assets shall hold and dispose of the same in the
14 manner directed by the court.

15 2. If the whole estate of a minor does not exceed ten thousand dollars, the court may
16 discharge the conservator of the estate and authorize disposition of the assets of the estate
17 of the protectee in the same manner as provided in subsection 1 of this section.

18 3. The person or officer making payment, delivery, transfer, or issuance of personal
19 property or evidence thereof to the person designated by the court under this section is

20 discharged and released to the same extent as if such payment, delivery, transfer, or
21 issuance was made to a conservator of the minor, and the person or officer is not required
22 to see to the application thereof; except that, a person or officer making payment, delivery,
23 transfer, or issuance of money or personal property, or evidence thereof, to a next friend
24 or guardian ad litem may be discharged and released as provided for in section 507.184.

475.754 1. Letters of conservatorship of the estate of a minor shall be granted for
2 that part of the estate of the minor that is not derived from a living parent who is acting
3 as natural guardian.

4 2. Letters of conservatorship for the entire estate of a minor may be granted in the
5 following cases:

6 (1) If the minor has no parent living; or

7 (2) If there is a natural guardian of the minor and if the court finds that the best
8 interests of the minor require letters of conservatorship for all of the minor's estate. 3.

9 Letters of guardianship of the person of a minor may be granted in the following cases:

10 (1) If a minor has no parent living;

11 (2) If the parents or the sole surviving parent of a minor are unwilling, unable, or
12 adjudged unfit to assume the duties of guardianship; or

13 (3) If the parents or the sole surviving parent have had their parental rights
14 terminated under chapter 211.

475.756. 1. When a duly appointed guardian or conservator has given bond, as
2 required by law, and the bond has been approved, letters under the seal of the court shall
3 be issued to the person appointed. Such letters shall specify whether they are of
4 guardianship, limited guardianship, co-guardianship, or standby guardianship of the
5 person, or conservatorship, limited conservatorship, or co-conservatorship of the estate,
6 or all, and the original or duly certified copies thereof shall be prima facie evidence of the
7 facts therein stated.

8 2. Letters of guardianship and conservatorship for minors may be in the following
9 form:

10 IN THE PROBATE DIVISION OF THE
11 CIRCUIT COURT OF COUNTY, MISSOURI LETTERS OF (STANDBY)
12 GUARDIANSHIP
13 (AND CONSERVATORSHIP) OF MINOR

14 Estate No.

15 On was appointed and has qualified as (standby) guardian of the
16 person (and conservator of the estate) for the following minor(s):

17 Born, 20. .

18Born, 20..
 19Born, 20..
 20Born, 20..

21

22 **By reason thereof, the above-named (standby) guardian (and conservator) is**
 23 **authorized and empowered to perform the duties of such (standby) guardian (and**
 24 **conservator) as provided by law under the supervision of the court having care and**
 25 **custody of the person (and of the estate) of the above-named minor(s).**

26

27 **IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and**
 28 **affixed the seal of this court on**

29

30

31

32 Clerk

33

34 **Recorded onin Book at Page**

35

36

Clerk

2 **475.758. 1. The costs of proceedings involving minors shall be paid from the**
 3 **minor's estate or by the parents or, if the minor's estate or the parents' means are**
 4 **insufficient, costs shall be paid by the county; but if a guardian or conservator is not**
 5 **appointed, the costs shall be paid by the person filing the petition, unless the person filing**
 6 **the petition is a public employee acting in the employee's official capacity, in which case**
 7 **the costs shall be paid by the county.**

8 **2. Upon a showing of indigency, the court shall waive the applicable filing fee for**
 9 **a petition in regard to a minor or minor's parents. The costs of the proceeding shall be**
 10 **taxed after the court rules on the petition.**

11 **[475.050.] 475.762. 1. Before appointing any other eligible person as guardian of an**
 12 **incapacitated person, or conservator of the estate of a [disabled] financially incapacitated**
 13 **person, the court shall consider the suitability of appointing any of the following persons who**
 14 **appear to be willing to serve:**

15 (1) **If the incapacitated or [disabled] financially incapacitated person is, at the time of**
 16 **the hearing, able to make and communicate a reasonable choice, any eligible person nominated**
 17 **by the person;**

8 (2) Any eligible person nominated in a durable power of attorney executed by the
9 incapacitated or [disabled] **financially incapacitated** person, or in an instrument in writing
10 signed by the incapacitated or [disabled] **financially incapacitated** person and by two witnesses
11 who signed at the incapacitated or [disabled] **financially incapacitated** person's request, before
12 the inception of the person's incapacity or [disability] **financial incapacity**, at a time [within five
13 years before the hearing] when the person was able to make and communicate a reasonable
14 choice;

15 (3) The spouse, parents, adult children, adult brothers and sisters and other close adult
16 relatives of the incapacitated or [disabled] **financially incapacitated** person;

17 (4) Any other eligible person or, with respect to the estate only, any eligible organization
18 or corporation, nominated in a duly probated will of such a spouse or relative [executed within
19 five years before the hearing].

20 2. Except for good cause shown, the court shall make its appointment in accordance with
21 the incapacitated or [disabled] **financially incapacitated** person's most recent valid nomination
22 of an eligible person qualified to serve as guardian of the person or conservator of the estate. [In
23 the event there is not brought to the attention of the court any such valid nomination executed
24 within five years before the hearing, then the court shall give consideration to the most recent
25 valid nomination brought to its attention, but the court shall not be required to follow such
26 nomination.]

475.764. 1. Except as herein otherwise provided:

2 (1) **Any adult person may be appointed guardian of the person or conservator of**
3 **the estate, or both, of an incapacitated or financially incapacitated person;**

4 (2) **Any charitable organization organized and incorporated as a not-for-profit**
5 **corporation under the laws of this state prior to January 1, 1902, shall be qualified to**
6 **continue to serve as guardian of the person of any ward for whom such charitable**
7 **organization has been appointed guardian of the person prior to September 28, 1983, or**
8 **to be appointed guardian of the person or persons adjudicated incapacitated subsequent**
9 **to September 28, 1983;**

10 (3) **Any social service agency or not-for-profit organization under the laws of this**
11 **state and which is qualified under Section 501(c)(3) of the Internal Revenue Code of 1986,**
12 **as amended, which is found to be capable by the court of providing an active and suitable**
13 **program of guardianship for the incapacitated person, taking into consideration the nature**
14 **of such person's incapacity and the nature of such organization's services, may be**
15 **appointed as guardian of the person; however, no social service agency nor not-for-profit**
16 **organization shall be appointed as guardian of the person under this subdivision unless it**
17 **employs or contracts with a licensed professional or trained volunteer found by the court**

18 to have sufficient expertise to meet the needs of the ward, and it is found by the court that
19 such professional or trained volunteer shall have primary responsibility for providing
20 guardianship services to the ward. The court shall not appoint as guardian of the person
21 under this subdivision a social service agency that is providing residential services or
22 personal care services to the ward;

23 (4) Any corporation authorized to do business in this state and empowered by its
24 charter so to act or any national banking association authorized so to act in this state may
25 be appointed conservator of the estate of a financially incapacitated person.

26 2. No person, agency, or corporation, other than the public administrator of the
27 county, shall be appointed guardian or conservator unless the appointee has filed a consent
28 to act. No person or corporation whether licensed as a facility by the Missouri department
29 of mental health or the Missouri department of social services, nor any administrator,
30 owner, operator, manager, or employee of such a facility shall be appointed guardian of
31 the person or conservator of the estate of any resident of that facility, unless related within
32 the fourth degree of consanguinity or affinity to the resident. No full-time judge of any
33 court of this state and no clerk, deputy clerk, or division clerk shall be appointed as
34 guardian of the person or conservator of the estate, but a judge, clerk, deputy clerk, or
35 division clerk may serve as a guardian or conservator for a ward or protectee who is a
36 spouse or is within the third degree of relationship by consanguinity or affinity as
37 calculated according to civil law. No natural person under eighteen years of age, no
38 incapacitated or financially incapacitated person, and no substance abuser shall be
39 appointed guardian of the person or conservator of the estate. No person whose letters of
40 guardianship or conservatorship are revoked shall be appointed guardian or conservator
41 within two years after the revocation. No one shall be appointed guardian of the person
42 or conservator of the estate unless qualified to perform the duties of said office or offices.

43 3. A person becomes a guardian or conservator of an incapacitated or financially
44 incapacitated person upon issuance of letters of guardianship or conservatorship by the
45 court. A person so appointed need not reside within this state in order to accept or serve
46 as guardian or conservator, unless the court finds that the person, taking into
47 consideration the person's place of residence, is unable to effectively perform the duties of
48 guardian or conservator as provided by this code. The guardianship or conservatorship
49 status continues until terminated, without regard to the location from time to time, whether
50 within or outside of this state, of the guardian and ward or conservator and protectee.

51 4. Subsections 3 and 4 of section 473.117, section 473.689, and section 475.1036 are
52 applicable to nonresident guardians and conservators.

53 **5. The court may only appoint the public administrator for the estates or person**
54 **and estate of financially incapacitated or incapacitated persons, as defined in this chapter,**
55 **in the public administrator's county who have no legal guardian or conservator, and no**
56 **one competent to take charge of such estate, or to act as such guardian or conservator, can**
57 **be found, or is known to the court having jurisdiction, who will qualify.**

58 **6. If a social service agency or not-for-profit organization is appointed to act as**
59 **guardian under this section, any other eligible person listed in subdivision (3) of subsection**
60 **1 of section 475.762 may petition the court to have the social service agency or not-for-**
61 **profit organization removed as guardian. The court shall grant the petition if it finds that**
62 **the petitioner is qualified and will act in the best interests of the financially incapacitated**
63 **or incapacitated person. The removal of a social service agency or not-for-profit**
64 **organization under such circumstances does not require a showing of cause warranting its**
65 **removal under section 475.940.**

66 **7. A social service agency acting as a guardian under subdivision (4) of subsection**
67 **1 of this section may only authorize the withholding or withdrawal of artificially provided**
68 **nutrition or hydration as prescribed under section 404.820.**

475.766. 1. Any person may file a petition for the appointment of himself or herself
2 **or some other qualified person as guardian or limited guardian of an incapacitated person.**
3 **Such petition shall state:**

4 **(1) If known, the name, age, domicile, actual place of residence, and post office**
5 **address of the alleged incapacitated person, and for the period of three years before the**
6 **filing of the petition, the most recent addresses, up to three, at which the alleged**
7 **incapacitated person lived prior to the most recent address, and, if any of these facts is**
8 **unknown, the efforts made to ascertain that fact. In the case of a petition filed by a public**
9 **official in his or her official capacity, the information required by this subdivision need**
10 **only be supplied to the extent it is reasonably available to the petitioner;**

11 **(2) The estimated value of the alleged incapacitated person's real and personal**
12 **property, and the location and value of any real property owned by the alleged**
13 **incapacitated person outside of this state;**

14 **(3) If the alleged incapacitated person has no domicile or place of residence in this**
15 **state, the county in which the property or major part thereof of the alleged incapacitated**
16 **person is located;**

17 **(4) The name and address of the parents of the alleged incapacitated person and**
18 **whether they are living or dead;**

19 **(5) The name and address of the spouse, the names, ages, and addresses of all living**
20 **children of the alleged incapacitated person, the names and addresses of the alleged**

21 **incapacitated person's closest known relatives, and the names and relationship, if known,**
22 **of any adults living with the alleged incapacitated person; if no spouse, adult child, or**
23 **parent is listed, the names and addresses of the siblings and children of deceased siblings**
24 **of the alleged incapacitated person; the name and address of any agent appointed by the**
25 **alleged incapacitated person in any durable power of attorney, and of the presently acting**
26 **trustees of any trust of which the alleged incapacitated person is the grantor or is a**
27 **qualified beneficiary or is or was the trustee or cotrustee and the purpose of the power of**
28 **attorney or trust;**

29 **(6) The name and address of the person having custody of the person of the alleged**
30 **incapacitated person;**

31 **(7) The name and address of any guardian of the person or conservator of the**
32 **estate of the alleged incapacitated person appointed in this or any other state;**

33 **(8) If appointment is sought for a natural person, other than the public**
34 **administrator, the names and addresses of wards and protectees for whom such person is**
35 **already guardian or conservator;**

36 **(9) The factual basis for the petitioner's conclusion that the person for whom**
37 **guardianship is sought is unable or partially unable by reason of some specified physical,**
38 **mental, or cognitive condition to receive and evaluate information or to communicate**
39 **decisions to such an extent that the person lacks capacity to meet essential requirements**
40 **for food, clothing, shelter, safety, or other care such that serious physical injury, illness,**
41 **or disease is likely to occur;**

42 **(10) The reasons, incidents, and specific behaviors demonstrating why the**
43 **appointment of a guardian or limited guardian is sought.**

44 **2. If the person filing the petition seeks the appointment of an emergency guardian,**
45 **then the petition shall include the same requirements as set in subsection 1 of this section**
46 **or shall have a separate count and shall request the appointment per the requirements set**
47 **out in section 475.792.**

[475.015.] **475.768.** 1. Sections 475.380 to 475.480, known as the "Uniform Veterans'
2 Guardianship Act", do not apply to a guardianship proceeding, whether [or not] the ward is
3 receiving or has received benefits from the Veterans' Administration, if the original petition for
4 appointment of a guardian is filed after December 31, 1980.

5 2. When the Veterans' Administration is paying disability compensation, dependency and
6 indemnity compensation, or a pension to a person, it has standing to petition for the appointment
7 of a guardian **or conservator** for that person, his **or her** property, or both, and to appear as an
8 interested person in any guardianship **or conservatorship** proceeding instituted for the person
9 or his **or her** property by anyone. For purposes of this subsection, none of the following are

10 sufficient to make the Veterans' Administration an interested person in a guardianship
11 proceeding:

12 (1) Acceptance or guarantee of payment of a mortgage;

13 (2) Payment of dividends on or proceeds of a government or national service life
14 insurance policy;

15 (3) Provision of a flag to cover a coffin, a tombstone or burial expenses;

16 (4) Payment of tuition, cost of books and supplies, or a subsistence allowance to a person
17 entitled to educational benefits;

18 (5) Provision of hospitalization, surgery, or medical care.

**475.770. 1. Any person may file a petition in the probate division of the circuit
2 court of the county of proper venue for the appointment of himself or herself or some other
3 qualified person as conservator of the estate of a financially incapacitated person. The
4 petition shall contain the same allegations as are set forth in subdivisions (1), (8), and (10)
5 of subsection 1 of section 475.766 with respect to the appointment of a guardian for an
6 incapacitated person and, in addition thereto, an allegation that the respondent is unable,
7 by reason of some specific physical, mental, or cognitive condition, to receive and evaluate
8 information or to communicate decisions to such an extent that the respondent lacks ability
9 to manage the respondent's financial resources.**

**2. A petition for appointment of a conservator or limited conservator of the estate
10 may be combined with a petition for appointment of a guardian or limited guardian of the
11 person. In such a combined petition, allegations need not be repeated.**

**475.772. When application is made for the appointment of a guardian or
2 conservator for incapacitated or financially incapacitated persons who are children of a
3 common parent, are parent and child, or are husband and wife, it is not necessary that a
4 separate petition, bond, or other paper be filed for each incapacitated or financially
5 incapacitated person and the guardianship or conservatorship of all may be considered as
6 one proceeding; except that, there shall be a separate accounting when the guardianship
7 or conservatorship terminates as to one ward or financially incapacitated person but not
8 as to the others.**

**475.774. 1. Proceedings for guardianship or conservatorship, or both, shall be open
2 to the public. At the request of respondent specifying the reasons for closing the records,
3 the court may order, for good cause shown, that the petition or any documents submitted
4 in support of the petition may be closed; except that, the court shall provide copies of the
5 petition and supporting documents to persons required to receive notice of the proceeding
6 and attorneys appointed by the court or who enter their appearance for parties in interest.**

7 **2. Any written report of the licensed physician, licensed psychologist, or other**
8 **professional is confidential and shall be sealed upon filing or admitted into evidence, but**
9 **is available to:**

- 10 **(1) The court;**
11 **(2) The guardian or conservator, or proposed guardian or conservator;**
12 **(3) The respondent without limitation as to use;**
13 **(4) The petitioner and the petitioner's and respondent's lawyers, for the purposes**
14 **of the proceeding;**
15 **(5) Lawyers who have entered their appearances for parties in interest; and**
16 **(6) Other persons for such purposes as the court may order for good cause.**

475.776. Except as otherwise provided in section 475.794, when a petition for the
2 **appointment of a guardian ad litem, guardian, or conservator for any person, who is then**
3 **referred to as the respondent or for approval on behalf of the respondent of a transaction**
4 **under section 475.722, or for the rendition of emergency medical treatment under the**
5 **provisions of section 475.720, is filed under this chapter on grounds other than minority,**
6 **the court, if satisfied that there is good cause for the exercise of its authority, shall**
7 **promptly set the petition for hearing.**

475.778. 1. The respondent shall be served in person with the following: A copy
2 **of the petition; a written notice stating the time and place the proceeding will be heard by**
3 **the court, the name and address of appointed counsel, and the names and addresses of the**
4 **witnesses who may be called to testify in support of the petition; and with a copy of the**
5 **respondent's rights as set forth in section 475.788.**

6 **2. The notice shall be signed by the judge or clerk of the court and served in person**
7 **on the respondent a reasonable time before the date set for the hearing.**

8 **3. A copy of the petition, a written notice stating the time and place for the petition**
9 **to be heard by the court, and the names and address of counsel appointed to represent the**
10 **respondent shall be served upon:**

- 11 **(1) The spouse, parents, and children who have reached the age of eighteen;**
12 **(2) Any person serving as the respondent's guardian, conservator, limited guardian,**
13 **or limited conservator;**
14 **(3) Any person proposed to serve as guardian or conservator;**
15 **(4) Any person having power to act in a fiduciary capacity with respect to any of**
16 **the respondent's financial resources;**
17 **(5) Any person having the respondent's care and custody known to the petitioner;**
18 **and**
19 **(6) Any cotenants or codepositors with the respondent.**

20 **4. Each person so listed shall be served in any manner permitted by section 472.100.**
21 **If no such spouse, parent, or child is known, notice shall be given to at least one of the**
22 **respondent's closest relatives who has reached the age of eighteen.**

23 **5. The court shall not appoint the public administrator to serve as guardian, limited**
24 **guardian, conservator, limited conservator, emergency guardian, emergency conservator,**
25 **guardian ad litem, or conservator ad litem unless notice is first given to the public**
26 **administrator as provided in this section and the public administrator has an opportunity**
27 **to participate in any hearing on such matter, including the right to cross-examine witnesses**
28 **and to offer witnesses and evidence. The public administrator may waive notice and the**
29 **opportunity to participate.**

475.780. 1. Upon the filing of a petition under the provisions of section 475.776 or
2 **for the approval on behalf of the respondent of a transaction under section 475.722 or for**
3 **the rendition of emergency medical treatment under the provisions of section 475.718, the**
4 **court shall immediately appoint an attorney to represent the respondent in the proceeding.**

5 **2. The attorney shall visit the respondent at least seven days prior to the hearing**
6 **unless the court finds good cause for waiving this requirement.**

7 **3. If the attorney finds that the respondent is capable of understanding the matter**
8 **in question or of contributing to the advancement of the respondent's interest, the attorney**
9 **shall obtain from the respondent all possible aid. If the attorney finds that the respondent**
10 **is so impaired that the respondent cannot communicate or participate in the proceedings,**
11 **then the attorney shall consider all circumstances then prevailing and act with care to**
12 **safeguard and advance the interests of the respondent.**

13 **4. When the court enters an order appointing the attorney for the respondent, it**
14 **shall specify that the attorney shall have the right to obtain all medical and financial**
15 **information of the respondent from medical care providers and financial institutions, and**
16 **no medical care provider or financial institutions shall be liable for damages or otherwise**
17 **for the release of this information to the attorney appointed for the respondent.**

18 **5. The court shall allow a reasonable attorney's fee for the services rendered, to be**
19 **taxed as costs of the proceeding.**

20 **6. Upon entry of appearance by private counsel on behalf of the respondent, the**
21 **court may permit the court-appointed attorney withdraw only if after a hearing the court**
22 **finds cause to permit the withdrawal. The private counsel shall meet requirements of the**
23 **court-appointed attorney in representing the respondent as provided in subsections 2 and**
24 **3 of this section.**

25 **7. The respondent's attorney shall not also serve as guardian ad litem or**
26 **conservator ad litem for respondent, unless and until a judgment granting guardianship,**

27 conservatorship, limited guardianship, or limited conservatorship has been entered by the
28 court. If the attorney for the respondent has filed or intends to file an appeal of such
29 judgment, the attorney for respondent shall not serve as guardian ad litem or conservator
30 ad litem for respondent until all proceedings in connection with such appeal has been
31 finally resolved.

32 **8. The petitioner shall not nominate an attorney for the respondent.**

**475.782. 1. The court may direct that the respondent be examined by a licensed
2 physician, licensed psychologist, or other appropriate professional if that other
3 professional has experience or training in the alleged mental, physical, or cognitive
4 impairment.**

**5 2. The court-appointed licensed physician, licensed psychologist, or other
6 professional shall, prior to examination, explain to the respondent in simple language, the
7 following:**

**8 (1) That the purpose of the examination is to produce evidence which may be used
9 to determine whether the respondent is incapacitated, financially incapacitated, partially
10 incapacitated, or partially financially incapacitated;**

11 (2) That the respondent has the right to remain silent; and

**12 (3) That anything the respondent says may be used at the court hearing, and in
13 making the determination of incapacity or financial incapacity.**

**14 3. The court-appointed licensed physician, licensed psychologist, or other
15 professional shall submit the report in writing to the court and to counsel for all parties.
16 It shall not be a valid objection to the review of the report by the court or the attorneys for
17 the parties that the court will be responsible for the ultimate determination of incapacity
18 or partial incapacity. If other objections are made to the report by any party, the court
19 may order a hearing for the limited purpose of determining whether the court shall admit
20 the report.**

**21 4. The court may allow a reasonable fee for the services rendered by the licensed
22 physician, licensed psychologist, or other professional to be taxed as costs in the
23 proceeding.**

**475.784. 1. If prima facie proof of partial or complete incapacity or financial
2 incapacity, with or without the court-ordered evaluation provided in section 475.782, is
3 made upon motion by any party or the court on its own motion, a licensed physician,
4 licensed psychologist, or other appropriate professional is competent and may be
5 compelled by the court to testify as to information acquired from the respondent, despite
6 otherwise applicable testimonial privileges and the respondent's right to confidentiality.**

7 **2. Evidence received under this subsection that would otherwise be privileged and**
8 **confidential shall not be used in any other civil action or criminal proceeding without the**
9 **consent of the holder of the privilege. Any resulting report shall be shared with the**
10 **respondent and counsel for all parties but shall not be used in any other civil action or**
11 **criminal proceeding without the consent of the holder of the privilege.**

475.786. The petitioner has the burden of proving incapacity, partial incapacity,
2 **financial incapacity, or partial financial incapacity by clear and convincing evidence.**

475.788. The respondent shall have the following rights in addition to those
2 **elsewhere specified and shall be advised of these rights by the attorney for the respondent:**

- 3 **(1) The right to be represented by an attorney;**
- 4 **(2) The right to have a jury trial;**
- 5 **(3) The right to present evidence in the respondent's behalf;**
- 6 **(4) The right to cross-examine witnesses who testify against the respondent;**
- 7 **(5) The right to remain silent;**
- 8 **(6) The right to have the hearing opened or closed to the public as the respondent**
9 **elects;**
- 10 **(7) The right to a hearing conducted in accordance with the rules of evidence in**
11 **civil proceedings, except as modified by this chapter;**
- 12 **(8) The right to be present at the hearing; and**
- 13 **(9) The right to appeal the court's decision.**

475.790. 1. Before appointing a guardian or conservator, the court shall consider
2 **whether the respondent's needs can be met without the necessity of the appointment of a**
3 **guardian or conservator, or both, by a less restrictive alternative including, but not limited**
4 **to, the following:**

- 5 **(1) Evidence that the respondent has appointed an agent in a durable power of**
6 **attorney executed by the respondent before the petition was filed;**
- 7 **(2) The management of the beneficial interests of respondent in a trust by a trustee;**
- 8 **(3) Evidence that a representative payee has been appointed to manage the**
9 **respondent's public benefits;**
- 10 **(4) The provision of protective or supportive services or arrangements provided by**
11 **a public or private service or agency or agencies;**
- 12 **(5) The use of appropriate services or assistive technology;**
- 13 **(6) The appointment of a temporary emergency guardian or conservator ad litem**
14 **under 475.244; or**
- 15 **(7) The appointment of a limited guardian or conservator.**

16 **2. If the court finds that the respondent with such assistance possesses capacity to**
17 **manage the respondent's essential requirements for food, clothing, shelter, safety, and**
18 **other care or that the respondent possesses the ability to manage the respondent's financial**
19 **resources, the court shall deny the petition.**

20 **3. On the other hand, if the court finds that the capacity of the respondent to**
21 **receive and evaluate information or to communicate decisions is impaired to such an extent**
22 **as to render the respondent incapable of managing some or all of the respondent's essential**
23 **requirements for food, clothing, shelter, safety, or other care so that serious physical**
24 **injury, illness, or disease is likely to occur, or that the capacity of the respondent to receive**
25 **and evaluate information or to communicate decisions is impaired to such an extent so as**
26 **to render the respondent unable to manage some or all of the respondent's financial**
27 **resources, the court shall appoint a guardian or limited guardian, a conservator or limited**
28 **conservator, or both in combination.**

29 **4. If the court finds the respondent to be in some degree incapacitated or financially**
30 **incapacitated, or both, the court, in determining the degree of supervision necessary, shall**
31 **apply the least restrictive alternative principle as defined in this chapter and shall not**
32 **restrict the respondent's personal liberty or the respondent's freedom to manage the**
33 **respondent's financial resources to any greater extent than is necessary to protect the**
34 **respondent's person and the respondent's financial resources.**

35 **5. The court shall make and recite in its order detailed findings of fact stating:**

36 **(1) The extent of respondent's physical, mental, and cognitive incapacity to manage**
37 **essential requirements for food, clothing, shelter, safety, or other care;**

38 **(2) The extent of the respondent's physical, mental, and cognitive incapacity to**
39 **manage the respondent's financial resources;**

40 **(3) Whether the respondent requires placement in a supervised living situation and,**
41 **if so, the degree of supervision needed;**

42 **(4) Whether the respondent's financial resources require supervision and, if so, the**
43 **nature and extent of supervision needed; and**

44 **(5) Whether the respondent retains the right to vote.**

45 **6. The limitations imposed upon the authority of the guardian or conservator as set**
46 **forth in the findings of the court shall be stated in the letters of the guardian or conservator**
47 **and shall be set forth in the notice of first publication of letters of conservatorship granted.**

475.792. 1. **If it is alleged in a petition an alleged incapacitated or financially**
2 **incapacitated respondent has no guardian or conservator and an emergency exists which**
3 **presents a substantial risk that serious physical harm will occur to the respondent's person**
4 **or irreparable damage will occur to the respondent's property because of the respondent's**

5 **failure or inability to provide for the respondent's essential human needs or to protect the**
6 **respondent's property, the court may, with notice to such person's attorney, as provided**
7 **in section 475.778, and service of notice upon such person as provided in section 475.778,**
8 **and, with or without notice to other persons interested in the proceeding, after hearing,**
9 **appoint an emergency guardian ad litem or conservator ad litem for a specified period not**
10 **to exceed ninety days and for specified purposes.**

11 **2. Except for good cause shown, the court shall hold a hearing on petitions filed**
12 **under this section within five business days of the filing of the petition.**

13 **3. Orders appointing the guardian or conservator ad litem may be modified upon**
14 **motion and hearing.**

15 **4. Only after hearing and a showing of continuing emergency need, the court may**
16 **order the extension of the appointment of an emergency guardian ad litem or conservator**
17 **ad litem from time to time, not to exceed ninety days each.**

18 **5. A guardian ad litem or conservator ad litem may be removed at any time and**
19 **shall make any report the court requires.**

20 **6. Proceedings under this subsection shall not be employed as alternative to**
21 **proceedings for the involuntary detention and treatment of a mentally ill person under the**
22 **provisions of chapter 632.**

23 **7. If no petition for guardianship, conservatorship, limited guardianship, or limited**
24 **conservatorship has been filed within the first thirty days following the granting of**
25 **emergency authority under this section, the court shall terminate the authority granted**
26 **under the emergency letters, upon motion of attorney for the respondent and a finding that**
27 **doing so would not be manifestly contrary to the respondent's interests.**

[475.062.] **475.794.** 1. When a petition for appointment of a conservator [of the estate
2 of an alleged disabled person] is made by [said person, or said person's consent to the
3 appointment sought is endorsed on the petition or filed with it, the court, after appointment of
4 counsel for the alleged disabled person, if satisfied, by interview with the alleged disabled person
5 or otherwise, that the alleged disability does exist, that the disabled person wishes the
6 appointment and has capacity to understand the need for it and make a reasonable choice of
7 conservator and that the person nominated as conservator is suitable, qualified and has or will
8 accept the appointment, may, without notice or hearing, appoint as conservator of the estate, the
9 person, organization or corporation designated by the disabled person. If it appears that the
10 alleged disabled person is a codepositor or cotenant, the other codepositors and cotenants shall,
11 in any event, be given notice before the court acts] **a person on account of that person's**
12 **alleged financial incapacity or is made by another on behalf of that person with that**
13 **person's consent endorsed on the petition or filed therewith, the court shall first appoint**

14 **counsel for that person. The court-appointed attorney shall advise the respondent of the**
15 **respondent's rights and of the consequences of the appointment of the conservator.**

16 **2. If the court determines that the financial incapacity exists, that the respondent**
17 **desires the appointment, understands its purpose, and makes a reasonable choice of**
18 **conservator, the court may, without notice or hearing, appoint the person, organization,**
19 **or corporation designated by the respondent as conservator of the respondent's estate;**
20 **provided that, the conservator is suitable, qualified, and has accepted or will accept the**
21 **appointment.**

22 **3. If it appears that the respondent is a codepositor or cotenant, the other**
23 **codepositors and cotenants shall, in any event, be given notice before the court acts.**

24 [2.] **4. When a petition for appointment of a conservator of the estate of an alleged**
25 **[disabled] financially incapacitated person is not made or consented to by said alleged**
26 **[disabled] financially incapacitated person, the procedures as to notice, appointment of counsel,**
27 **hearing, and adjudication of [disability] financial incapacity as prescribed by [section 475.075]**
28 **sections 475.776 to 475.792 shall be followed.**

29 [3. If the whereabouts of a person alleged to be disappeared or detained pursuant to
30 section 475.081 is unknown or the place or nature of his confinement or detention prevents
31 personal service, service shall be made on him by publication in accordance with the rules of
32 civil procedure.]

475.796. Every conservator of the estate of a financially incapacitated person,
2 **before entering upon the duties of the office, shall execute and file a bond, approved by the**
3 **court, procured at the expense of the estate with sufficient surety in an amount fixed by the**
4 **court. Sections 473.157 to 473.217, relating to the bonds of personal representatives, except**
5 **subsection 1 of section 473.157 and subsection 1 of section 473.160, are applicable to the**
6 **bonds of conservators.**

[475.080.] **475.798. 1. If the court, after hearing, finds that a person is partially**
2 **incapacitated, and that the respondent's identified needs cannot be met by a less restrictive**
3 **alternative,** the court shall appoint a limited guardian of the person of the ward. The order of
4 appointment shall specify the powers and duties of the limited guardian so as to permit the
5 partially incapacitated ward to [care for himself] **provide for self-care** commensurate with [his]
6 **the ward's** ability to do so and shall also specify the legal disabilities to which the ward is
7 subject. In establishing a limited guardianship, the court shall impose only such legal disabilities
8 and restraints on personal liberty as are necessary to promote and protect the well-being of the
9 individual and shall design the guardianship so as to encourage the development of maximum
10 self-reliance and independence in the individual.

11 2. If the court, after hearing, finds that a person is partially [disabled] **financially**
12 **incapacitated, and that the respondent's identified needs cannot be met by a less restrictive**
13 **alternative,** the court shall appoint a limited conservator of the estate. The order of appointment
14 shall specify the powers and duties of the limited conservator so as to permit the partially
15 [disabled] **financially incapacitated** person to manage [his] **the person's** financial resources
16 commensurate with [his] **the person's** ability to do so.

17 **3. The court may order mediation regarding who is to serve as limited guardian or**
18 **limited conservator upon finding that there is a dispute among proposed guardians or**
19 **conservators as to who should serve and upon finding that the proposed guardians or**
20 **conservators are willing to pay the expenses of mediation or upon a finding that the**
21 **respondent is partially financially incapacitated and that mediation is in the best interest**
22 **of the respondent and the estate has sufficient assets or income to pay the expenses of**
23 **mediation. The court may take into consideration the results of the mediation in**
24 **appointing a qualified person to serve as a guardian or conservator if the parties to the**
25 **mediation agreed as to whom should be appointed as guardian or conservator.**

475.800. 1. If it appears to the court or if it is found by the jury or the court upon
2 **proof by clear and convincing evidence that the person for whom a guardian is sought is**
3 **incapacitated as defined in this law, and that the respondent's identified needs cannot be**
4 **met by a less restrictive alternative, the court may appoint a guardian of the person.**

5 **2. If it is found that the person for whom a conservator of the estate is sought is**
6 **financially incapacitated, as defined in section 475.700, by a financial incapacity other than**
7 **or in addition to minority, and that the respondent's identified needs cannot be met by a**
8 **less restrictive alternative, the court may appoint a conservator of the estate, who may be**
9 **the same person appointed guardian of the person.**

10 **3. The court may order mediation to determine who is to serve as guardian or**
11 **conservator upon finding that there is a dispute among proposed guardians or**
12 **conservators as to who should serve and upon finding that the proposed guardians or**
13 **conservators are willing to pay the expenses of mediation or upon a finding that the**
14 **respondent is financially incapacitated and that mediation is in the best interest of the**
15 **respondent and the estate has sufficient assets or income to pay the expenses of mediation.**
16 **The court may take into consideration the results of the mediation in appointing a qualified**
17 **person to serve as a guardian or conservator if the parties to the mediation agreed as to**
18 **whom should be appointed as guardian or conservator.**

475.802. 1. The custodial parent who has been appointed the guardian of an adult
2 **ward may include a request for a standby guardian in the petition appointing the parent.**
3 **The court may appoint a successor to take office temporarily under this section.**

4 **2. A custodial parent who has been appointed the guardian of an adult ward may**
5 **designate a person to act as standby guardian of the incapacitated person by a will that**
6 **complies with the requirements of section 474.320 or by a separate written instrument**
7 **which is dated and is either duly executed and acknowledged by the custodial parent or is**
8 **signed by the custodial parent in the presence of at least two disinterested witnesses and**
9 **subscribed by the witnesses. If the custodial parent executes more than one document**
10 **designating a standby guardian and there is a conflict between the documents as to the**
11 **person designated, the document bearing the latest date shall control.**

12 **3. If a custodial parent who has designated a standby guardian is or becomes**
13 **seriously ill or if the court has appointed a successor guardian, the custodial parent or the**
14 **person designated as successor guardian may file a petition in the probate division of the**
15 **circuit court of the county which would be of proper venue for the appointment of a**
16 **guardian of the incapacitated person seeking appointment of the designated person as**
17 **standby guardian. A copy of the will or separate written instrument designating the**
18 **standby guardian and a consent to act as standby guardian signed by the person**
19 **designated shall be filed with the petition, which petition shall state:**

20 **(1) The name, age, domicile, actual place of residence, and mailing address of the**
21 **incapacitated person;**

22 **(2) The name and address of the custodial parent and of the designated standby**
23 **guardian;**

24 **(3) The name and address of each parent of the incapacitated person and whether**
25 **that parent is living or dead;**

26 **(4) The name and address of the spouse, if applicable, and the names, ages, and**
27 **addresses of all living children of the incapacitated person;**

28 **(5) If the person for whom appointment of a standby guardian is sought has been**
29 **adjudicated incapacitated, the date of adjudication and the name and address of the court**
30 **which entered the judgment; and**

31 **(6) The reasons why the appointment of a standby guardian is sought.**

32

33 **Proceedings on the petition shall be conducted in the same manner as would be applicable**
34 **in a case for appointment of a successor guardian under section 475.936.**

35 **4. The court shall determine appointment of a standby guardian in accordance with**
36 **the best interests of the incapacitated person after considering all relevant factors,**
37 **including:**

38 **(1) Whether there is a parent other than the custodial parent and, if so, whether the**
39 **other parent is willing, able, and fit to assume the duties of a custodial parent;**

40 **(2) The suitability of a person nominated by the incapacitated person if he or she**
41 **is, at the time of hearing, able to communicate a reasonable choice; and**

42 **(3) The desirability of providing arrangements for the care, custody, and control**
43 **of the incapacitated person that shall minimize stress and disruption if the custodial parent**
44 **is adjudicated incapacitated or dies.**

45 **5. If it appears to the court that a standby guardian should be appointed for an**
46 **incapacitated person, the court may appoint a standby guardian.**

47 **6. The authority of a person to act as standby guardian for an incapacitated person**
48 **shall only take effect as follows:**

49 **(1) If the person has previously been appointed by the court as standby guardian,**
50 **upon the granting of letters of standby guardianship to the person previously appointed**
51 **as provided in the order appointing the standby guardian; or**

52 **(2) If the person has not previously been appointed by the court as standby**
53 **guardian, either because a petition for appointment has not been filed or because a petition**
54 **has been filed but the proceedings are still pending, upon the first to occur of the following:**

55 **(a) The consent of the custodial parent in a writing duly executed and**
56 **acknowledged by the custodial parent;**

57 **(b) Entry of an order adjudicating the custodial parent to be incapacitated; or**

58 **(c) The death of the custodial parent.**

59

60 **The person shall, within ten days after he or she begins to act as standby guardian, notify**
61 **the court in writing of that fact and of the reasons therefor. The court may grant letters**
62 **of standby guardianship to the person or, if the court deems it advisable, conduct a hearing**
63 **to determine the propriety of the person having begun, and continuing, to act as standby**
64 **guardian and the propriety of issuing letters of standby guardianship to the person.**

65 **7. A person acting as standby guardian of an incapacitated person shall, within**
66 **sixty days after he or she begins to act, petition the court for appointment of the standby**
67 **guardian or some other qualified person as guardian of the minor or incapacitated person.**
68 **Proceedings on the petition shall be conducted in the same manner as would be applicable**
69 **in a case for appointment of a successor guardian under section 475.936.**

70 **8. Nothing in this section shall be construed to:**

71 **(1) Deprive a parent of any legal rights with respect to an incapacitated person who**
72 **is a child of that parent, including court-ordered visitation with the child, nor to authorize**
73 **a grant of authority to a standby guardian which would supersede any such rights; or**

74 (2) Relieve a parent of any legal obligations or duties to an incapacitated person
75 who is a child of that parent, including a duty to support the child in accordance with a
76 court or administrative order.

77 9. Except to the extent determined by the court to be inconsistent with the
78 provisions of this section or as expressly provided in this section, the laws applicable to
79 guardianship proceedings shall apply to all proceedings under this section.

475.804. Letters of guardianship of the person may be granted for any person
2 adjudged incapacitated. Letters of conservatorship of the estate may be granted for any
3 person adjudged to be financially incapacitated.

475.806. 1. When a duly appointed guardian or conservator has given bond, as
2 required by law, and the bond has been approved, letters under the seal of the court shall
3 be issued to the person appointed. Such letters shall specify whether they are of
4 guardianship, limited guardianship, co-guardianship, or limited co-guardianship, or
5 standby guardianship of the person, or conservatorship, limited conservatorship, co-
6 conservatorship, or limited co-conservatorship of the estate, or both, and the original or
7 duly certified copies thereof shall be prima facie evidence of the facts therein stated.

8 2. Letters of guardianship and conservatorship for incapacitated and financially
9 incapacitated persons may be in the following form:

10

11 IN THE PROBATE DIVISION OF THE
12 CIRCUIT COURT OF COUNTY, MISSOURI LETTERS OF
13 (STANDBY) GUARDIANSHIP OF INCAPACITATED PERSON (AND
14 CONSERVATORSHIP OF DISABLED PERSON)

15

Estate No.

16

17 On, was appointed and has qualified as (standby) guardian of
18 the person (and conservator of the estate) for, an incapacitated (and
19 financially incapacitated) person.

20 By reason thereof, the above-named (standby) guardian (and conservator) is
21 authorized and empowered to perform the duties of such (standby) guardian (and
22 conservator) as provided by law under the supervision of the court having care and
23 custody of the person (and estate) of the above-named incapacitated (and financially
24 incapacitated) person.

25 IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and
26 affixed the seal of this court on. . . . , 20 . . .

27

.....

28

Clerk

[475.078.] **475.808.** 1. An adjudication of partial incapacity or partial [disability] **financial disability** does not operate to impose upon the ward or protectee any legal disability provided by law except to the extent specified in the order of adjudication, provided that the court shall not impose upon the ward or protectee any legal disability other than those which are consistent with the condition of the ward or protectee.

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2. An adjudication of incapacity or [disability] **financial incapacity** does operate to impose upon the ward or protectee all legal disabilities provided by law, except to the extent specified in the order of adjudication **or otherwise in this chapter**, and provided further that the court is without [jurisdiction] **authority** to impose any legal disability upon a [disabled] **financially incapacitated** person for whom a conservator has been appointed by reason of [his] **the person's** disappearance, detention, or confinement.

3. A person who has been adjudicated incapacitated or [disabled] **financially incapacitated** or both shall be presumed to be incompetent, **except as otherwise specified in this chapter**. A person who has been adjudicated partially incapacitated or partially [disabled] **financially incapacitated** or both shall be presumed to be competent. The court at any time after a hearing on the question may determine that an incapacitated, [disabled] **financially incapacitated**, or partially incapacitated or partially [disabled] **financially incapacitated** person is incompetent for some purposes and competent for other purposes.

4. The court may expressly enter an order that the right of the ward to vote shall be retained but otherwise totally incapacitated.

[475.350.] **475.810.** If any person adjudicated incapacitated by the judge of the probate division of the circuit court is, at the time of the adjudication, a duly qualified public officer of this state, or of any county in this state, or of any municipality in this state, [his] **the incapacitated person's** office is deemed vacant, and the judge of the court shall certify the fact of such adjudication to the officer or tribunal having power to fill the vacancy; and the vacancy shall be filled during the incapacity of such officer.

[475.140.] **475.812.** 1. The clerk, as soon as letters of conservatorship of the estate of any [disabled] **financially incapacitated** person are issued, upon the basis of a determination of [disability] **financial incapacity** other than minority, shall cause to be published in some newspaper a notice of the appointment of the conservator, in which shall be included a notice to creditors of the protectee to file their claims in the court or be forever barred. The notice shall be published once a week for four consecutive weeks in accordance with section 472.100. Such notice shall be in substantially the following form:

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TO ALL PERSONS INTERESTED IN THE ESTATE OF, A
[DISABLED] FINANCIALLY INCAPACITATED PERSON:

10 On the day of, 20..., was appointed conservator of the estate of
 11, a person adjudicated [disabled] **financially incapacitated** under the laws of Missouri,
 12 by the Probate Division of the Circuit Court of County, Missouri. The business address
 13 of the conservator is All creditors of said [disabled] **financially incapacitated** person are
 14 notified to file their claims in the Probate Division of the Circuit Court. Date of first publication
 15

16 Clerk of the Probate Division of the Circuit Court of
 17 County, Missouri

18 2. The court, in its discretion, may waive publication of notice or defer it until a definite
 19 date or until further order of the court.

20 3. When a limited conservator has been appointed, the notice shall so specify.

[475.081.] **475.814.** 1. If a person has disappeared and cannot be located or has been
 2 forcibly detained either illegally or by a foreign government or is absent by reason of being
 3 physically located in a country other than the United States and is unable to return to the United
 4 States because of physical or mental condition, for a period of one month or more, and such
 5 disappearance, detention, or physical location makes it impossible for [that] **the person**, or any
 6 person legally acting on [his] **the person's** behalf, to manage [his] **the person's** financial
 7 resources as defined in section [475.010] **475.700**, any person may file a petition in the probate
 8 division of the circuit court of proper venue for appointment of himself **or herself** or some other
 9 qualified person as limited conservator for the disappeared, detained, or absent person. The court
 10 shall order a hearing in accordance with section [475.075] **475.776**, in which the alleged
 11 disappeared, detained, or absent person shall be deemed to be an alleged partially [disabled]
 12 **financially incapacitated** person. If the court finds that the respondent has disappeared, is
 13 detained or is absent by reason of being physically located in a country other than the United
 14 States and is unable to return to the United States because of physical or mental condition as
 15 provided in this section, the court may grant letters of limited conservatorship, but the powers
 16 granted to the limited conservator and the powers of the court shall be limited to those powers
 17 necessary for the support and maintenance of persons legally dependent upon the respondent and
 18 to powers necessary to prevent loss to the estate of the respondent during [his] **the respondent's**
 19 disappearance, detention, or absence. The estate shall be administered upon the presumption that
 20 the respondent is alive.

21 2. A conservator appointed pursuant to this section shall immediately notify the court
 22 if the protectee has been found, has been released or has been returned to the United States.
 23 Upon receiving knowledge of such facts from the conservator or from any other source, the court
 24 shall order the conservatorship terminated and require the conservator to file final settlement.

25 3. In addition to the provisions of sections [475.082] **475.830** and [475.270] **475.848**,
26 a conservator appointed pursuant to this section shall notify the court every three months of the
27 continuing disappearance, detention, or absence of the protectee which notice shall include the
28 then current address of the conservator and the addresses of all persons legally dependent upon
29 the protectee.

 [475.077.] **475.816.** The court may, if just cause appears, at any time within sixty days
2 after a judgment as to the capacity or [disability] **financial incapacity** of any person has been
3 entered, set aside the judgment and order a new hearing; but if the result of the new hearing is
4 the same as the result of the first, then the judgment shall not be set aside.

 [475.085.] **475.818.** 1. The costs of proceedings as to incapacity or [disability] **financial**
2 **incapacity** of any person shall be paid from [his] **the person's** estate if [he] **the person** is found
3 incapacitated or [disabled] **financially incapacitated** or, if [his] **the person's** estate is
4 insufficient, costs shall be paid by the county; but if the person is found not to be incapacitated
5 or [disabled] **financially incapacitated** the costs shall be paid by the person filing the petition,
6 unless [he] **the person filing the petition** is a public employee acting in [his] **the employee's**
7 official capacity, in which case the costs shall be paid by the county.

8 2. The court shall accept and act upon a petition as to an indigent respondent without
9 requiring a filing fee. The costs of the proceeding shall be taxed after the court rules on the
10 petition.

475.820. 1. **When the whole estate of a person over the age of eighteen who has**
2 **been adjudicated to be financially incapacitated does not exceed the value of ten thousand**
3 **dollars, the court may, in its discretion, without the appointment of a conservator or the**
4 **giving of bond, authorize the deposit thereof in a depository authorized to receive fiduciary**
5 **funds in the name of a suitable person designated by the court, or authorize the delivery**
6 **thereof to a suitable person designated by the court. The person receiving such money or**
7 **other assets shall hold and dispose of the same in such manner as the court directs.**

8 **2. When the whole estate of a financially incapacitated person does not exceed ten**
9 **thousand dollars, the court may discharge the conservator of the estate and authorize**
10 **disposition of the assets of the estate of the protectee in the same manner as provided in**
11 **subsection 1 of this section.**

12 **3. The person or officer making payment, delivery, transfer, or issuance of personal**
13 **property or evidence thereof to the person designated by the court under this section is**
14 **discharged and released to the same extent as if such payment, delivery, transfer, or**
15 **issuance was made to a conservator of the financially incapacitated person, and the person**
16 **or officer is not required to see to the application thereof; except that, a person or officer**
17 **making payment, delivery, transfer, or issuance of money or personal property, or evidence**

18 **thereof, to a next friend or guardian ad litem may be discharged and released as provided**
19 **for in section 507.184.**

[475.355.] **475.822.** 1. If, upon the filing of a petition for the adjudication of incapacity
2 or [disability] **financial incapacity** it appears that the respondent, by reason of a mental disorder
3 or intellectual disability or developmental disability, presents a likelihood of serious physical
4 harm to [himself] **the respondent** or others, [he] **the respondent** may be detained in accordance
5 with the provisions of chapter 632 if suffering from a mental disorder, or chapter 633 if the
6 [person] **respondent** has an intellectual or developmental disability, pending a hearing on the
7 petition for adjudication.

8 2. As used in this section, the terms "mental disorder" and "intellectual disability" **or**
9 **"developmental disability"** shall be as defined in chapter 630 and the term "likelihood of
10 serious physical harm to [himself] **the respondent** or others" shall be as the term "likelihood of
11 serious harm" is defined in chapter 632.

12 3. The procedure for obtaining an order of temporary emergency detention shall be as
13 prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

475.826. 1. A guardian of a minor shall act in the best interest of the ward.

2 **2. The guardian of a minor shall be entitled to the custody and control of the ward**
3 **similar to that of a parent of a minor child and shall provide for the ward's education,**
4 **support, and maintenance.**

475.828. 1. No medical or surgical procedure shall be performed on any minor
2 **ward unless consent is obtained from the guardian, except as provided in subsections 2 of**
3 **section 475.720.**

4 **2. If the life of the minor ward is threatened and there is not time to obtain consent,**
5 **a medical or surgical procedure may be performed without consent after the medical**
6 **necessity for the procedure has been documented in the medical record of the ward.**

475.830. 1. The court may inquire occasionally or periodically into the status of a
2 **minor ward under its jurisdiction to ensure that the guardian is discharging the guardian's**
3 **responsibilities and duties in accordance with this chapter.**

4 **2. In order to implement a court review prescribed under subsection 1 of this**
5 **section, the court may require that the guardian or limited guardian file a report**
6 **concerning the personal status of the ward and plans for future care. Such report may be**
7 **combined with the settlement of accounts if the guardian is also conservator of the estate**
8 **of the ward. The report shall be in the form prescribed by the court and, except as**
9 **otherwise ordered by the court, include the following information:**

10 (1) **The present address of the ward;**

11 (2) **The present address of the guardian;**

12 **(3) Unless the report specifies that the ward is living with the guardian, the number**
13 **of times the guardian has had contact with the ward, and the nature of such contacts**
14 **including the date the ward was last seen by the guardian;**

15 **(4) If the ward does not live with the guardian, a summary of the guardian's visits**
16 **with the ward and activities on the ward's behalf and the extent to which the ward has**
17 **participated in decision-making;**

18 **(5) If the ward is institutionalized, whether the guardian has received a copy of the**
19 **treatment or habilitation plan and whether the guardian agrees with its provision;**

20 **(6) The date the ward was last seen by a licensed physician or other professional**
21 **and the purpose;**

22 **(7) The current mental, physical, and social condition of the ward and any major**
23 **changes in the ward's condition since the last report;**

24 **(8) The opinion of the guardian as to the need for the continuation of the**
25 **guardianship and whether it is necessary to increase or decrease the powers of the**
26 **guardian; and**

27 **(9) The medical, educational, vocational, and other services provided to the ward**
28 **and the guardian's opinion as to the adequacy of the ward's care.**

29 **3. The court may as part of its review, in its discretion, order the performance of**
30 **a mental status evaluation of the minor ward and may require any hospital, physician, or**
31 **custodial facility to submit copies of their records relating to the treatment, habilitation,**
32 **or care of the ward.**

33 **4. (1) If it appears to the court as part of its review or at any time upon motion of**
34 **any person interested in the welfare of the ward, including the ward or some person on the**
35 **ward's behalf, that the guardian is not discharging the guardian's responsibilities and**
36 **duties as required by this chapter or has not acted in the best interests of the ward, the**
37 **court may order that a hearing be held and direct that the guardian appear before the**
38 **court.**

39 **(2) In the event that such a hearing is ordered and the ward is not represented by**
40 **an attorney, the court shall appoint an attorney to represent the ward in the proceedings.**

41 **(3) At the conclusion of the hearing, if the court finds that the guardian is not**
42 **discharging the guardian's duties and responsibilities as required by this code, or is not**
43 **acting in the best interests of the ward or protectee, the court shall enter such orders as it**
44 **deems appropriate under the circumstances. Such orders may include the removal of the**
45 **guardian and the appointment of a successor guardian.**

46 **(4) The court in framing its orders and findings shall give due consideration to the**
47 **exercise by the guardian of any discretion vested in the guardian by law.**

475.832. 1. The guardian may permit visitation with and by natural parents, grandparents, and others who have demonstrated to the guardian's satisfaction that it would be in the best interest of the child to visit with them.

2. (1) If the guardian unreasonably fails to permit visitation or family access to a natural parent, a grandparent, or others who can demonstrate to the court that it would be in the best interest of the minor for such visitation to occur, then that person who has been denied access may file a petition that the guardian is being unreasonable in denying such visitation or family access.

(2) The petition shall be served on the guardian and set for hearing within a reasonable period of time.

(3) Upon a finding that the guardian has unreasonably denied or limited such visitation or family access and that it would be in the best interest of the child to have visitation and family access with the petitioner, the court may set out an order for visitation and family access.

(4) If the court finds that the visitation or family access should be denied or limited in the best interest of the child, the court shall order that the visitation or family access be limited or denied.

(5) The provisions of the Uniform Child Custody Jurisdiction and Enforcement Act, under sections 452.700 to 452.930, where applicable, shall apply to actions under this section. The guardian shall be served with process and afforded the opportunity to file an answer under the rules of civil procedure, as in other civil cases, rather than under the less formal procedures of the probate code, unless the guardian has filed an appropriate pleading indicating consent to the relief being sought.

3. The court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the minor's estate.

475.834. 1. A guardian shall be allowed such compensation for the guardian's services, as the court shall deem just and reasonable unless waived by the guardian.

2. Additional compensation may be allowed for the necessary services of an attorney. Compensation may also be allowed for necessary expenses in the administration of the guardianship, including reasonable attorney fees if the employment of an attorney for the particular purpose is necessary.

3. In all cases, compensation of the guardian and the guardian's expenses including attorney fees shall be fixed by the court and may be allowed at any annual or final accounting; but at any time before final settlement, the guardian or the guardian's attorney

10 may apply to the court for an allowance upon the compensation or necessary expenses of
11 the guardian and for attorney fees for services already performed.

12 4. If the court finds that the guardian has failed to discharge the guardian's duties
13 as such in any respect, the court may deny the guardian any compensation or may reduce
14 the compensation that would otherwise be allowed. The court may consider ties of blood,
15 marriage, or adoption in making allowances of compensation to guardians and
16 conservators.

475.838. 1. A guardian or limited guardian of an incapacitated person or partially
2 incapacitated person shall act in the best interest of the ward taking into consideration the
3 ward's communications as to the ward's goals, needs, and preferences. A limited guardian
4 of a partially incapacitated person shall have the powers and duties enumerated by the
5 court in the adjudication order or any later modifying order.

6 2. Except as otherwise limited by the court, a guardian shall make decisions
7 regarding the ward's support, care, education, health, and welfare. A guardian shall
8 exercise authority only as necessitated by the ward's limitations and, to the extent possible,
9 shall encourage the ward to participate in decisions, act on the ward's own behalf, and
10 develop or regain the capacity to manage the ward's personal affairs.

11 3. Before making decisions on behalf of the ward, the guardian shall, to the extent
12 possible, ascertain the ward's goals, needs, and preferences as follows:

13 (1) First, the guardian shall ask the ward what the ward wants;

14 (2) Second, if the ward has difficulty expressing what the ward wants, the guardian
15 shall do everything possible to help the ward express his or her goals, needs, and
16 preferences; and

17 (3) Third, if the ward, even with assistance, cannot express his or her goals and
18 preferences, the guardian shall seek input from others familiar with the person to
19 determine what the individual would have wanted.

20 4. In making decisions on behalf of the ward, the guardian shall consider the
21 ascertained goals, needs, and preferences of the ward to the extent possible. The guardian
22 shall make a decision in accordance with the ward's goals, needs, and preferences unless
23 the guardian determines, after considering all of the options and their potential risks and
24 benefits, that such a decision would not be in the ward's best interest. If the ward's goals,
25 needs, and preferences cannot be ascertained, the guardian shall make a decision based
26 solely on what a reasonable person would do after considering all of the options and their
27 potential risks and benefits.

28 5. The general powers and duties of a guardian of an incapacitated person shall be
29 to take charge of the person of the ward and to provide for the ward's care, treatment,

30 habilitation, education, support, and maintenance; and the powers and duties shall include,
31 but not be limited to, the following:

32 (1) Maintaining sufficient contact, including at least one in-person annual visit with
33 the ward to know of the ward's capacities, limitations, needs, opportunities, and physical
34 and mental health;

35 (2) Filing a report with the court within ninety days of appointment indicating that
36 the guardian has met with the ward and describing how the guardian will meet the needs
37 of the ward and address the ward's preferences. This report may include a plan from a
38 service provider;

39 (3) Assuring that the ward resides in the best and least restrictive setting
40 reasonably available. The guardian shall give priority to home or community-based
41 settings when not inconsistent with the ward's goals and preferences;

42 (4) Assuring that the ward receives medical care and other services that are needed;

43 (5) Promoting and protecting the care, comfort, safety, health, and welfare of the
44 ward;

45 (6) Providing required consents on behalf of the ward;

46 (7) Exercising all powers and discharging all duties necessary or proper to
47 implement the provisions of this section;

48 (8) Making a good faith effort to cooperate with other fiduciaries for the ward as
49 applicable including, but not limited to, any other guardian, conservator, agent under a
50 power of attorney, trustee, Veterans Administration fiduciary, or representative payee;

51 (9) Notifying the court if, in the opinion of the guardian, the ward's condition has
52 changed to the extent that the ward is capable of exercising rights previously removed.

53 6. A guardian of an adult or minor ward is not obligated by virtue of such
54 guardian's appointment to use the guardian's own financial resources for the support of
55 the ward. If the ward's estate and available public benefits are inadequate for the proper
56 care of the ward, the guardian or conservator may apply to the county commission under
57 section 475.716.

475.840. 1. The provisions of section 475.808 notwithstanding, in every
2 guardianship, the ward has the right to:

3 (1) A guardian who acts in the best interests of the ward;

4 (2) A guardian who is reasonably accessible to the ward;

5 (3) Communicate freely and privately with family, friends, and other persons other
6 than the guardian; except that, such right may be limited by the guardian for good cause
7 but only as necessary to ensure the ward's condition, safety, habilitation, or sound
8 therapeutic treatment;

9 (4) Individually, or through the ward's representative or legal counsel, bring an
10 action relating to the guardianship, including the right to file a petition alleging that the
11 ward is being unjustly denied a right or privilege granted by this chapter and the right to
12 bring an action to modify or terminate the guardianship under the provisions of sections
13 475.930 to 475.934;

14 (5) The least restrictive form of guardianship assistance, taking into consideration
15 the ward's functional limitations, personal needs, and preferences;

16 (6) Be restored to capacity at the earliest possible time;

17 (7) Receive information from the court that describes the ward's rights, including
18 rights the ward may seek by petitioning the court; and

19 (8) Participate in any health care decision making process.

20 2. The ward may petition the court to grant the ward the right to:

21 (1) Contract to marry or to petition for dissolution of marriage;

22 (2) Make, modify, or terminate other contracts or ratify contracts made by the
23 ward;

24 (3) Consent to medical treatment;

25 (4) Establish a residence or dwelling place;

26 (5) Change domicile;

27 (6) Bring or defend any action at law or equity, except an action relating to the
28 guardianship; or

29 (7) Drive a motor vehicle if the ward can pass the required driving test.

30 3. The appointment of a guardian does not revoke the powers of an agent who was
31 previously appointed by the ward to act as an agent under a durable power of attorney for
32 health care.

33 4. The appointment of a guardian is not a determination that the ward lacks
34 testamentary capacity.

 475.842. 1. Consent of the guardian shall be obtained as authorized by section
2 431.061 before a medical or surgical procedure may be performed on any ward unless
3 emergency treatment is required and consent is excused as provided in section 431.063.

4 2. If the life of the ward is threatened and there is not time to obtain consent, a
5 medical or surgical procedure may be performed without consent after the medical
6 necessity for the procedure has been documented in the medical record of the ward.

7 3. The guardian, in making health care decisions for the ward or in seeking court
8 approval for such decisions, shall maximize the participation of the ward.

9 4. The guardian, in making health care decisions for the ward or in seeking court
10 approval for such decisions, shall:

- 11 **(1) Consider the medical facts;**
12 **(2) Consider the health care options and risks and benefits of each; and**
13 **(3) Encourage and support the individual in understanding the facts and directing**
14 **a decision.**

15 **5. (1) To the extent the ward cannot currently direct the health care decision, the**
16 **guardian shall act in accordance with the ward's prior directions, directives, expressed**
17 **desires, and opinions about health care to the extent actually known or ascertainable by**
18 **the guardian; or, if unknown and unascertainable, act in accordance with the ward's prior**
19 **general statements, actions, values, and preferences to the extent actually known or**
20 **ascertainable by the guardian; or, if unknown and unascertainable, act in accordance with**
21 **reasonable information received from professionals and persons who demonstrate**
22 **sufficient interest in the ward's welfare to determine the ward's best interests, which**
23 **determination shall include consideration of consequences for others that an individual in**
24 **the ward's circumstances would consider.**

25 **(2) In the event of an emergency, the guardian shall grant or deny authorization**
26 **of emergency health care treatment based on a reasonable assessment of the criteria listed**
27 **in subsection 2 of this section.**

28 **6. The guardian shall monitor, promote, and maintain the person's health and**
29 **well-being and shall seek to ensure that the person receives appropriate health care.**

30 **7. A social service agency or not-for-profit agency acting as a guardian under**
31 **section 475.764 shall only authorize the withholding or withdrawal of artificially provided**
32 **nutrition or hydration as prescribed under section 404.820.**

475.844. 1. Only the director or chief administrative officer of a social service
2 **agency serving as guardian of an incapacitated person, or such person's designee, is legally**
3 **authorized to act on behalf of the ward.**

4 **2. A social service agency serving as guardian of an incapacitated person shall**
5 **notify the court within fifteen days after any change in the identity of the professional**
6 **individual who has primary responsibility for providing guardianship services to the ward.**

7 **3. Any social service agency serving as guardian shall not provide other services to**
8 **the ward.**

475.846. 1. The clerk shall notify each guardian or limited guardian by ordinary
2 **mail of the day on which the guardian's annual report is required to be filed, at least thirty**
3 **days before such date. Failure to receive the notice herein required does not excuse a**
4 **guardian or limited guardian from making a report as required by law.**

5 **2. The clerk shall also keep a docket in which shall be entered the names of all**
6 **guardians and limited guardians and the particular day upon which their report of annual**

7 personal review is required. The clerk shall notify such guardians in the same manner as
8 prescribed in subsection 2 of this section. Failure to receive the notice herein required does
9 not excuse such guardians from making the report as required by law.

475.848. 1. At least annually, the court shall inquire into the status of every ward
2 under its jurisdiction for the purpose of determining whether the incapacity may have
3 ceased or changed and to insure that the guardian is discharging the guardian's
4 responsibilities and duties in accordance with this chapter.

5 2. In order to implement the court review prescribed by this section, the guardian
6 or limited guardian shall file annually on the anniversary date of the guardian's or limited
7 guardian's letters, a report concerning the personal status of the ward and plans for future
8 care. Such report may be combined with the settlement of accounts if the guardian is also
9 conservator of the estate of the ward. The report shall be in the form prescribed by the
10 court and shall include the following information:

11 (1) The present address of the ward;

12 (2) The present address of the guardian;

13 (3) Unless the report specifies that the ward is living with the guardian, the number
14 of times the guardian has had contact with the ward, and the nature of such contacts,
15 including the date the ward was last seen by the guardian;

16 (4) A summary of the guardian's visits with the ward and activities on the ward's
17 behalf and the extent to which the ward has participated in decision-making;

18 (5) If the ward is institutionalized, whether the guardian has received a copy of the
19 treatment or habilitation plan and whether the guardian agrees with its provision;

20 (6) The date the ward was last seen by a licensed physician or other professional
21 and the purpose;

22 (7) The current mental, physical, and social condition of the ward and any major
23 changes in the ward's condition since the last report;

24 (8) The opinion of the guardian as to the need for the continuation of the
25 guardianship and whether it is necessary to increase or decrease the powers of the
26 guardian;

27 (9) The medical, educational, vocational, and other services provided to the ward
28 and the guardian's opinion as to the adequacy of the ward's care; and

29 (10) A plan for the coming year, including short-term and long-term goals, and the
30 extent to which the ward has participated in the development of the plan.

31 3. The court may as part of its review, in its discretion, order the performance of
32 a mental status evaluation of a ward and may require any hospital, physician, or custodial
33 facility to submit copies of their records relating to the treatment, habilitation, or care of

34 the ward. The court, as part of its review and in its discretion, may also contact the
35 department of health and senior services or other appropriate agencies to investigate the
36 conduct of the guardian and report its findings to the court.

37 4. If there is an indication that the incapacity of the ward has ceased, the court shall
38 appoint an attorney to file on behalf of the ward a petition for termination of the
39 guardianship or for restoration.

40 5. (1) If it appears to the court as part of its review or at any time upon motion of
41 any person interested in the welfare of the ward, including the ward or some person on the
42 ward's behalf, that the guardian is not discharging the guardian's responsibilities and
43 duties as required by this chapter or has not acted in the best interests of the ward, the
44 court may order that a hearing be held and direct that the guardian appear before the
45 court.

46 (2) In the event that such a hearing is ordered and the ward is not represented by
47 an attorney, the court shall appoint an attorney to represent the ward in the proceedings.

48 (3) At the conclusion of the hearing, if the court finds that the guardian is not
49 discharging the guardian's duties and responsibilities as required by this code, or is not
50 acting in the best interests of the ward, the court shall enter such orders as it deems
51 appropriate under the circumstances. Such orders may include the removal of the
52 guardian and the appointment of a successor guardian or termination of the guardianship
53 on finding that the ward has recovered the ward's capacity.

54 (4) The court in framing its orders and findings shall give due consideration to the
55 exercise by the guardian or conservator of any discretion vested in the guardian by law.

2 475.850. 1. A guardian shall be allowed such compensation for the guardian's
services, as the court shall deem just and reasonable.

3 2. Additional compensation may be allowed for the necessary services of an
4 attorney. Compensation may also be allowed for necessary expenses in the administration
5 of the guardianship, including reasonable attorney fees if the employment of an attorney
6 for the particular purpose is necessary.

7 3. In all cases, compensation of the guardian and the guardian's expenses including
8 attorney fees shall be fixed by the court and may be allowed at any annual or final
9 accounting; but at any time before final settlement, the guardian or the guardian's attorney
10 may apply to the court for an allowance upon the compensation or necessary expenses of
11 the guardian and for attorney fees for services already performed.

12 4. If the court finds that the guardian has failed to discharge the guardian's duties
13 as such in any respect, the court may deny the guardian any compensation or may reduce
14 the compensation that would otherwise be allowed. The court may consider ties of blood,

15 marriage, or adoption in making allowances of compensation to guardians and
16 conservators.

475.854. 1. The conservator of the estate of a minor or financially incapacitated
2 person shall, under supervision of the court, protect, preserve, and manage the estate,
3 apply it as provided in this code, account for it faithfully, perform all other duties required
4 of the conservator by law, and, at the termination of the conservatorship, deliver the assets
5 of the protectee to the persons entitled thereto. In protecting, preserving, and managing
6 the estate, the conservator of the estate is under a duty to use the degree of care, skill, and
7 prudence which an ordinarily prudent person uses in managing the property of, and
8 conducting transactions on behalf of, others. If a conservator of the estate has special skills
9 or is appointed on the basis of representations of special skills or expertise, the conservator
10 is under a duty to use those skills in the conduct of the protectee's affairs. A conservator
11 of the estate is under a duty to act in the interest of the protectee and to avoid conflicts of
12 interest that impair the conservator's ability so to act.

13 2. The conservator shall use reasonable efforts to:

14 (1) Ascertain the income, assets, and liabilities of the protectee;

15 (2) Ascertain the needs and preferences of the protectee;

16 (3) Coordinate with the guardian and consult with others close to the protectee;

17 (4) Prepare a plan for the management of the protectee's income and assets; and

18 (5) Provide oversight to any income and assets of the protectee under the control
19 of the protectee.

475.856. A sale, encumbrance, or other transaction involving the management of
2 the conservatorship entered into by the conservator for the conservator's own personal
3 gain or which is otherwise affected by a conflict between the conservator's fiduciary and
4 personal interests is voidable unless the transaction:

5 (1) Was approved by the court;

6 (2) Involves a contract entered into or claim acquired by the conservator before the
7 person became or contemplated becoming conservator;

8 (3) Involves a deposit of estate money to a bank operated by the conservator; or

9 (4) Involves an advance by the conservator of money for the protection of the estate.

475.858. The conservator shall:

2 (1) Keep estate property separate from the conservator's own property; and

3 (2) Cause the estate's property to be designated so that any ownership interest of
4 the estate, to the extent feasible, appears in records maintained by a financial institution
5 or party other than the conservator or protectee.

- 1 **475.860. 1. A conservator of the estate has power, without authorization or**
2 **approval of the court, to:**
- 3 **(1) Settle or compromise a claim against the protectee or the estate agreeing to pay**
4 **or paying not more than five thousand dollars;**
- 5 **(2) Settle, abandon, or compromise a claim in favor of the estate that does not**
6 **exceed five thousand dollars;**
- 7 **(3) Receive additions to the estate;**
- 8 **(4) Sell, or agree to sell, chattels and choses in action reasonably worth not more**
9 **than five thousand dollars for cash or upon terms involving a reasonable extension of**
10 **credit;**
- 11 **(5) Exchange, or agree to exchange, chattels and choses in action for other such**
12 **property of equivalent value, not in excess of five thousand dollars;**
- 13 **(6) Insure or contract for insurance of property of the estate against fire, theft, and**
14 **other hazards;**
- 15 **(7) Insure or contract for insurance protecting the protectee against any liability**
16 **likely to be incurred, including medical and hospital expenses, and protecting the**
17 **conservator against liability to third parties arising from acts or omissions connected with**
18 **possession or management of the estate;**
- 19 **(8) Contract for needed repairs and maintenance of property of the estate;**
- 20 **(9) Lease land and buildings for terms not exceeding one year, reserving reasonable**
21 **rent, and renew any such lease for a like term;**
- 22 **(10) Vote corporate stock in person or by general or limited proxy;**
- 23 **(11) Contract for the provision of board, lodging, education, medical care, or**
24 **necessaries of the protectee for periods not exceeding one year, and renew any such**
25 **contract for a like period;**
- 26 **(12) Commence a proceeding, including an administrative proceeding, or take other**
27 **appropriate action to compel a person to support the protectee or to pay money for the**
28 **benefit of the protectee;**
- 29 **(13) Deposit funds in a bank including a bank operated by the conservator;**
- 30 **(14) Hold a security in the name of a nominee or in other form without disclosure**
31 **of the conservatorship so title to the security may pass by delivery, but the conservator is**
32 **liable for any act of the nominee in connection with the stock so held;**
- 33 **(15) Pay taxes, assessments, and other expenses incurred in the collection, care,**
34 **administration, and protection of the estate;**
- 35 **(16) Pay any sum distributable to a protectee or the protectee's dependent without**
36 **liability to the conservator, by paying the sum to the distributee or by paying the sum for**

37 the use of the distributee either to the distributee's guardian or, if none, to a relative or
38 other person with custody of the distributee;

39 (17) Prosecute or defend actions, claims, or proceedings in any jurisdiction for the
40 protection of estate assets and of the conservator in the performance of the conservator's
41 duties;

42 (18) Execute and deliver all instruments which will accomplish or facilitate the
43 exercise of the powers vested in the conservator; and

44 (19) Invest the estate in accordance with the provisions of section 475.872.

45 2. If, in exercising any power conferred by subsection 1 of this section, a
46 conservator breaches any of the duties enumerated in subsection 1 of section 475.854, the
47 conservator may be surcharged for losses to the estate caused by the breach, but persons
48 who dealt with the conservator in good faith, without knowledge of or reason to suspect the
49 breach of duty, may enforce and retain the benefits of any transaction with the conservator
50 which the conservator has power under subsection 1 of this section to conduct.

475.862. 1. The conservator of the estate shall take possession of all of the
2 protectee's real and personal property, and of rents, income, issue, and profits therefrom,
3 whether accruing before or after the conservator's appointment, and of the proceeds
4 arising from the sale, mortgage, lease, or exchange thereof. Subject to such possession, the
5 title to all such estate, and to the increment and proceeds thereof, is in the protectee and
6 not in the conservator. Upon a showing that funds available or payable for the benefit of
7 the protectee by any federal agency are being applied for the benefit of the protectee, or
8 that such federal agency has refused to recognize the authority of the conservator to
9 administer such funds, the court may waive, by order, the duty of the conservator to
10 account therefor.

11 2. The court has full authority under the rules of civil procedure to enjoin any
12 person from interfering with the right of the conservator to possession of the assets of the
13 protectee, including benefits payable from any source.

14 3. The conservator of the estate shall prosecute and defend all actions instituted on
15 behalf of or against the protectee; collect all debts due or becoming due to the protectee,
16 and give acquittances and discharges therefor; and adjust, settle, and pay all claims due
17 or becoming due from the protectee so far as the protectee's estate and effects will extend,
18 except as provided in sections 507.150 and 507.188.

475.864. 1. The conservator shall manage the estate in a way that maximizes the
2 dignity, autonomy, and self-determination of the protectee consistent with the protectee's
3 level of functioning.

4 **2. The conservator shall, when making decisions regarding investing, spending, and**
5 **management of the income and assets, including asset recovery:**

6 **(1) Give priority to the needs and preferences of the protectee; and**

7 **(2) Weigh the costs and benefits to the estate.**

[475.160.] **475.866.** Any conservator, protectee, creditor or other person, including a
2 person interested in expectancy, reversion or otherwise, who claims an interest in property which
3 is claimed to be an asset of the estate of a protectee or which is claimed should be an asset of
4 such an estate, may file a verified petition in any court having jurisdiction of such estate seeking
5 determination of the title and right of possession thereto. The petition shall describe the
6 property, if known, shall allege the nature of the interest of the petitioner and that title or
7 possession of the property, or both, are being adversely withheld or claimed. The court shall
8 proceed on such petition in accordance with the provisions of section 473.340.

[475.091.] **475.868.** The court has the following powers which may be exercised directly
2 or through a conservator in respect to the estate and affairs of minors and [disabled] **financially**
3 **incapacitated** persons:

4 (1) While a petition for appointment of a conservator of the estate is pending, on motion
5 and with notice to the attorney appointed to represent the minor or alleged [disabled] **financially**
6 **incapacitated** person and after preliminary hearing and finding of probable cause that the
7 allegations of the petition and motion are true, the court may appoint a conservator ad litem to
8 collect, protect and preserve the assets of the minor or alleged [disabled] **financially**
9 **incapacitated** person and, on order of court, disburse funds for the necessary support and
10 maintenance of the minor or alleged [disabled] **financially incapacitated** person and [those]
11 **dependent** members of [his] **the person's** family [who are dependent upon him];

12 (2) Upon finding that the transaction was or is beneficial to the protectee, the court may
13 approve, ratify, confirm and validate any transaction entered into by a conservator of the estate,
14 without court authorization which it has power under this section to authorize the conservator
15 to conduct. The power of the court to approve, ratify, confirm and validate transactions entered
16 into by a conservator of the estate without court authorization includes, without limitation,
17 retention of real or personal property, compromises of claims by and against the estate,
18 investments, purchases, sales, mortgages, exchanges, abandonment, leases of any duration,
19 improvements, contracts to improve, contracts to sell, contracts to purchase, contracts to
20 exchange and grants of options, easements, profits or other rights with respect to land or other
21 property. It also includes, without limitation, payment of a mortgage indebtedness on the real
22 estate of the protectee out of [his] **the protectee's** personal estate and purchase of real estate at
23 a sale made under a mortgage, deed of trust, vendor's lien or other lien held by the protectee. It
24 also includes the power to make, ratify and undertake proceedings for, and agreements incident

25 to, dissolution of the marriage **or a legal separation in the marriage** of the protectee, and
26 transactions involving conflicts of interest between conservator and protectee.

**475.870. 1. When a conservator of the estate has been appointed, an inventory and
2 appraisal of the estate of the protectee shall be made in the same manner and within
3 the same time and subject to the same requirements as are provided in sections 473.233 to
4 473.243 for the inventory and appraisal of a decedent's estate. The inventory shall
5 include property as to which the protectee is a joint tenant or tenant by the entirety and
6 all policies of life insurance owned by the protectee, whether or not payable to a named
7 beneficiary, together with a statement of all income and benefits to which the protectee is
8 or will be entitled to receive. The inventory shall also disclose any nonprobate transferees
9 designated to receive nonprobate transfers of accounts owned by the protectee after
10 protectee's death.**

**11 2. When any personal estate is received by a conservator from a personal
12 representative, or former conservator, which has been appraised, it is not necessary for the
13 conservator to cause the same to be appraised again, but he or she shall state in the
14 inventory the appraised value as it appears in the appraisal of the personal
15 representative, or former conservator, and be held to account accordingly.**

[475.190.] **475.872. 1.** On or after August 28, 2009, the conservator shall invest [liquid]
2 assets of the estate of the protectee, other than funds needed to meet debts and expenses currently
3 payable, in accordance with the provisions of the Missouri prudent investor act, sections 469.900
4 to 469.913, subject to the following exceptions:

5 (1) Investment of any part or all of the liquid assets:

6 (a) In direct obligation of or obligations unconditionally guaranteed as to principal and
7 interest by the United States; or

8 (b) In interest-bearing accounts and time deposits, including time certificates of deposit,
9 in financial institutions to the extent the account or deposits are insured by the Federal Deposit
10 Insurance Corporation or the National Credit Union Share Insurance Fund, shall constitute
11 prudent investments;

12 (2) If the conservator determines it appropriate to delegate investment and management
13 functions to an agent as provided in section 469.909, the agent to whom the delegation is made
14 shall acknowledge in a writing delivered to the conservator that the agent is acting as an
15 investment fiduciary on the account.

16 2. Every conservator shall make a report at every annual settlement of the disposition
17 made by the conservator of the money belonging to the protectee entrusted to the conservator.
18 If it appears that the money is invested in securities, then the conservator shall report a detailed
19 description of the securities and shall describe any real estate security and state where it is

20 situated, and its value, which report shall be filed in the court. The court shall carefully examine
21 into the report as soon as made, and, if in the opinion of the court the security is insufficient, the
22 court shall make such orders as are necessary to protect the interest of the protectee. The
23 conservator and the conservator's sureties are liable on their bond for any omission to comply
24 with the orders of the court. If the money has not been invested as authorized by law the
25 conservator shall state that fact and the reasons, and shall state that the conservator has been
26 unable to make an investment after diligent effort to do so.

27 3. If any conservator refuses or neglects to make the report at the time aforesaid, or
28 makes a false report thereof, the conservator and the conservator's sureties are liable on their
29 bond for all loss or damage to the protectee occasioned by reason of the conservator's neglect or
30 refusal so to report, or by making a false report, and the conservator may, on account thereof, be
31 removed from the conservator's trust in the discretion of the court.

[475.155.] **475.874.** In all cases where the court deems it advantageous to continue the
2 business of a protectee, such business may be continued by the conservator of the estate on order
3 of the court and according to the rules specified in section 473.300 for the continuation of the
4 business of a decedent by a personal representative when no testamentary provisions are
5 involved.

**475.876. 1. With the approval of the court, a conservator may delegate to an agent
2 duties and powers that are prudent under the circumstances. The conservator shall
3 exercise reasonable care, skill, and caution in:**

4 (1) **Selecting an agent;**

5 (2) **Establishing the scope and terms of the delegation, consistent with the purposes
6 and terms of the conservatorship; and**

7 (3) **Periodically reviewing the agent's actions in order to monitor the agent's
8 performance and compliance with the terms of the delegation.**

9 **2. In performing a delegated function, an agent owes a duty to the protectee to
10 exercise reasonable care to comply with the terms of the delegation.**

11 **3. By accepting a delegation of powers or duties from the conservator of a
12 conservatorship that is subject to the law of this state, an agent submits to the jurisdiction
13 of the courts of this state with regard to all matters relating to the conservatorship.**

[475.125.] **475.878.** 1. The court may make orders for the management of the estate of
2 the protectee for the care, education, treatment, habilitation, support and maintenance of the
3 protectee and for the **support and** maintenance of [his] **the protectee's** family and education of
4 [his] **the protectee's spouse and** children, according to [his] **the protectee's** means and
5 obligation, if any, out of the proceeds of [his] **the protectee's** estate, and may direct that
6 payments for such purposes shall be made weekly, monthly, quarterly, semiannually or annually.

7 The payments ordered under this section may be decreased or increased from time to time as
8 ordered by the court.

9 **2. In setting the amount of the support allowance for the protectee or any other**
10 **persons entitled to such support, the court shall consider the previous standard of living**
11 **of the spouse or other family members, the composition of the estate, the income and other**
12 **assets available to the protectee and the other persons, and the expenses of the protectee**
13 **or the other persons entitled to support.**

14 **3.** Appropriations for any such purposes, expenses of administration and allowed claims
15 shall be paid from the property or income of the estate. The court may authorize the conservator
16 to borrow money and obligate the estate for the payment thereof if the court finds that funds of
17 the estate for the payment of such obligation will be available within a reasonable time and that
18 the loan is necessary. If payments are made to another under the order of the court, the
19 conservator of the estate is not bound to see to the application thereof.

20 **[3.] 4.** In acting under this section the court shall take into account any duty imposed by
21 law or contract upon a parent or spouse of the protectee, a government agency, a trustee, or other
22 person or corporation, to make payments for the benefit of or provide support, education, care,
23 treatment, habilitation, maintenance or safekeeping of the protectee and [his] **the protectee's**
24 dependents. The guardian of the person and the conservator of the estate shall endeavor to
25 enforce any such duty.

475.880. 1. Except as provided in section 475.884, the conservator shall administer
2 **a protectee's estate by maintaining the protectee's estate plan as evidenced by the**
3 **protectee's will, trust, real and personal property assets held jointly with right of**
4 **survivorship, and assets titled in protectee's name with nonprobate transfers under**
5 **sections 461.003 to 461.081 and other assets with beneficiary designations including, but**
6 **not limited to, those in bank or credit union accounts, investment accounts, motor vehicles,**
7 **insurance policies and annuities, individual retirement accounts, and deferred**
8 **compensation accounts. A conservator may examine the will and any other donative,**
9 **nominative, or other appointive instrument of the protectee.**

10 **2. To the extent that the conservator shall pay expenses of the unmarried protectee**
11 **or the protectee's dependents under section 475.878 or claims under sections 475.896 to**
12 **475.902 or section 475.918, because the protectee's estate does not have sufficient assets in**
13 **the protectee's or estate's name solely, the conservator may apply for an order of the court**
14 **authorizing the redemption or liquidation of the decedent's joint assets or assets titled with**
15 **nonprobate transfers in the following order of priority only as necessary to pay expenses**
16 **and claims of the protectee's estate at the time of application:**

17 **(1) Assets owned solely by the unmarried protectee or the protectee's estate with**
18 **beneficiary designations under the nonprobate transfer law as set out in sections 461.003**
19 **to 461.081, banking law, and other property with beneficiary designations including**
20 **insurance policies and annuities, individual retirement accounts, deferred compensation**
21 **and other contributory pension accounts, and any other assets with beneficiary**
22 **designations;**

23 **(2) The proportional interest of the protectee in some or all of the jointly-held assets**
24 **upon notice and after opportunity to be heard by the other joint owners.**

475.882. 1. If the protectee is married, then the conservator, subject to the
2 **provisions of subsections 2 and 3 of this section, shall have full power to act for such**
3 **conservator's protectee and to do all things with respect to the assets and property that the**
4 **protectee could do if such protectee did not have a conservator; and without limiting the**
5 **generality of the foregoing, the conservator acting with the other spouse or the other**
6 **conservator may sell, convey, exchange, mortgage, or pledge to secure loans of cash or**
7 **purchase money, lease, invest, reinvest, partition the property or its proceeds in equal**
8 **shares, convert the property or its proceeds into a tenancy in common in equal shares, or**
9 **otherwise dispose of the property.**

10 **2. The power confirmed in a conservator by this section shall at all times be subject**
11 **to the approval, control, and supervision of the probate division of the circuit court having**
12 **venue of the conservatorship. Either the conservator or the adult and competent spouse**
13 **may petition or apply to the appropriate court for approval of an agreed proposed**
14 **disposition of property held by entiresities. If the court finds that the proposed disposition**
15 **is fair and equitable to the protectee taking into consideration all of the circumstances of**
16 **the case including the proper interests of the other spouse, the court shall make**
17 **appropriate authorization of disposition and such orders as are necessary and proper in**
18 **the case. Insofar as is practicable, procedure in the probate division of the circuit court**
19 **shall be in accord with the procedure provided in this chapter for a similar type of**
20 **disposition of property. The court in its discretion may tax the costs against both parties**
21 **in equal or unequal shares, or solely against one party, or solely against the other party.**

22 **3. If one of the spouses who hold by entiresities is the conservator of the other spouse,**
23 **the conservator shall not represent such conservator's protectee in any negotiations for**
24 **agreement respecting disposition of the entiresities property or in any proceedings for**
25 **approval of an agreed proposed disposition of such property, but in all such matters the**
26 **protectee shall be represented by a conservator ad litem. In such cases, on petition or**
27 **application by the adult and competent spouse, acting individually or as conservator, for**
28 **disposition of the entiresities property, the court shall appoint a conservator ad litem to**

29 represent the protectee in the matter of a proposed disposition of the property, and the
30 conservator ad litem shall represent the protectee in any negotiations for agreement with
31 the adult and competent spouse and in any proceedings for approval of the agreed
32 proposed disposition of the property. If the agreed proposed disposition is approved by
33 the court, the conservator ad litem shall be discharged and the conservator shall resume
34 such conservator's full conservatorship and shall do all things necessary to carry into effect
35 the disposition of the property as approved pursuant to authorization and orders by the
36 court. If no agreement is reached after a reasonable time with reference to disposition of
37 the property, the conservator ad litem shall be discharged.

38 **4. This section has no application to the conveyance, encumbrance, or sale of**
39 **property by a person under eighteen years of age who holds such property as a tenant by**
40 **the entirety and who is authorized by law to make such conveyance, encumbrance, or sale**
41 **in person.**

475.884. 1. After notice to interested persons and upon express authorization of the
2 **court, a conservator may:**

3 **(1) Make gifts that the protectee might have been expected to make including, but**
4 **not limited to, gifts to qualify for governmental benefits or to reduce federal estate taxes;**

5 **(2) Make a division of assets as provided under the Medicaid spousal**
6 **impoverishment provisions;**

7 **(3) Convey, release, or disclaim contingent and expectant interests in property,**
8 **including marital property rights and any right of survivorship incident to joint tenancy**
9 **or tenancy by the entireties;**

10 **(4) Exercise or release a power of appointment;**

11 **(5) Create a revocable or irrevocable trust of property of the estate, whether the**
12 **trust extends beyond the duration of the conservatorship, or revoke or amend a trust**
13 **revocable by the protected person;**

14 **(6) Exercise rights to elect options and change beneficiaries under insurance**
15 **policies and annuities or surrender the policies and annuities for their cash value; and**

16 **(7) Exercise any right to an elective share in the estate of the protectee's deceased**
17 **spouse and to renounce or disclaim any interest by testate or intestate succession or by**
18 **transfer inter vivos.**

19 **2. The court, in exercising or in approving a conservator's exercise of the powers**
20 **listed in subsection 1 of this section, shall consider primarily the decision that the protectee**
21 **would have made, to the extent that the decision can be ascertained. The court shall also**
22 **consider:**

- 23 (1) The financial needs of the protected person and the needs of individuals who
24 are in fact dependent on the protectee for support and the interest of creditors;
25 (2) Possible reduction of income, estate, inheritance, or other tax liabilities;
26 (3) Eligibility for governmental assistance;
27 (4) The protectee's previous pattern of giving or level of support;
28 (5) The existing estate plan;
29 (6) The protectee's life expectancy and the probability that the conservatorship will
30 terminate before the protectee's death; and
31 (7) Any other factors the court considers relevant.

32 3. Without authorization of the court, a conservator may not revoke or amend a
33 durable power of attorney of which the protectee is the principal. If a durable power of
34 attorney is in effect, absent a court order to the contrary, a decision of the agent takes
35 precedence over that of a conservator.

 475.886. 1. At least annually, the court shall inquire into the status of every
2 protectee under its jurisdiction for the purpose of determining whether the financial
3 incapacity may have ceased and to ensure that the conservator is discharging the
4 conservator's responsibilities and duties in accordance with this chapter.

5 2. If there is any indication that the financial incapacity of the protectee has ceased,
6 the court shall appoint an attorney to file on behalf of the protectee a petition for
7 termination of the conservatorship or for restoration.

8 3. (1) If it appears to the court as part of its review or at any time upon motion of
9 any interested person, including the protectee or some person on the protectee's behalf,
10 that the guardian or conservator is not discharging the conservator's responsibilities and
11 duties as required by this chapter or has not acted in the best interests of the protectee, the
12 court may order that a hearing be held and direct that the conservator appear before the
13 court.

14 (2) In the event that such a hearing is ordered and the protectee is not represented
15 by an attorney, the court shall appoint an attorney to represent the protectee in the
16 proceedings.

17 (3) At the conclusion of the hearing, if the court finds that the conservator is not
18 discharging the conservator's duties and responsibilities as required by this code, or is not
19 acting in the best interests of the protectee, the court shall enter such orders as it deems
20 appropriate under the circumstances. Such orders may include the removal of the
21 conservator and the appointment of a successor conservator or termination of the
22 guardianship or conservatorship on finding that the ward has recovered his or her capacity
23 or the protectee is no longer disabled.

24 **(4) The court in framing its orders and findings shall give due consideration to the**
25 **exercise by the conservator of any discretion vested in him or her by law.**

 [475.270.] **475.888.** 1. [Every] **In order to implement the court review prescribed**
2 **by section 475.886, the conservator shall file with the court annually or more often if required**
3 **by the court, a settlement of [his] the conservator's accounts [once a year or oftener] if required**
4 **by the court detailing the current status of the estate under conservatorship.** The annual
5 settlement shall be made at a time fixed by the court within [thirty] **sixty** days after the
6 anniversary of the appointment of such conservator [and on the corresponding date of each year
7 thereafter until the final settlement].

8 2. Each settlement of a conservator shall conform to the requirements of section 473.543
9 as to settlements in decedents' estates.

10 [3.] If the conservatorship estate meets the indigency standards prescribed by chapter 208
11 **or if all or nearly all the income or assets of the conservatorship are under the control of**
12 **another fiduciary, including a Social Security representative payee or Veterans**
13 **Administration fiduciary, or if the assets of a protectee have been placed in restricted custody,**
14 **the court may waive the requirements [of subsection 2 of this] that the settlement comply with**
15 **the requirement of section 473.453 and require the conservator to report, in a form prescribed**
16 **by the court, the following information:**

17 (1) A statement of any money or property received during the preceding year including
18 the date, source and amount or value;

19 (2) A statement of disbursements made and the purpose thereof;

20 (3) The total amount of money or property on hand;

21 (4) The name and address of any depository where estate funds are deposited and the
22 amounts thereof.

23 **3. In addition to the information required by subsection 2 of this section, the**
24 **settlement shall include:**

25 **(1) The present address of the protectee;**

26 **(2) The present address of the conservator;**

27 **(3) The services being provided to the protected person;**

28 **(4) The significant actions taken by the conservator during the reporting period;**

29 **(5) An opinion of the conservator as to the continued need for conservatorship and**
30 **any recommended changes in the scope of the conservatorship;**

31 **(6) The compensation requested and the reasonable and necessary expenses**
32 **incurred by the conservator;**

33 **(7) A plan for the coming year, including short-term or long-term goals and the**
34 **extent to which the protectee has participated in the development of the plan; and**

35 **(8) Any other information requested by the court or useful in the opinion of the**
36 **conservator.**

475.890. 1. The clerk shall keep a docket in which shall be entered the names of all
2 **conservators and the particular day upon which their annual settlements are required.**

3 **2. The clerk shall notify each conservator by ordinary mail of the day on which**
4 **each of the conservator's annual settlements is required to be filed at least thirty days**
5 **before such date. Failure to receive the notice herein required does not excuse a**
6 **conservator from making settlement as required by law.**

7 **3. Sections 473.560 to 473.567, as to decedents' estates, apply to conservators and**
8 **their settlements.**

~~[475.275.]~~ **475.892. 1.** The conservator, at the time of filing any settlement with the
2 court, shall exhibit all securities or investments held by [him] **the conservator** to an officer of
3 the bank or other depository wherein the securities or investments are held for safekeeping or to
4 an authorized representative of the corporation which is surety on [his] **the conservator's** bond,
5 or to the judge or clerk of a court of record in this state, or upon request of the conservator or
6 other interested party, to any other reputable person designated by the court, who shall certify in
7 writing that [he] **the person** has examined the securities or investments and identified them with
8 those described in the account and shall note any omission or discrepancies. If the depository
9 is the conservator, the certifying officer shall not be the officer verifying the account. The
10 conservator may exhibit the securities or investments to the judge of the court, who shall endorse
11 on the account and copy thereof, a certificate that the securities or investments shown therein as
12 held by the conservator were each in fact exhibited to [him] **the judge** and that those exhibited
13 to [him] **the judge** were the same as those in the account and noting any omission or
14 discrepancy. The certificate, and the certificate of an official of the bank in which are deposited
15 any funds for which the conservator is accountable, showing the amount on deposit, shall be
16 prepared and signed in duplicate and one of each shall be filed by the conservator with [his] **the**
17 **conservator's** account.

18 2. (1) As used in and pursuant to this section, a "pooled account" is an account within
19 the meaning of this section and means any account maintained by a fiduciary for more than one
20 principal and is established for the purpose of managing and investing and to manage and invest
21 the funds of such principals. No fiduciary shall or may place funds into a pooled account unless
22 the account meets the following criteria:

23 (a) The pooled account is maintained at a bank or savings and loan institution;

24 (b) The pooled account is titled in such a way as to reflect that the account is being held
25 by a fiduciary in a custodial capacity;

26 (c) The fiduciary maintains, or causes to be maintained, records containing information
27 as to the name and ownership interest of each principal in the pooled account;

28 (d) The fiduciary's records contain a statement of all accretions and disbursements; and

29 (e) The fiduciary's records are maintained in the ordinary course of business and in good
30 faith.

31 (2) The public administrator of any county [with a charter form of government and with
32 more than six hundred thousand but less than seven hundred thousand inhabitants] serving as a
33 conservator and using and utilizing pooled accounts for the investing, investment, and
34 management of conservatorship funds shall have any such accounts [audited] **examined** on at
35 least an annual basis [and no less than one time per year] by an independent certified public
36 accountant. [The audit provided shall review the records of the receipts and disbursements of
37 each estate account.] Upon completion of the [investigation] **examination**, the certified public
38 accountant shall render a report to the judge of record in this state showing [the receipts,
39 disbursements, and account balances as to each estate and as well as] the total assets on deposit
40 in the pooled account on the last calendar day of each year. **The examiner shall also certify**
41 **that the conservator has met the conditions for establishing a pooled account.** The county
42 shall provide for the expense of such audit. If and where the public administrator has provided
43 the judge with the audit pursuant to and required by this subsection and section, the public
44 administrator shall not be required to obtain the written certification of an officer of a bank or
45 other depository on any estate asset maintained within the pooled account as otherwise required
46 in and under subsection 1 of this section.

[475.276.] **475.894.** 1. If the **assets of the protectee are under the control of another**
2 **fiduciary, including a Social Security representative payee or Veterans Administration**
3 **fiduciary, or if the** value of the assets of the estate of a protectee does not exceed the value
4 prescribed by chapter 208 for [welfare] **public benefit** eligibility and whether [or not] such
5 protectee receives other [old age, disability or dependency] **public** benefits from the federal
6 government or the state of Missouri, the court may, upon satisfactory proof that adequate
7 provision has been made for the care and maintenance of the protectee, waive or modify the
8 requirements of sections [475.270] **475.888** and [475.275] **475.892.**

9 2. If the estate of a protectee consists solely of cash or its equivalent which has been
10 placed in restricted custody so that no withdrawals may be made except on order of the court as
11 prescribed by section 473.160, the court may waive or modify the requirements of sections
12 [475.270] **475.888** and [475.275] **475.892.**

13 3. Any order entered pursuant to subsection 1 or 2 of this section shall specify the events
14 or circumstances which shall cause the same to terminate. The order may also provide that the
15 estate shall not be liable for court costs or other expenses of administration so long as the order

16 remains in effect and may direct any state agency or require the conservator of the estate to
17 request a federal agency to pay benefits directly to the custodial facility in which the protectee
18 resides.

[475.210.] **475.896.** 1. The filing in the probate division of the circuit court of a notice
2 of the pendency in some other court or division of an action, suit or proceeding against the
3 protectee or the conservator, or of a copy of the judgment or decree of such other court or
4 division in such action, suit or proceeding shall be deemed a filing of the claim asserted in such
5 action, suit or proceeding.

6 2. Section 473.360 shall not apply to the estates of [disabled] **financially incapacitated**
7 persons.

8 3. This section shall apply to the estates of [disabled] **financially incapacitated** persons
9 whose [disability] **financially incapacity** is adjudicated on or after August 28, 1993.

[475.205.] **475.898.** All claims against the estate of a protectee, whether they constitute
2 liabilities of the protectee which arose before or after the conservatorship, or liabilities incurred
3 by the conservator for the benefit of the protectee or [his] **the protectee's** estate, may be filed in
4 the probate division of the circuit court. After hearing, the probate division of the circuit court
5 may allow a claim so filed, in whole or in part, or disallow it. An order allowing a claim has the
6 effect of a judgment and bears interest at the legal rate, unless the claim provides for a different
7 rate, in which case the judgment shall be rendered accordingly.

[475.211.] **475.900.** All claims against the estate of a minor or other protectee shall be
2 divided into the following classes:

3 (1) Court costs;

4 (2) Expenses of administration including fees of the guardian and conservator and their
5 attorneys;

6 (3) Expenses for the reasonable support and maintenance of the protectee;

7 (4) All other claims which are filed against the estate as provided by law.

[475.213.] **475.902.** 1. All claims filed against the estate of a protectee shall be paid by
2 the conservator as far as [he] **the conservator** has assets subject thereto, in the order specified
3 in section [475.211] **475.900**, and, unless otherwise provided by law, no claim of one class shall
4 be paid until all previous classes are satisfied. If there are not sufficient assets subject thereto
5 to pay the whole of any one class, claims of that class shall be paid in proportion to their
6 amounts, unless otherwise provided by law.

7 2. Whether [or not] there has been notice under section [475.140] **475.812**, the court,
8 upon its own motion or the motion of any interested person, may at any time direct the giving
9 of notice to creditors of a protectee requiring them to file their claims in the court within a period
10 stated in the notice, not less than two months from the date of the first publication of the notice.

11 Any creditor who fails to file [his] a claim within the time prescribed in the notice provided for
12 by this subsection shall be barred from participating in any disbursement ordered paid by the
13 court from assets then on hand. The conservator shall list the complete name and address of
14 every creditor of the estate known to [him] **the conservator** and shall give each creditor so listed
15 written notice by ordinary mail of the time for filing claims. On or before the expiration of the
16 period stated in the notice, the conservator shall file the list of creditors along with proof of
17 service as provided in section 472.110, and any written waivers, in the court. Thereafter, the
18 court may direct the conservator to pay out assets available for payment of claims in accordance
19 with section [475.211] **475.900** and subsection 1 of this section.

[475.200.] **475.904.** 1. The real or personal property of the protectee, or any part thereof
2 or any interest therein, may be sold, mortgaged, pledged, leased or exchanged by the conservator
3 of the estate upon such terms as the court may order for the purpose of providing for [his] **the**
4 **protectee's** care, education, treatment, habilitation, support and maintenance [of the protectee]
5 or for the care and maintenance of [his] **the protectee's** family or education of his children, and
6 for the payment of the protectee's debts, the payment of expenses and costs of administration,
7 for investment of the proceeds, or in any other case where it is for the best interests of the
8 protectee.

9 2. To obtain an order to sell, mortgage, lease or exchange real or personal property, the
10 conservator shall present to the court a petition setting forth the condition of the estate and the
11 facts and circumstances on which the petition is founded. If, after a full examination of the
12 petition and the testimony of credible and disinterested witnesses, if such testimony is deemed
13 necessary, it appears to the court that it is for the best interests of the protectee, an appropriate
14 order may be made for any of the purposes under subsection 1 hereof as the court considers
15 suited to the case.

16 3. If the conservator does not make such application, a creditor or other person interested
17 in the estate may file a like petition, giving twenty days' notice to the conservator. On the filing
18 of the petition the court may order the conservator to furnish such information and records as the
19 court deems necessary.

20 4. If, upon settlement of the conservator, it appears that the money on hand and
21 anticipated income of the estate is not sufficient for the payment of the costs of the care,
22 education, treatment, habilitation, support and maintenance of the protectee as required by
23 section [475.120] **475.826**, for the maintenance of [his] **the protectee's** family and education of
24 [his] **the protectee's** children under section [475.125] **475.878**, or the payment of claims against
25 the estate, the court may require a hearing to determine if real or personal property of the estate
26 should be sold, mortgaged, pledged, leased or exchanged for that purpose. Upon hearing the

27 matter, the court shall proceed as in the case of a petition filed under either of the preceding
28 subsections.

[475.230.] **475.906. 1.** Sales of real estate of protectees shall be conducted in the same
2 manner and the same proceedings shall be had with reference thereto as in cases of sale of real
3 estate of decedents for payment of claims[, except that there shall be no notice to parties in
4 interest before the making of the order].

5 **2. Unless waived by the court for cause, the protectee is entitled to ten days prior**
6 **notice of a required court hearing on the petition for the sale of the protectee's real or**
7 **tangible personal property. The protectee is not entitled to notice of a hearing on the**
8 **petition for the sale of the protectee's intangible personal property.**

[475.235.] **475.908.** The court may order the real estate sold at public or private sale, or
2 it may, in its order, provide that the conservator may sell at either public or private sale, at [his]
3 **the conservator's** option; but in no case shall the same be sold for less than three-fourths of its
4 appraised value, nor shall the conservator become the purchaser, either directly or indirectly, of
5 any of the property sold under the provisions of this law.

[475.240.] **475.910.** Whenever any conservator sells any real estate belonging to [his]
2 **the** protectee, under an order of court, [he] **the conservator** shall report the sale to the court
3 ordering the sale, within the same time and in the same manner as personal representatives are
4 required by law to report sales of real estate made by them for the payment of debts. The report
5 shall remain on file ten days before being acted upon and shall be proceeded upon as in the case
6 of sales of real estate by a personal representative. Any sale, if approved by the court, is valid
7 to all intents and purposes. If the court refuses to approve the report, the order of sale may be
8 renewed, and the same proceedings shall be had as upon the original order.

[475.245.] **475.912. 1.** Any conservator, having received payment of the purchase
2 money for any real estate sold by [him] **the conservator** under this law, shall execute and deliver
3 to the purchaser thereof deeds of conveyance for the same, referring in apt and appropriate terms
4 to the order of the court, the advertisement and appraisal and description of the real estate,
5 the time, place and terms of sale, and the payment of the purchase money, and conveying to the
6 purchaser all the right, title and interest of the protectee in the real estate sold. The recitals in the
7 deed are prima facie evidence of the facts stated therein.

8 **2.** If any conservator, because of death, removal or other cause, fails to complete any
9 sale, or make the deed, [his] **the conservator's** successor, or if there be none, then the sheriff of
10 the county, on order of the court, shall complete the sale or make the deed.

11 **3.** All deeds and conveyances executed by conservators shall be acknowledged and
12 recorded as other instruments conveying real estate, and with like effect, and, when so
13 acknowledged, shall be received in evidence in all courts of this state without further proof.

1 [475.250.] **475.914.** Every conveyance, mortgage, lease and assurance made under the
2 order of the probate division of a circuit court, pursuant to the provisions of this law, is as valid
3 and as effectual as if the same had been executed by a person of full age and of sound mind.

1 [475.345.] **475.916.** A sale, exchange, lease, gift, contract, release or other transaction
2 affecting [his] **the protectee's** estate entered into by [a] **the** protectee at a time when [he] **the**
3 **protectee** is a minor or lacks sufficient mental **financial** capacity to understand the transaction
4 and its effect upon [his] **the protectee's** estate, rights, and future welfare is voidable at the option
5 of the protectee or the conservator of [his] **the protectee's** estate unless entered into with the
6 consent of the conservator in the case of transactions which the conservator could enter into
7 without court authorization under section [475.130] **475.854** or with the authorization or
8 approval of the court. The conservator is under a duty to treat as voidable transactions which are
9 voidable at his option and not beneficial to the protectee or [his] **the protectee's** estate.

1 [475.260.] **475.918.** 1. When there is a conservator of the estate, all actions between the
2 protectee or the conservator and third persons in which it is sought to charge or benefit the estate
3 of the protectee shall be prosecuted by or against the conservator of the estate as such. [He] **The**
4 **conservator** shall represent the interests of the protectee in the action and all process shall be
5 served on [him] **the conservator instead of on the protectee.**

6 2. When the conservator of the estate is under personal liability for [his] **the**
7 **conservator's** own contracts and acts made and performed on behalf of the estate [he] , **the**
8 **conservator** may be sued both as conservator and in his **or her** personal capacity in the same
9 action. Misnomer or the bringing of an action by or against the protectee shall not be ground for
10 dismissal of the action and leave to amend or substitute shall be freely granted. If an action was
11 commenced by or against the protectee before the appointment of a conservator of [his] **the**
12 **protectee's** estate, such conservator when appointed may be substituted as a party for the
13 protectee. If the appointment of the conservator of the estate is terminated, [his] **the**
14 **conservator's** successor may be substituted; if the protectee dies, [his] **the protectee's** personal
15 representative may be substituted; if [he] **the protectee** becomes of age or [his] **the protectee's**
16 disability ceases, [he] **the protectee** may be substituted.

17 3. When there is a conservator of the estate, the property and rights of action of the
18 protectee shall not be subject to garnishment or attachment, and execution shall not issue to
19 obtain satisfaction of any judgment against the protectee or the conservator of [his] **the**
20 **protectee's** estate as such, but judgments against the estate of the protectee shall be enforced in
21 the manner provided for the enforcement of judgments against the estates of decedents.

1 [475.132.] **475.920.** 1. Unless otherwise provided in the contract, a conservator is not
2 individually liable on a contract properly entered into in his **or her** capacity as conservator in the

3 course of administration of the estate unless [he] **the conservator** fails to reveal [his] **the**
4 representative capacity and identify the estate in the contract.

5 2. The conservator is individually liable for obligations arising from ownership or
6 control of property of the estate or for torts committed in the course of administration of the
7 estate only if [he] **the conservator** is personally at fault.

8 3. Claims based on contracts entered into by a conservator in [his] **the conservator's**
9 fiduciary capacity, on obligations arising from ownership or control of the estate, or on torts
10 committed in the course of administration of the estate may be asserted against the estate by
11 proceeding against the conservator in [his] **the conservator's** fiduciary capacity, whether [or not]
12 the conservator is individually liable therefor.

13 4. Any question of liability between the estate and the conservator individually may be
14 determined in a proceeding for accounting, surcharge, or indemnification, or other appropriate
15 proceeding or action.

[475.134.] **475.922.** A person who in good faith either assists a conservator or deals with
2 [him] **a conservator** for value in any transaction other than those requiring a court order is
3 protected as if the conservator properly exercised the power. The fact that a person knowingly
4 deals with a conservator does not alone require the person to inquire into the existence of a
5 power or the propriety of its exercise. A person is not bound to see to the proper application of
6 estate assets paid or delivered to a conservator. For the purposes of the rules protecting bona fide
7 purchasers and mortgagees for value, conservators of the estate shall be deemed to be trustees
8 of the property of the protectee. The protection here expressed extends to instances in which
9 some procedural irregularity or jurisdictional defect occurred in proceedings leading to the
10 issuance of letters. The protection here expressed is not by substitution for that provided by
11 comparable provisions of the laws relating to commercial transactions and laws simplifying
12 transfers of securities by fiduciaries.

[475.255.] **475.924.** Receipts or acknowledgments given by a conservator during the
2 continuance of [his] **the conservator's** office, for the payment of any debts, rents, or other
3 money or property due to [his] **the** protectee, are valid in favor of all persons who take them in
4 good faith; but the conservator and [his] **the conservator's** sureties are liable to the party injured,
5 if the receipts or acknowledgments are given illegally or fraudulently.

475.926. 1. A conservator shall be allowed such compensation for the conservator's
2 **services, as the court shall deem just and reasonable.**

3 **2. Additional compensation may be allowed for the necessary services of an**
4 **attorney. Compensation may also be allowed for necessary expenses in the administration**
5 **of the conservatorship, including reasonable attorney fees if the employment of an attorney**
6 **for the particular purpose is necessary.**

7 **3. In all cases, compensation of the conservator and the conservator's expenses**
8 **including attorney fees shall be fixed by the court and may be allowed at any annual or**
9 **final accounting; but at any time before final settlement the conservator or the**
10 **conservator's attorney may apply to the court for an allowance upon the compensation or**
11 **necessary expenses of the conservator and for attorney fees for services already performed.**

12 **4. If the court finds that the conservator has failed to discharge the conservator's**
13 **duties in any respect, it may deny the conservator any compensation or may reduce the**
14 **compensation that would otherwise be allowed. The court may consider ties of blood,**
15 **marriage, or adoption in making allowances of compensation to conservators.**

475.930. 1. At any time the guardian, limited guardian,
2 **conservator, or limited conservator may petition the court to modify the order appointing**
3 **any of them to increase or decrease the guardian's or conservator's powers. Proceedings**
4 **on the petition shall be in accordance with the provisions of section 475.776, subsection 1**
5 **of section 475.778, and sections 475.780, 475.782, 475.784, 475.788 (if to increase powers),**
6 **and 475.790.**

7 **2. In determining whether to increase or decrease the guardian's or conservator's**
8 **powers, the court shall consider:**

9 **(1) The extent of the respondent's physical and mental capacity to manage essential**
10 **requirements for food, clothing, shelter, safety, or other care;**

11 **(2) The extent of the respondent's physical and mental capacity to manage the**
12 **respondent's financial resources;**

13 **(3) Whether the respondent's financial resources require supervision and, if so, the**
14 **nature and extent of supervision needed.**

475.932. 1. The authority of a guardian or conservator terminates for a minor or
2 **adult:**

3 **(1) When a minor ward becomes eighteen years of age;**

4 **(2) Upon an adjudication that an incapacitated or financially incapacitated person**
5 **has been restored to his capacity or financial capacity under section 475.934;**

6 **(3) Upon revocation of the letters of the guardian or conservator;**

7 **(4) Upon the acceptance by the court of the resignation of the guardian or**
8 **conservator;**

9 **(5) Upon the death of the ward or protectee; except that, if there is no person other**
10 **than the estate of the ward or protectee liable for the funeral and burial expenses of the**
11 **ward or protectee, the guardian or conservator may, with the approval of the court,**
12 **contract for the funeral and burial of the deceased ward or protectee;**

13 **(6) Upon the expiration of an order appointing a guardian or conservator ad litem**
14 **unless the court orders extension of the appointment; or**

15 **(7) Upon an order of court terminating the guardianship or conservatorship.**

16 **2. A guardianship or conservatorship may be terminated by court order after such**
17 **notice as the court may require:**

18 **(1) If the conservatorship estate is exhausted;**

19 **(2) If the conservatorship is no longer necessary for any other reason;**

20 **(3) If the court finds that a parent is fit, suitable and able to assume the duties of**
21 **guardianship of a minor ward and it is in the best interest of the minor that the**
22 **guardianship be terminated; or**

23 **(4) If the court determines that the guardian refuses or is unable to provide the**
24 **services of a guardian due to the ward's absence from the state or other particular**
25 **circumstances of the ward.**

26 **3. Notwithstanding the termination of the authority of a conservator, the**
27 **conservator shall continue to have such authority as may be necessary to wind up**
28 **administration.**

475.934. 1. At any time, the guardian, conservator, or any person on behalf of the
2 **ward or protectee may, individually or jointly with the ward or protectee, or the ward or**
3 **protectee individually may petition the court to restore the ward or protectee, or to**
4 **decrease the powers of the guardian or conservator; except that, if the court determines**
5 **that the petition is frivolous, the court may summarily dismiss the petition without hearing.**
6 **The petition from the ward or protectee or on behalf of the ward or protectee may be an**
7 **informal letter to the court. No person may interfere with the transmission of the ward's**
8 **or protectee's letter or petition to the court.**

9 **2. If at any time the court, on its own motion, has reason to believe that the**
10 **guardian's or conservator's powers should be decreased or additional rights should be**
11 **returned to the ward, the court shall set the matter for a hearing.**

12 **3. Upon the filing of a joint petition by the guardian or conservator and the ward**
13 **or protectee, the court, if it finds restoration or a modification or a decrease in powers to**
14 **be in the best interests of the ward or protectee, may summarily order restoration or a**
15 **decrease in powers of the guardian or conservator without the necessity of notice and**
16 **hearing.**

17 **4. Upon the filing of a petition without the joinder of the guardian or conservator**
18 **or if the court requires a hearing if filed with the guardian or conservator, the court shall**
19 **cause the petition to be set for hearing with notice to the guardian or conservator and to**
20 **such other persons as the court directs. The hearing shall be conducted in accordance with**

21 the provisions of section 475.776, subsection 1 of section 475.778, and sections 475.780,
22 475.782, 475.784, 475.788 (if to increase powers), and 475.790. If the ward or protectee is
23 not represented by an attorney, the court shall appoint an attorney to represent the ward
24 or protectee in such proceeding. The court shall consider the factors in subsection 2 of
25 section 475.930. The burden of proof by a preponderance of the evidence shall be upon the
26 petitioner. Such a petition may not be filed more than once every one hundred eighty days.

27 **5. In deciding whether a ward or protectee should be fully or partially restored, the**
28 **court may order a report by, and consider the recommendations in a report of, a licensed**
29 **physician, licensed psychologist, or other appropriate qualified professional if that**
30 **professional has experience or training in the alleged mental, physical, or cognitive**
31 **impairment of the ward or protectee. Such report shall be assessed as court costs to be**
32 **paid upon a finding and order of the court as to who will be responsible for payment.**

[475.115.] **475.936.** 1. When a guardian or conservator dies, is removed by order of the
2 court, or resigns and [his or her] **the** resignation is accepted by the court, the court shall have the
3 same authority as it has in like cases over personal representatives and their sureties and may
4 appoint another guardian or conservator in the same manner and subject to the same
5 requirements as are herein provided for an original appointment of a guardian or conservator.

6 2. A public administrator may request transfer of any case to the jurisdiction of another
7 county by filing a petition for transfer. If the receiving county meets the venue requirements of
8 section [475.035] **475.710** and the public administrator of the receiving county consents to the
9 transfer, the court shall transfer the case. The court with jurisdiction over the receiving county
10 shall, without the necessity of any hearing as required by section [475.075] **475.776**, appoint the
11 public administrator of the receiving county as successor guardian and/or successor conservator
12 and issue letters therein. In the case of a conservatorship, the final settlement of the public
13 administrator's conservatorship shall be filed within thirty days of the court's transfer of the case,
14 in the court with jurisdiction over the original conservatorship, and forwarded to the receiving
15 county upon audit and approval.

[475.097.] **475.938.** 1. If a natural or appointed guardian or conservator is not effectively
2 performing [his] **the guardian's or conservator's** duties and the court further finds that the
3 welfare of the minor or incapacitated or [disabled] **financially incapacitated** person requires
4 immediate action, it may, with or without notice, appoint a guardian **ad litem** or conservator ad
5 litem for the minor or incapacitated or [disabled] **financially incapacitated** person. An
6 appointment of a guardian or conservator ad litem shall be by its terms limited in duration to the
7 period preceding the hearing on a petition for appointment or removal of a permanent guardian
8 or conservator or for a specified period not to exceed six months. A guardian ad litem of the
9 person is entitled to the care and custody of the ward, a conservator ad litem is entitled to the care

10 and custody of the property of the protectee, and the authority of a permanent guardian or
11 conservator previously appointed by the court is suspended so long as a guardian or conservator
12 ad litem has authority. A guardian or conservator ad litem may be removed at any time. A
13 guardian or conservator ad litem shall make any report the court requires. The expenses and
14 reasonable compensation of a guardian or conservator ad litem may be taxed as costs. In other
15 respects the provisions of this code concerning guardians and conservators apply to guardians
16 and conservators ad litem.

17 2. In addition to the provisions of the rules of civil procedure relating to parties, if it is
18 suggested in a petition filed by the protectee, creditor or other [interested] person **interested in**
19 **the welfare of the ward or protectee**, including a person interested in expectancy, reversion or
20 otherwise, or if it affirmatively appears to the court that there is a possible conflict of interest
21 between the ward or protectee and [his] **the protectee's** guardian or conservator, the court may
22 appoint a guardian or conservator ad litem to represent the ward or protectee in any proceeding
23 to adjudicate the rights of the parties. The guardian or conservator ad litem shall have only such
24 authority as is provided in the order of appointment and shall serve until discharged by the court.

[475.110.] **475.940.** 1. When a minor ward has attained the age of fourteen years, the
2 guardian of [his or her] **the minor's** person may be removed on petition of the ward to have
3 another person appointed guardian if it is for the best interests of the ward that such other person
4 be appointed.

5 **2.** When the spouse of an incapacitated or [disabled] **financially incapacitated** person
6 is appointed [his or her] **as the person's** guardian or conservator, such spouse shall be removed
7 as guardian or conservator upon dissolution of his or her marriage with the incapacitated or
8 [disabled] **financially incapacitated** person. A guardian or conservator may also be removed
9 on the same grounds as is provided in section 473.140 for the removal of personal
10 representatives.

11 [2.] **3.** Notwithstanding subsection [1] **2** of this section, a spouse whose marriage to the
12 ward was dissolved may petition the court to remain as or be reappointed guardian or conservator
13 of the incapacitated or [disabled] **financially incapacitated** person in accordance with section
14 [475.115] **475.936.**

15 **4. Any interested person, an adult member of the ward's or protectee's family, or**
16 **any person interested in the welfare of the ward or protectee may petition for the removal**
17 **of the guardian, limited guardian, conservator, or limited conservator and the appointment**
18 **of another fiduciary to serve. The court shall set the matter for hearing on the issue of the**
19 **removal without an adjudication of incapacity, partial incapacity, financial incapacity, or**
20 **partial incapacity using the same procedures as for the original appointment of a guardian,**
21 **limited guardian, conservator, or limited conservator. If the court finds good cause to**

22 **remove the guardian, limited guardian, conservator, or limited conservator and appoint**
23 **another qualified person to serve, then the court shall remove the guardian, limited**
24 **guardian, conservator, or limited conservator and appoint another person who is qualified**
25 **and competent to succeed the removed guardian, limited guardian, conservator, or limited**
26 **conservator and serve in such a capacity.**

[475.290.] **475.942.** 1. Conservators shall make final settlement of their conservatorship
2 at a time fixed by the court, either by rule or otherwise, within [sixty] **ninety** days after
3 termination of their authority. For the purpose of settlement, the conservator shall make a just
4 and true exhibit of the account between himself **or herself** and [his] **the** protectee, and file the
5 same in the court having jurisdiction thereof, and cause a copy of the account, together with a
6 written notice stating the day on which and the court in which [he] **the conservator** will make
7 settlement, to be delivered to [his] **the** protectee or, in case of revocation or resignation, to the
8 succeeding conservator or in case of death of [his] **the** protectee to [his] **the** executor or
9 administrator **of the protectee's estate** or other person designated by the court, at least twenty
10 days before the date set for settlement.

11 2. If, for any cause, a copy of the account and written notice cannot be delivered to the
12 protectee or other person entitled thereto, the court may order notice of the filing of the account,
13 and of the time and place at which final settlement is to be made, to be given by publication once
14 a week for four weeks next before the date set for settlement in accordance with section 472.100.

15 3. At the time specified in the notice, the court, upon satisfactory proof of the delivery
16 of a copy of the account and written notice of the settlement to the protectee or person entitled
17 thereto, or [his] **the protectee's** written waiver thereof, or in case the court has ordered notice
18 to be given by publication, then upon proof of compliance with such order, shall proceed to
19 examine the accounts of the conservator, correct all errors therein, if any there be, and make a
20 final settlement with the conservator; or the court may, for good cause, continue the settlement
21 and proceed therein at any time agreed upon by the parties or fixed by the court.

[475.300.] **475.944.** The court shall order payment of the amount found to be due, and
2 the rendition of any effects, property, rights, or credits belonging to the protectee, [to the
3 protectee,] or to the successor of the conservator, or to the personal representative of the
4 protectee, or other person designated by the court, as the case may be, and enforce the order by
5 attachment or execution against the conservator and [his] **the conservator's** sureties.

[475.315.] **475.946.** Successors of conservators or personal representatives, having
2 received all money and other estate found to be due to their protectees or to the estate of a
3 deceased protectee, and protectees having received all money and other estate due from their
4 conservators on the expiration of their conservatorship, shall acknowledge satisfaction of record
5 in the proper court; or if the protectee, on due notice, neglects or refuses to make

6 acknowledgment, or cannot be found in the county to be served with notice, the court shall enter
7 a discharge of [his] **the protectee's** conservator on the record and give [him] **the conservator**
8 a certificate therefor but the court shall not enter the discharge, nor give such certificate, until the
9 conservator has exhibited to the court the written statement of the protectee, acknowledging the
10 receipt of all money and other property due from the conservator, which written statement shall
11 be signed by the protectee and in every case acknowledged by the protectee to be [his] **the**
12 **protectee's** free act and deed, before some officer authorized by law to take acknowledgment
13 of deeds. Upon acknowledgment of satisfaction the conservator shall be discharged of record.

[475.305.] **475.948.** If the conservator fails to pay the money ordered to be paid, the
2 same proceedings may be had against [him] **the conservator** and [his] **the conservator's** sureties
3 to compel payment as are authorized in cases where a personal representative fails, when
4 ordered, to pay claims against an estate.

475.950. 1. After the death of the protectee and upon petition by any person who
2 **could have applied to the court under the process for refusal of letters under section**
3 **473.090 or under the process for distribution of small estates under section 473.097, the**
4 **court shall order that the estate of the deceased protectee be closed by following the**
5 **procedures of sections 473.090 or 473.097, respectively, after approval of the final**
6 **settlement and upon a showing that all obligations of the estate authorized by the court**
7 **have been paid.**

8 **2. After the death of the protectee, if neither section 473.090 nor section 473.097**
9 **applies, and upon application by the conservator, the court may order that letters of**
10 **administration or letters testamentary shall be granted upon the protectee's estate to the**
11 **conservator under the following procedures:**

12 **(1) If the deceased protectee has a will, it shall be presented and admitted to**
13 **probate in the protectee's conservatorship estate under applicable procedures of chapter**
14 **474. If the person nominated as the personal representative in the will is not the**
15 **conservator, that person may renounce the right to serve for this subsection to apply. If**
16 **the person nominated in the will chooses not to resign, then the court shall grant letters**
17 **testamentary on the estate in the manner provided by law. Before the conservatorship**
18 **estate is closed, the conservator may pay the funeral and burial expenses and taxes for**
19 **which the estate of the deceased protectee is liable and obligations of the protectee incurred**
20 **by the conservator, as well as expenses of administration, of the estate on order of the court**
21 **and have the final settlement of the conservator approved;**

22 **(2) The funeral and burial expenses and taxes for which the estate of the deceased**
23 **protectee is liable, the obligations of the protectee incurred by the conservator, as well as**
24 **expenses of administration, shall be paid out of the estate by the conservator on order of**

25 the court under the same procedures and priorities as for creditors of decedent's estate as
26 set out in chapter 473;

27 (3) A final settlement of the conservator shall be approved showing that all
28 obligations of the estate that have been authorized by the court have been paid;

29 (4) Any creditors shall comply with the provisions of chapter 473 as to their claims,
30 and the conservator shall publish notice to creditors under such chapter;

31 (5) As part of the court's order that no letters be granted, the court shall order the
32 conservator to make distribution to the heirs and devisees in the same manner and with the
33 same effect as in the case of a personal representative. In such case the conservator is
34 subject in all respects and to the same extent to the liabilities of a personal representative
35 and liability on the conservator's bond continues and applies to the complete
36 administration of the estate of the deceased protectee.

37 3. If the protectee had any accounts or property interests that were held for the
38 protectee's benefit in a trust, tenancy by the entireties, joint tenancy with right of
39 survivorship, designated with pay-on-death beneficiaries, designated to have beneficiaries
40 such as insurance policies or individual retirement accounts, or designated to have a title
41 with transfer-on-death beneficiaries, including a beneficiary deed for real estate, then those
42 accounts and property interests shall be reported on the final settlement by the conservator
43 as transferred to the spouses, joint owners, or beneficiaries by operation of law. However,
44 under the provisions of section 461.300, such accounts or property may be subject to
45 payment to certain surviving spouses, unmarried minor children, and creditors upon filing
46 claims in the proceeding affecting the deceased protectee's estate within the time permitted
47 by that section.

[475.325.] **475.952.** If upon the final settlement of a minor's estate, made upon [his
2 arrival at] **the minor attaining** eighteen years of age, the residence or whereabouts of the
3 [protectee] **minor** is unknown to [his] **the minor's** conservator or the court before whom such
4 settlement is made or if the [protectee] **minor** refuses to accept and receipt for the balance found
5 owing to [him] **the minor** before the time for appeal from the settlement has expired, any funds
6 remaining in the conservator's hands shall be ordered paid into the state treasury in like manner
7 and subject to the same provisions in favor of the protectee as now provided by sections 470.010
8 to 470.260 in cases of nonappearing and nonclaiming distributees and legatees.

[475.295.] **475.954.** 1. In case of the death of a conservator, [his] **the conservator's**
2 personal representative shall make settlement with [his] **the conservator's** successor, and deliver
3 the property and money belonging to the protectee whose estate was managed by [his] **the**
4 **conservator's** decedent to such successor. When the sole purpose of administering the estate
5 of the deceased conservator is to make settlement of the estate of the protectee, the court may

6 waive the appointment of a personal representative for the deceased conservator. In such
7 circumstances, the successor shall file a settlement showing the condition of the estate of the
8 protectee and, upon approval by the court, shall be charged with such assets as are shown therein,
9 provided, however, that such successor shall not be relieved of the duty to account for assets of
10 the protectee not shown on such settlement.

11 2. If a deceased conservator leaves no estate subject to administration, and letters are
12 issued to [his] **the conservator's** personal representative solely for the purpose of making
13 settlement under this section, the costs and expenses of administration of such administration
14 shall be paid by the estate of the protectee of which the decedent was conservator; and, in the
15 administration proceeding in the estate of the deceased conservator there need be no publication
16 as required by section 473.033.

[475.501.] **475.970.** Sections [475.501 to 475.555] **475.970 to 475.1017** may be cited
2 as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".

[475.502.] **475.971.** Notwithstanding the definitions in section [475.010] **475.700**, when
2 used in sections [475.501 to 475.555] **475.970 to 475.1017**, the following terms mean:

- 3 (1) "Adult", an individual who has attained eighteen years of age;
- 4 (2) "Conservator", a person appointed by the court to administer the property of an adult,
5 including a person appointed under this chapter;
- 6 (3) "Guardian", a person appointed by the court to make decisions regarding the person
7 of an adult, including a person appointed under this chapter;
- 8 (4) "Guardianship order", an order appointing a guardian;
- 9 (5) "Guardianship proceeding", a proceeding in which an order for the appointment of
10 a guardian is sought or has been issued;
- 11 (6) "Incapacitated person", an adult for whom a guardian has been appointed;
- 12 (7) "Party", the respondent, petitioner, guardian, conservator, or any other person allowed
13 by the court to participate in a guardianship or protective proceeding;
- 14 (8) "Person", except in the term "incapacitated person" or "protected person", an
15 individual, corporation, business trust, estate, trust, partnership, limited liability company,
16 association, joint venture, public corporation, government or governmental subdivision, agency,
17 or instrumentality, or any other legal or commercial entity;
- 18 (9) "Protected person", an adult for whom a protective order has been issued;
- 19 (10) "Protective order", an order appointing a conservator or other order related to
20 management of an adult's property;
- 21 (11) "Protective proceeding", a judicial proceeding in which a protective order is sought
22 or has been issued;

23 (12) "Record", information that is inscribed on a tangible medium or that is stored in an
24 electronic or other medium and is retrievable in perceivable form;

25 (13) "Respondent", an adult for whom a protective order or the appointment of a
26 guardian is sought;

27 (14) "State", a state of the United States, the District of Columbia, Puerto Rico, the
28 United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular
29 possession subject to the jurisdiction of the United States.

[475.503.] **475.972.** A court of this state may treat a foreign country as if it were a state
2 for the purpose of applying [this article and articles 2, 3, and 5] **sections 475.970 to 475.1017.**

[475.504.] **475.973.** 1. A court of this state may communicate with a court in another
2 state concerning a proceeding arising under sections [475.501 to 475.555] **475.970 to 475.1017.**
3 The court may allow the parties to participate in the communication. Except as otherwise
4 provided in subsection 2 of this section, the court shall make a record of the communication.
5 The record may be limited to the fact that the communication occurred.

6 2. Courts may communicate concerning schedules, calendars, court records, and other
7 administrative matters without making a record.

[475.505.] **475.974** 1. In a guardianship or protective proceeding in this state, a court
2 of this state may request the appropriate court of another state to:

3 (1) Hold an evidentiary hearing;

4 (2) Order a person in that state to produce evidence or give testimony pursuant to
5 procedures of that state;

6 (3) Order that an evaluation or assessment be made of the respondent;

7 (4) Order any appropriate investigation of a person involved in a proceeding;

8 (5) Forward to the court of this state a certified copy of the transcript or other record of
9 a hearing under subdivision (1) of subsection 1 of this section or any other proceeding, any
10 evidence otherwise produced under subdivision (2) of subsection 1 of this section, and any
11 evaluation or assessment prepared in compliance with an order under subdivisions (3) and (4)
12 of subsection 1 of this section;

13 (6) Issue any order necessary to assure the appearance in the proceeding of a person
14 whose presence is necessary for the court to make a determination, including the respondent or
15 the incapacitated or protected person;

16 (7) Issue an order authorizing the release of medical, financial, criminal, or other relevant
17 information in that state, including protected health information as defined in 45 CFR 160.103,
18 as amended.

19 2. If a court of another state in which a guardianship or protective proceeding is pending
20 requests assistance of the kind provided in subsection 1 of this section, a court of this state has

21 jurisdiction for the limited purpose of granting the request or making reasonable efforts to
22 comply with the request.

[475.506.] **475.975.** 1. In a guardianship or protective proceeding, in addition to other
2 procedures that may be available, testimony of a witness who is located in another state may be
3 offered by deposition or other means allowable in this state for testimony taken in another state.
4 The court on its own motion may order that the testimony of a witness be taken in another state
5 and may prescribe the manner in which and the terms upon which the testimony is to be taken.

6 2. In a guardianship or protective proceeding, a court in this state may permit a witness
7 located in another state to be deposed or to testify by telephone or audiovisual or other electronic
8 means. A court of this state shall cooperate with the court of the other state in designating an
9 appropriate location for the deposition or testimony.

10 3. Documentary evidence transmitted from another state to a court of this state by
11 technological means that do not produce an original writing may not be excluded from evidence
12 on an objection based on the best evidence rule.

[475.521.] **475.985.** 1. In [this article] **sections 475.985 to 475.993**, the following terms
2 mean:

3 (1) "Emergency", a circumstance that likely will result in substantial harm to a
4 respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary
5 because no other person has authority and is willing to act on the respondent's behalf;

6 (2) "Home state", the state in which the respondent was physically present, including any
7 period of temporary absence, for at least six consecutive months immediately before the filing
8 of a petition for a protective order or the appointment of a guardian; or if none, the state in which
9 the respondent was physically present, including any period of temporary absence, for at least
10 six consecutive months ending within the six months prior to the filing of the petition;

11 (3) "Significant-connection state", a state, other than the home state, with which a
12 respondent has a significant connection other than mere physical presence and in which
13 substantial evidence concerning the respondent is available.

14 2. In determining under section [475.523] **475.987** and subsection 5 of section [475.531]
15 **475.994** whether a respondent has a significant connection with a particular state, the court shall
16 consider:

17 (1) The location of the respondent's family and other persons required to be notified of
18 the guardianship or protective proceeding;

19 (2) The length of time the respondent at any time was physically present in the state and
20 the duration of any absence;

21 (3) The location of the respondent's property; and

22 (4) The extent to which the respondent has ties to the state such as voting registration,
23 state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt
24 of services.

[475.522.] **475.986.** [This article provides] **Sections 475.985 to 475.993 provide the**
2 exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective
3 order for an adult.

[475.523.] **475.987.** A court of this state has jurisdiction to appoint a guardian or issue
2 a protective order for a respondent if:

3 (1) This state is the respondent's home state;

4 (2) On the date a petition is filed, this state is a significant-connection state and:

5 (a) The respondent does not have a home state or a court of the respondent's home state
6 has declined to exercise jurisdiction because this state is a more appropriate forum; or

7 (b) The respondent has a home state, a petition for an appointment or order is not
8 pending in a court of that state or another significant-connection state, and, before the court
9 makes the appointment or issues the order:

10 a. A petition for an appointment or order is not filed in the respondent's home state;

11 b. An objection to the court's jurisdiction is not filed by a person required to be notified
12 of the proceeding; and

13 c. The court in this state concludes that it is an appropriate forum under the factors set
14 forth in section [475.526] **475.990**;

15 (3) This state does not have jurisdiction under either subdivisions (1) or (2) of this
16 section, the respondent's home state and all significant-connection states have declined to
17 exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this
18 state is consistent with the constitutions of this state and the United States; or

19 (4) The requirements for special jurisdiction under section [475.524] **475.988** are met.

[475.524.] **475.988.** 1. A court of this state lacking jurisdiction under section [475.523]
2 **475.987** has special jurisdiction to do any of the following:

3 (1) Appoint a guardian in an emergency for a term not exceeding ninety days for a
4 respondent who is physically present in this state;

5 (2) Issue a protective order with respect to real or tangible personal property located in
6 this state;

7 (3) Appoint a guardian or conservator for an incapacitated or protected person for whom
8 a provisional order to transfer the proceeding from another state has been issued under
9 procedures similar to section [475.531] **475.994**.

10 2. If a petition for the appointment of a guardian in an emergency is brought in this state
11 and this state was not the respondent's home state on the date the petition was filed, the court

12 shall dismiss the proceeding at the request of the court of the home state, if any, whether
13 dismissal is requested before or after the emergency appointment.

[475.525.] **475.989.** Except as otherwise provided in section [475.524] **475.988**, a court
2 that has appointed a guardian or issued a protective order consistent with sections [475.501 to
3 475.555] **475.970 to 475.1017** has exclusive and continuing jurisdiction over the proceeding
4 until it is terminated by the court or the appointment or order expires by its own terms.

[475.526.] **475.990.** 1. A court of this state having jurisdiction under section [475.523]
2 **475.987** to appoint a guardian or issue a protective order may decline to exercise its jurisdiction
3 if it determines at any time that a court of another state is a more appropriate forum.

4 2. If a court of this state declines to exercise its jurisdiction under subsection 1 of this
5 section, it shall either dismiss or stay the proceeding. The court may impose any condition the
6 court considers just and proper, including the condition that a petition for the appointment of a
7 guardian or protective order be promptly filed in another state.

8 3. In determining whether it is an appropriate forum, the court shall consider all relevant
9 factors, including:

10 (1) Any expressed preference of the respondent;

11 (2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely
12 to occur and which state could best protect the respondent from the abuse, neglect, or
13 exploitation;

14 (3) The length of time the respondent was physically present in or was a legal resident
15 of this or another state;

16 (4) The distance of the respondent from the court in each state;

17 (5) The financial circumstances of the respondent's estate;

18 (6) The nature and location of the evidence;

19 (7) The ability of the court in each state to decide the issue expeditiously and the
20 procedures necessary to present evidence;

21 (8) The familiarity of the court of each state with the facts and issues in the proceeding;

22 and

23 (9) If an appointment were made, the court's ability to monitor the conduct of the
24 guardian or conservator.

[475.527.] **475.991.** 1. If at any time a court of this state determines that it acquired
2 jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct,
3 the court may:

4 (1) Decline to exercise jurisdiction;

5 (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to
6 ensure the health, safety, and welfare of the respondent or the protection of the respondent's

7 property or prevent a repetition of the unjustifiable conduct, including staying the proceeding
8 until a petition for the appointment of a guardian or issuance of a protective order is filed in a
9 court of another state having jurisdiction; or

10 (3) Continue to exercise jurisdiction after considering:

11 (a) The extent to which the respondent and all persons required to be notified of the
12 proceedings have acquiesced in the exercise of the court's jurisdiction;

13 (b) Whether it is a more appropriate forum than the court of any other state under the
14 factors set forth in subsection 3 of section [475.526] **475.990**; and

15 (c) Whether the court of any other state would have jurisdiction under factual
16 circumstances in substantial conformity with the jurisdictional standards of section [475.523]
17 **475.987**.

18 2. If a court of this state determines that it acquired jurisdiction to appoint a guardian or
19 issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable
20 conduct, it may assess against that party necessary and reasonable expenses, including attorney's
21 fees, investigative fees, court costs, communication expenses, witness fees and expenses, and
22 travel expenses. The court may not assess fees, costs, or expenses of any kind against this state
23 or a governmental subdivision, agency, or instrumentality of this state unless authorized by law
24 other than sections [475.501 to 475.555] **475.970 to 475.1017**.

[475.528.] **475.992**. If a petition for the appointment of a guardian or issuance of a
2 protective order is brought in this state and this state was not the respondent's home state on the
3 date the petition was filed, in addition to complying with the notice requirements of this state,
4 notice of the petition shall be given to those persons who would be entitled to notice of the
5 petition if a proceeding were brought in the respondent's home state. The notice shall be given
6 in the same manner as notice is required to be given in this state.

[475.529.] **475.993**. Except for a petition for the appointment of a guardian in an
2 emergency or issuance of a protective order limited to property located in this state as provided
3 in subdivision (1) or (2) of subsection 1 of section [475.524] **475.988**, if a petition for the
4 appointment of a guardian or issuance of a protective order is filed in this and in another state
5 and neither petition has been dismissed or withdrawn, the following rules apply:

6 (1) If the court in this state has jurisdiction under section [475.523] **475.987**, it may
7 proceed with the case unless a court in another state acquires jurisdiction under provisions
8 similar to section [475.523] **475.987** before the appointment or issuance of the order.

9 (2) If the court in this state does not have jurisdiction under section [475.523] **475.987**,
10 whether at the time the petition is filed or at any time before the appointment or issuance of the
11 order, the court shall stay the proceeding and communicate with the court in the other state. If

12 the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless
13 the court in the other state determines that the court in this state is a more appropriate forum.

[475.531.] **475.994.** 1. A guardian or conservator appointed in this state may petition
2 the court to transfer the guardianship or conservatorship to another state.

3 2. Notice of a petition under subsection 1 of this section shall be given to those persons
4 that would be entitled to notice of a petition in this state for the appointment of a guardian or
5 conservator.

6 3. On the court's own motion or on request of the guardian or conservator, the
7 incapacitated or protected person, or other person required to be notified of the petition, the court
8 shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

9 4. The court shall issue an order provisionally granting a petition to transfer a
10 guardianship and shall direct the guardian to petition for guardianship in the other state if the
11 court is satisfied that the guardianship will be accepted by the court in the other state and the
12 court finds that:

13 (1) The incapacitated person is physically present in or is reasonably expected to move
14 permanently to the other state;

15 (2) An objection to the transfer has not been made or, if an objection has been made, the
16 objector has not established that the transfer would be contrary to the interests of the
17 incapacitated person; and

18 (3) Plans for care and services for the incapacitated person in the other state are
19 reasonable and sufficient.

20 5. The court shall issue a provisional order granting a petition to transfer a
21 conservatorship and shall direct the conservator to petition for conservatorship in the other state
22 if the court is satisfied that the conservatorship will be accepted by the court of the other state
23 and the court finds that:

24 (1) The protected person is physically present in or is reasonably expected to move
25 permanently to the other state, or the protected person has a significant connection to the other
26 state considering the factors set forth in subsection 2 of section [475.521] **475.985**;

27 (2) An objection to the transfer has not been made or, if an objection has been made, the
28 objector has not established that the transfer would be contrary to the interests of the protected
29 person; and

30 (3) Adequate arrangements will be made for management of the protected person's
31 property.

32 6. The court shall issue a final order confirming the transfer and terminating the
33 guardianship or conservatorship upon its receipt of:

34 (1) A provisional order accepting the proceeding from the court to which the proceeding
35 is to be transferred which is issued under provisions similar to section [475.532] **475.995**; and

36 (2) The documents required to terminate a guardianship or conservatorship in this state.
[475.532.] **475.995.** 1. To confirm transfer of a guardianship or conservatorship
2 transferred to this state under provisions similar to those in section [475.531] **475.994**, the
3 guardian or conservator shall petition the court in this state to accept the guardianship or
4 conservatorship. The petition shall include a certified copy of the other state's provisional order
5 of transfer.

6 2. Notice of a petition under subsection 1 of this section shall be given to those persons
7 that would be entitled to notice if the petition were a petition for the appointment of a guardian
8 or issuance of a protective order in both the transferring state and this state. The notice shall be
9 given in the same manner as notice is required to be given in this state.

10 3. On the court's own motion or on request of the guardian or conservator, the
11 incapacitated or protected person, or other person required to be notified of the proceeding, the
12 court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

13 4. The court shall issue an order provisionally granting a petition filed under subsection
14 1 of this section unless:

15 (1) An objection is made and the objector establishes that transfer of the proceeding
16 would be contrary to the interests of the incapacitated or protected person; or

17 (2) The guardian or conservator is ineligible for appointment in this state.

18 5. The court shall issue a final order accepting the proceeding and appointing the
19 guardian or conservator as guardian or conservator in this state upon its receipt from the court
20 from which the proceeding is being transferred of a final order issued under provisions similar
21 to section [475.531] **475.994** transferring the proceeding to this state.

22 6. Not later than ninety days after issuance of a final order accepting transfer of a
23 guardianship or conservatorship, the court shall determine whether the guardianship or
24 conservatorship needs to be modified to conform to the law of this state.

25 7. In granting a petition under this section, the court shall recognize a guardianship or
26 conservatorship order from the other state, including the determination of the incapacitated or
27 protected person's incapacity and the appointment of the guardian or conservator.

28 8. The denial by a court of this state of a petition to accept guardianship or
29 conservatorship transferred from another state does not affect the ability of the guardian or
30 conservator to seek appointment as guardian or conservator in this state under this chapter if the
31 court has jurisdiction to make an appointment other than by reason of the provisional order of
32 transfer.

[475.541.] **475.1005.** If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

[475.542.] **475.1006** If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

[475.543.] **475.1007.** 1. Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

2. A court of this state may grant any relief available under sections [475.501 to 475.555] **475.970 to 475.1017** and other law of this state to enforce a registered order.

[475.544.] **475.1008.** Except where inconsistent with sections [475.541, 475.542, and 475.543] **475.1005, 475.1006, and 475.1007**, the laws of this state relating to the registration and recognition of the acts of a foreign guardian, curator, or conservator contained in sections [475.335 to 475.340] **475.1030 to 475.1040** shall be applicable.

[475.551.] **475.1015.** In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

[475.552.] **475.1016.** Sections [475.501 to 475.555] **475.970 to 475.1017** modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

[475.555.] **475.1017.** 1. Sections [475.501 to 475.555] **475.970 to 475.1017** apply to guardianship and protective proceedings begun on or after August 28, 2011.

2. [Articles 1, 3, 4] **Sections 475.970 to 475.975, sections 475.994 to 475.1008**, and sections [475.551 and 475.552] **475.1015 and 475.1016** apply to proceedings begun before August 28, 2011, regardless of whether a guardianship or protective order has been issued.

[475.335.] **475.1030.** Any person indebted to a minor or [disabled] **financially incapacitated** person or having possession of property or of an instrument evidencing a debt, stock, or chose in action belonging to a minor or [disabled] **financially incapacitated** person may pay such debt or deliver such property or instrument to a conservator, curator, committee, guardian of the estate or other like fiduciary appointed by a court of the state of residence of the person, upon being presented with proof of [his] **the person's** appointment and an affidavit made by [him] **the person** or on [his] **the person's** behalf stating:

(1) That no application for appointment of a conservator or conservatorship proceeding relating to the person is pending in this state; and

(2) That the foreign guardian, conservator, committee or curator is entitled to payment or to receive delivery.

12

If the person to whom the affidavit is presented is not aware of any conservatorship proceeding pending in this state, payment or delivery in response to the demand and affidavit discharges the debtor or possessor.

[475.336.] **475.1032.** If no local conservator has been appointed and no petition in a conservatorship proceeding is pending in this state, a domiciliary foreign guardian[, curator, committee] or conservator may file with a court of a county in this state in which property belonging to the minor or [disabled] **financially incapacitated** person is located, authenticated copies of [his] **the conservator's** appointment and of any official bond [he] **the conservator** has given. Thereafter, [he] **the conservator** may exercise as to assets in this state all powers of a local conservator and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally.

[475.337.] **475.1034.** A foreign guardian[, curator, committee] or conservator submits personally to the jurisdiction of the courts of this state in any proceeding relating to the estate by filing authenticated copies of [his] **the guardian's or conservator's** appointment as provided in section [475.336] **475.1032**, receiving payment of money or taking delivery of personal property under section [475.335] **475.1030**, or doing any act as a guardian or conservator in this state which would have given the state jurisdiction over [him] **the guardian or conservator** as an individual. Jurisdiction for receiving payment of money or taking delivery of personal property under section [475.335] **475.1030** is limited to the money or value of personal property collected.

[475.338.] **475.1036.** 1. Service of process may be made upon the foreign guardian[, curator, committee] or conservator by registered or certified mail, addressed to [his] **the guardian's or conservator's** last reasonably ascertainable address. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service

5 may be made upon a foreign guardian[, curator, committee] or conservator in the manner in
6 which service could have been made under other laws of this state.

7 2. If service is made upon a foreign guardian[, curator, committee] or conservator as
8 provided in subsection 1 of this section, [he] **the guardian or conservator** shall be allowed at
9 least thirty days within which to appear or respond.

[475.339.] **475.1038.** Notwithstanding any other provision of law, a domiciliary
2 guardian[, committee, curator] or conservator of a nonresident person, although a nonresident
3 of this state or a corporation of another state or country, whether [or not] authorized to do
4 business in this state, may act as such domiciliary guardian or conservator in this state under
5 sections [475.335 and 475.336] **475.1030 and 475.1032** and may be appointed and act as local
6 guardian or conservator under section [475.030] **475.804.**

[475.340.] **475.1040.** 1. When a nonresident person, owning real estate in this state, has
2 a guardian[, committee, curator] or conservator of the estate in the state or territory in which [he]
3 **the person** resides, the probate division of the circuit court in the proper county may authorize
4 [his] **the person's** guardian[, committee, curator] or conservator of the estate, either in person
5 or by [his] **the person's** agent, acting under power of attorney, to mortgage, or renew or extend
6 any mortgage, on the person's real estate, or to sell the real estate and receive the proceeds of
7 sale, and in case the person dies before the sale is completed, the guardian, [curator,] conservator,
8 or agent shall complete the sale and pay the proceeds to the personal representative of the person.

9 2. Before any order is made for the payment of money to a nonresident guardian[,
10 curator, committee] or conservator of the estate, or for the sale, mortgage, or renewal or
11 extension of a mortgage on the property of the person by [him] **the guardian**, [he] **the guardian**
12 **or conservator** shall produce satisfactory evidence to the court that [he] **the guardian or**
13 **conservator** has given bond and security[, as guardian, curator, committee or conservator,] in
14 the state or territory in which [he] **the guardian or conservator** and the person reside, in an
15 amount sufficient under the laws of the state or territory in which [he] **the guardian or**
16 **conservator** and [his] **the** ward reside to cover the sum to be paid [him] **to the guardian or**
17 **conservator** or the appraised value of the property to be sold, in addition to such other property
18 as is in [his] **the guardian's or conservator's** hands; and the proof shall consist of a copy of the
19 record setting forth [his] **the guardian's or conservator's** appointment [as guardian, committee,
20 curator or conservator,] and also a copy of [his] **the guardian's or conservator's** bond, executed
21 as such, certified according to the act of Congress which regulates the authentication of records.

[475.095.] **475.1042.** 1. If any minor or [disabled] **financially incapacitated** person
2 domiciled and residing without this state has any estate within this state, the probate division of
3 the circuit court of the county in which the estate or any part thereof is located may appoint some
4 competent person to be conservator of the estate of the minor or [disabled] **financially**

5 **incapacitated** person and the conservatorship which is first lawfully granted of the estate of the
6 minor or [disabled] **financially incapacitated** person extends to all of the estate of such person
7 within this state and excludes the jurisdiction of every other court.

8 2. The court and the conservator of the estate of the minor or [disabled] **financially**
9 **incapacitated** person have the same powers and shall perform the same duties, and are under
10 the same restrictions and requirements, in all respects, as far as the same may apply, as provided
11 in this code for the court and the conservators of estates of resident minors and [disabled]
12 **financially incapacitated** persons.

[475.310.] **475.1044.** Whenever it appears to the court that any protectee, having a
2 conservator in this state, is not a resident of this state, and has a guardian[, conservator,
3 committee] or curator in another state, who has a bond adequate to protect the estate, the court
4 may authorize or compel the conservator of such protectee to deliver over to the foreign
5 guardian, conservator, [committee] or curator all the property of which [he] **the conservator** may
6 have the custody, belonging to the protectee, and make a full and perfect settlement of [his] **the**
7 conservatorship with the foreign guardian, conservator, [committee] or curator. Before the court
8 makes any order under this section, notice of the application therefor shall be given the resident
9 conservator and after hearing the court may grant or refuse the order in accordance with the best
10 interests of the protectee. When such an order is made, the receipt of the foreign guardian,
11 conservator, [committee] or curator fully discharges the resident conservator, and [his] **the**
12 **conservator's** sureties, from all liability on account of the property delivered to the foreign
13 guardian, conservator, [committee] or curator. This section applies when the protectee or [his]
14 **the protectee's** family, being residents of this state, remove to another state or when the court
15 finds it is to the best interests of the protectee that [his] **the protectee's** residence be moved to
16 another state.

475.1046. The provisions of sections 475.1030 to 475.1044 shall apply to all
2 **fiduciaries appointed under the orders of a court of a foreign state with powers and duties**
3 **comparable to guardians and conservators appointed under the laws of this state.**

565.070. 1. A person commits the crime of assault in the third degree if:

2 (1) The person attempts to cause or recklessly causes physical injury to another person;
3 or

4 (2) With criminal negligence the person causes physical injury to another person by
5 means of a deadly weapon; or

6 (3) The person purposely places another person in apprehension of immediate physical
7 injury; or

8 (4) The person recklessly engages in conduct which creates a grave risk of death or
9 serious physical injury to another person; or

10 (5) The person knowingly causes physical contact with another person knowing the other
11 person will regard the contact as offensive or provocative; or

12 (6) The person knowingly causes physical contact with an incapacitated person, as
13 defined in section [475.010] **475.700**, which a reasonable person, who is not incapacitated,
14 would consider offensive or provocative.

15 2. Except as provided in subsections 3 and 4 of this section, assault in the third degree
16 is a class A misdemeanor.

17 3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this
18 section is guilty of a class C misdemeanor.

19 4. A person who has pled guilty to or been found guilty of the crime of assault in the
20 third degree more than two times against any family or household member as defined in section
21 455.010 is guilty of a class D felony for the third or any subsequent commission of the crime of
22 assault in the third degree when a class A misdemeanor. The offenses described in this
23 subsection may be against the same family or household member or against different family or
24 household members.

25

2 [475.030. 1. Letters of guardianship of the person may be granted for any
3 person adjudged incapacitated. Letters of conservatorship of the estate may be
4 granted for any person adjudged to be disabled.

5 2. Letters of conservatorship of the estate of a minor shall be granted for
6 that part of the estate of the minor which is not derived from a living parent who
7 is acting as natural guardian.

8 3. Letters of conservatorship for the entire estate of a minor may be
9 granted in the following cases:

10 (1) Where the minor has no parent living; or

11 (2) Where there is a natural guardian of the minor and where the court
12 finds that the best interests of the minor require letters of conservatorship for all
13 of his estate.

14 4. Letters of guardianship of the person of a minor may be granted in the
15 following cases:

16 (1) Where a minor has no parent living;

17 (2) Where the parents or the sole surviving parent of a minor are
18 unwilling, unable or adjudged unfit to assume the duties of guardianship;

19 (3) Where the parents or the sole surviving parent have had their parental
20 rights terminated under chapter 211.]

2 [475.046. 1. A custodial parent may designate a person to act as standby
3 guardian of a minor or incapacitated person by a will that complies with the
4 requirements of section 474.320 or by a separate written instrument which is
dated and is either duly executed and acknowledged by the custodial parent or is

5 signed by the custodial parent in the presence of at least two disinterested
6 witnesses and subscribed by the witnesses. If the custodial parent executes more
7 than one document designating a standby guardian and there is a conflict between
8 the documents as to the person designated, the document bearing the latest date
9 shall control.

10 2. If a custodial parent who has designated a standby guardian is or
11 becomes seriously ill, the custodial parent or the person designated as standby
12 guardian may file a petition in the probate division of the circuit court of the
13 county which would be of proper venue for the appointment of a guardian of the
14 minor or incapacitated person seeking appointment of the designated person as
15 standby guardian. A copy of the will or separate written instrument designating
16 the standby guardian and a consent to act as standby guardian signed by the
17 person designated shall be filed with the petition, which petition shall state:

18 (1) The name, age, domicile, actual place of residence, and mailing
19 address of the minor or incapacitated person;

20 (2) The name and address of the custodial parent and of the designated
21 standby guardian;

22 (3) The name and address of each parent of the minor or incapacitated
23 person and whether that parent is living or dead;

24 (4) The name and address of the spouse, if applicable, and the names,
25 ages, and addresses of all living children of the minor or incapacitated person;

26 (5) If the person for whom appointment of a standby guardian is sought
27 has been adjudicated incapacitated, the date of adjudication and the name and
28 address of the court which entered the judgment; and

29 (6) The reasons why the appointment of a standby guardian is sought.

30

31 Proceedings on the petition shall be conducted in the same manner as would be
32 applicable in a case for appointment of a successor guardian under section
33 475.115.

34 3. The court shall determine appointment of a standby guardian in
35 accordance with the best interests of the minor or incapacitated person after
36 considering all relevant factors, including:

37 (1) Whether there is a parent other than the custodial parent and, if so,
38 whether the other parent is willing, able, and fit to assume the duties of a parent;

39 (2) The suitability of a person nominated by the minor or incapacitated
40 person if he or she is, at the time of hearing, able to communicate a reasonable
41 choice; and

42 (3) The desirability of providing arrangements for the care, custody, and
43 control of the minor or incapacitated person which shall minimize stress and
44 disruption and avoid his or her placement in foster or similar care pending
45 appointment of a guardian if the custodial parent is adjudicated incapacitated or
46 dies.

47 4. If it appears to the court that a standby guardian should be appointed
48 for a minor or incapacitated person, the court may appoint a standby guardian.

49 5. The authority of a person to act as standby guardian for a minor or
50 incapacitated person shall only take effect as follows:

51 (1) If the person has previously been appointed by the court as standby
52 guardian, upon the granting of letters of standby guardianship to the person
53 previously appointed as provided in the order appointing the standby guardian;
54 or

55 (2) If the person has not previously been appointed by the court as
56 standby guardian, either because a petition for appointment has not been filed or
57 because a petition has been filed but the proceedings are still pending, upon the
58 first to occur of the following:

59 (a) The consent of the custodial parent in a writing duly executed and
60 acknowledged by the custodial parent;

61 (b) Entry of an order adjudicating the custodial parent to be incapacitated;
62 or

63 (c) The death of the custodial parent.

64

65 The person shall, within ten days after he or she begins to act as standby
66 guardian, notify the court in writing of that fact and of the reasons therefor. The
67 court may grant letters of standby guardianship to the person or, if the court
68 deems it advisable, conduct a hearing to determine the propriety of the person
69 having begun, and continuing, to act as standby guardian and the propriety of
70 issuing letters of standby guardianship to the person.

71 6. A person acting as standby guardian of a minor or incapacitated person
72 shall, within sixty days after he or she begins to act, petition the court for
73 appointment of the standby guardian or some other qualified person as guardian
74 of the minor or incapacitated person. Proceedings on the petition shall be
75 conducted in the same manner as would be applicable in a case for appointment
76 of a successor guardian under section 475.115.

77 7. Nothing in this section shall be construed to:

78 (1) Deprive a parent of his or her legal rights with respect to a minor or
79 incapacitated person who is a child of that parent, including court-ordered
80 visitation with the child, nor to authorize a grant of authority to a standby
81 guardian which would supersede any such rights; or

82 (2) Relieve a parent of his or her legal obligations or duties to a minor or
83 incapacitated person who is a child of that parent, including a duty to support the
84 child in accordance with a court or administrative order.

85 8. Except to the extent determined by the court to be inconsistent with the
86 provisions of this section or as expressly provided in this section, the laws
87 applicable to guardianship proceedings shall apply to all proceedings under this
88 section.]

89

[475.055. 1. Except as herein otherwise provided:

2 (1) Any adult person may be appointed guardian of the person or
3 conservator of the estate, or both, of a minor or incapacitated or disabled person,
4 except that a parent shall not be denied appointment as guardian of the person of
5 a minor for the reason that the parent is a minor;

6 (2) Any charitable organization organized and incorporated as a
7 not-for-profit corporation under the laws of this state prior to January 1, 1902,
8 shall be qualified to continue to serve as guardian of the person of any ward for
9 whom such charitable organization has been appointed guardian of the person
10 prior to September 28, 1983, or to be appointed guardian of the person or persons
11 adjudicated incapacitated subsequent to September 28, 1983;

12 (3) Any social service agency located within a county of the first
13 classification or within a city not within a county except any county of the first
14 classification without a charter form of government with a population of one
15 hundred thousand or more inhabitants which contains all or part of a city with a
16 population of three hundred fifty thousand or more inhabitants, which is found
17 capable by the court of providing an active and suitable program of guardianship
18 for the incapacitated person, taking into consideration the nature of such person's
19 disability and the nature of such organization's services, may be appointed as
20 guardian of the person; however, no social service agency shall be appointed as
21 guardian of the person under this subdivision unless it employs a licensed
22 professional found by the court to have sufficient expertise to meet the needs of
23 the ward, and it is found by the court that such professional shall have primary
24 responsibility for providing guardianship services to the incapacitated person for
25 which such social service agency is appointed guardian. The court shall not
26 appoint as guardian of the person under this subdivision a social service agency
27 which is providing residential services to the ward;

28 (4) Any corporation authorized to do business in this state and
29 empowered by its charter so to act or any national banking association authorized
30 so to act in this state may be appointed conservator of the estate of a minor or
31 disabled person. No corporation other than a social service agency may be
32 appointed to serve as guardian of the incapacitated person.

33 2. No person or corporation, other than the public administrator of the
34 county, shall be appointed guardian or conservator unless the appointee has filed
35 a consent to act. Except as otherwise provided by this section, no person or
36 corporation licensed as a facility by the Missouri department of mental health or
37 the Missouri department of social services, nor any administrator, owner,
38 operator, manager or employee of such a facility shall be appointed guardian of
39 the person or conservator of the estate of any resident of that facility, unless
40 related within the fourth degree of consanguinity or affinity to the resident. No
41 full-time judge of any court of this state and no clerk, deputy clerk or division
42 clerk shall be appointed as guardian of the person or conservator of the estate, but
43 a judge, clerk, deputy clerk or division clerk may serve as a guardian or

44 conservator for a ward or protectee who is a spouse or is within the third degree
45 of relationship by consanguinity or affinity as calculated according to civil law.
46 No natural person under eighteen years of age, other than as provided in
47 subsection 1 of this section, no incapacitated or disabled person, and no habitual
48 drunkard shall be appointed guardian of the person or conservator of the estate.
49 No person whose letters of guardianship or conservatorship are revoked shall be
50 appointed guardian or conservator within two years after the revocation. No one
51 shall be appointed guardian of the person or conservator of the estate unless
52 qualified to perform the duties of said office or offices.

53 3. A person becomes a guardian or conservator of a minor or
54 incapacitated or disabled person upon issuance of letters of guardianship or
55 conservatorship by the court. A person so appointed need not reside within this
56 state in order to accept or serve as guardian or conservator, unless the court finds
57 that such person, taking into consideration his place of residence, is unable to
58 effectively perform the duties of guardian or conservator as provided by this
59 code. The guardianship or conservatorship status continues until terminated,
60 without regard to the location from time to time, whether within or outside of this
61 state, of the guardian and ward or conservator and protectee.

62 4. Subsections 3 and 4 of section 473.117, section 473.689, and section
63 475.338 are applicable to nonresident guardians and conservators.

64 5. If a social service agency is appointed to act as guardian under this
65 section, any other eligible person listed in subdivision (3) of subsection 1 of
66 section 475.050 may petition the court to have the social service agency removed
67 as guardian. The court shall grant the petition if it finds that the petitioner is
68 qualified and will act in the best interests of the disabled or incapacitated person.
69 The removal of a social service agency under such circumstances does not require
70 evidence that the agency committed acts of misfeasance warranting the agency's
71 removal pursuant to section 475.110.

72 6. A social service agency acting as a guardian pursuant to subdivision
73 (4) of subsection 1 of this section may only authorize the withholding or
74 withdrawal of artificially provided nutrition or hydration as prescribed under
75 section 404.820.]

76

2 [475.060. 1. Any person may file a petition for the appointment of
3 himself or herself or some other qualified person as guardian of a minor. Such
4 petition shall state:

5 (1) The name, age, domicile, actual place of residence and post office
6 address of the minor if known and if any of these facts is unknown, the efforts
7 made to ascertain that fact;

8 (2) The estimated value of the minor's real and personal property, and the
9 location and value of any real property owned by the minor outside of this state;

10 (3) If the minor has no domicile or place of residence in this state, the
county in which the property or major part thereof of the minor is located;

11 (4) The name and address of the parents of the minor and whether they
12 are living or dead;

13 (5) The name and address of the spouse, and the names, ages and
14 addresses of all living children of the minor;

15 (6) The name and address of the person having custody of the person of
16 the minor;

17 (7) The name and address of any guardian of the person or conservator
18 of the estate of the minor appointed in this or any other state;

19 (8) If appointment is sought for a natural person, other than the public
20 administrator, the names and addresses of wards and disabled persons for whom
21 such person is already guardian or conservator;

22 (9) The name and address of the trustees and the purpose of any trust of
23 which the minor is a qualified beneficiary;

24 (10) The reasons why the appointment of a guardian is sought;

25 (11) A petition for the appointment of a guardian of a minor may be filed
26 for the sole and specific purpose of school registration or medical insurance
27 coverage. Such a petition shall clearly set out this limited request and shall not
28 be combined with a petition for conservatorship.

29 2. Any person may file a petition for the appointment of himself or
30 herself or some other qualified person as guardian of an incapacitated person.
31 Such petition shall state:

32 (1) If known, the name, age, domicile, actual place of residence, and post
33 office address of the alleged incapacitated person, and for the period of three
34 years before the filing of the petition, the most recent addresses, up to three, at
35 which the alleged incapacitated person lived prior to the most recent address, and
36 if any of these facts is unknown, the efforts made to ascertain that fact. In the
37 case of a petition filed by a public official in his or her official capacity, the
38 information required by this subdivision need only be supplied to the extent it is
39 reasonably available to the petitioner;

40 (2) The estimated value of the alleged incapacitated person's real and
41 personal property, and the location and value of any real property owned by the
42 alleged incapacitated person outside of this state;

43 (3) If the alleged incapacitated person has no domicile or place of
44 residence in this state, the county in which the property or major part thereof of
45 the alleged incapacitated person is located;

46 (4) The name and address of the parents of the alleged incapacitated
47 person and whether they are living or dead;

48 (5) The name and address of the spouse, the names, ages, and addresses
49 of all living children of the alleged incapacitated person, the names and addresses
50 of the alleged incapacitated person's closest known relatives, and the names and
51 relationship, if known, of any adults living with the alleged incapacitated person;
52 if no spouse, adult child, or parent is listed, the names and addresses of the
53 siblings and children of deceased siblings of the alleged incapacitated person; the

54 name and address of any agent appointed by the alleged incapacitated person in
 55 any durable power of attorney, and of the presently acting trustees of any trust of
 56 which the alleged incapacitated person is the grantor or is a qualified beneficiary
 57 or is or was the trustee or cotrustee and the purpose of the power of attorney or
 58 trust;

59 (6) The name and address of the person having custody of the person of
 60 the alleged incapacitated person;

61 (7) The name and address of any guardian of the person or conservator
 62 of the estate of the alleged incapacitated person appointed in this or any other
 63 state;

64 (8) If appointment is sought for a natural person, other than the public
 65 administrator, the names and addresses of wards and disabled persons for whom
 66 such person is already guardian or conservator;

67 (9) The fact that the person for whom guardianship is sought is unable
 68 by reason of some specified physical or mental condition to receive and evaluate
 69 information or to communicate decisions to such an extent that the person lacks
 70 capacity to meet essential requirements for food, clothing, shelter, safety, or other
 71 care such that serious physical injury, illness, or disease is likely to occur;

72 (10) The reasons why the appointment of a guardian is sought.]

73

2 [475.061. 1. Any person may file a petition in the probate division of the
 3 circuit court of the county of proper venue for the appointment of himself or
 4 some other qualified person as conservator of the estate of a minor or disabled
 5 person. The petition shall contain the same allegations as are set forth in
 6 subdivisions (1), (8), and (10) of subsection 2 of section 475.060 with respect to
 7 the appointment of a guardian for an incapacitated person and, in addition
 8 thereto, an allegation that the respondent is unable by reason of some specific
 9 physical or mental condition to receive and evaluate information or to
 10 communicate decisions to such an extent that the respondent lacks ability to
 11 manage his financial resources or that the respondent is under the age of eighteen
 12 years.

13 2. A petition for appointment of a conservator or limited conservator of
 14 the estate may be combined with a petition for appointment of a guardian or
 15 limited guardian of the person. In such a combined petition allegations need not
 16 be repeated.]

2 [475.065. When application is made for the appointment of a guardian
 3 or conservator for two or more minors or incapacitated or disabled persons who
 4 are children of a common parent, or are parent and child, or are husband and
 5 wife, it is not necessary that a separate petition, bond or other paper be filed for
 6 each minor or incapacitated or disabled person and the guardianship or
 conservatorship of all may be considered as one proceeding except that there

7 shall be a separate accounting when the guardianship or conservatorship
8 terminates as to one ward or disabled person but not as to the others.]
9

[475.075. 1. Except as otherwise provided in section 475.062, when a
2 petition for the appointment of a guardian ad litem, guardian or conservator
3 against any person, hereinafter referred to as the respondent, is filed on grounds
4 other than minority, the court, if satisfied that there is good cause for the exercise
5 of its jurisdiction, shall promptly set the petition for hearing.

6 2. The respondent shall be served in person with the following: A copy
7 of the petition; a written notice stating the time and place the proceeding will be
8 heard by the court, the name and address of appointed counsel, and the names and
9 addresses of the witnesses who may be called to testify in support of the petition;
10 and with a copy of the respondent's rights as set forth in subsections 7 and 8 of
11 this section. The notice shall be signed by the judge or clerk of the court and
12 served in person on the respondent a reasonable time before the date set for the
13 hearing. The petition shall state the names and addresses of the spouse, parents,
14 children who have reached eighteen, any person serving as his guardian,
15 conservator, limited guardian or limited conservator, any person having power
16 to act in a fiduciary capacity with respect to any of the respondent's financial
17 resources, and any person having his care and custody known to the petitioner.
18 Each person so listed shall be served with like notice in any manner permitted by
19 section 472.100. If no such spouse, parent or child is known, notice shall be
20 given to at least one of his closest relatives who has reached eighteen.

21 3. Upon the filing of a petition under the provisions of subsection 1 of
22 this section or for the approval on behalf of the respondent of a transaction
23 pursuant to section 475.092 or for the rendition of emergency medical treatment
24 under the provisions of section 475.123, the court shall immediately appoint an
25 attorney to represent the respondent in the proceeding. The attorney shall visit
26 his client prior to the hearing. If the client is capable of understanding the matter
27 in question or of contributing to the advancement of the client's interest, the
28 attorney shall obtain from the client all possible aid. If the disability of a client
29 compels the attorney to make decisions for the client, the attorney shall consider
30 all circumstances then prevailing and act with care to safeguard and advance the
31 interests of the client. The court shall allow a reasonable attorney's fee for the
32 services rendered, to be taxed as costs of the proceeding. The court-appointed
33 attorney may be permitted to withdraw if the respondent employs private counsel
34 who enters an appearance on behalf of said person.

35 4. The court may direct that the respondent be examined by a physician
36 or licensed psychologist or other appropriate professional designated by the court,
37 and may allow a reasonable fee for the services rendered, to be taxed as costs in
38 the proceeding. The court-appointed physician, licensed psychologist or other
39 professional shall, prior to examination, explain to the respondent in simple
40 language, the following:

- 41 (1) Incapacity or disability as defined in section 475.010;
- 42 (2) That the purpose of the examination is to produce evidence which
- 43 may be used to determine whether the respondent is incapacitated, disabled or
- 44 partially incapacitated or disabled;
- 45 (3) That respondent has the right to remain silent;
- 46 (4) That anything respondent says may be used at the court hearing, and
- 47 in making the determination of incapacity or disability.
- 48 5. The court-appointed physician, licensed psychologist or other
- 49 professional shall submit his report in writing to the court and to counsel for all
- 50 parties.
- 51 6. If prima facie proof of partial or complete incapacity or disability is
- 52 made, a physician or licensed psychologist is competent and may be compelled
- 53 to testify as to information acquired from the respondent, despite otherwise
- 54 applicable testimonial privileges. Evidence received under this subsection which
- 55 would otherwise be privileged may not be used in any other civil action or
- 56 criminal proceeding without the consent of the holder of the privilege.
- 57 7. The petitioner has the burden of proving incapacity, partial incapacity,
- 58 disability, or partial disability by clear and convincing evidence.
- 59 8. The respondent shall have the following rights in addition to those
- 60 elsewhere specified:
- 61 (1) The right to be represented by an attorney;
- 62 (2) The right to have a jury trial;
- 63 (3) The right to present evidence in his behalf;
- 64 (4) The right to cross-examine witnesses who testify against him;
- 65 (5) The right to remain silent;
- 66 (6) The right to have the hearing opened or closed to the public as he
- 67 elects;
- 68 (7) The right to a hearing conducted in accordance with the rules of
- 69 evidence in civil proceedings, except as modified by this chapter;
- 70 (8) The right to be present at the hearing.
- 71 9. If the court finds that the respondent possesses capacity to meet his
- 72 essential requirements for food, clothing, shelter, safety and other care or that he
- 73 possesses the ability to manage his financial resources, it shall deny the petition.
- 74 On the other hand, if the court finds that the capacity of the respondent to receive
- 75 and evaluate information or to communicate decisions is impaired to such an
- 76 extent as to render him incapable of meeting some or all of his essential
- 77 requirements for food, clothing, shelter, safety or other care so that serious
- 78 physical injury, illness, or disease is likely to occur, or that the ability of the
- 79 respondent to receive and evaluate information or to communicate decisions is
- 80 impaired to such an extent so as to render him unable to manage some or all of
- 81 his financial resources, it shall make and recite in its order detailed findings of
- 82 fact stating:

83 (1) The extent of his physical and mental incapacity to care for his
 84 person;

85 (2) The extent of his physical and mental disability to manage his
 86 financial resources;

87 (3) Whether or not he requires placement in a supervised living situation
 88 and, if so, the degree of supervision needed;

89 (4) Whether or not his financial resources require supervision and, if so,
 90 the nature and extent of supervision needed.

91 10. If the court finds the respondent to be in some degree incapacitated
 92 or disabled, or both, the court, in determining the degree of supervision
 93 necessary, shall apply the least restrictive environment principle as defined in this
 94 chapter and shall not restrict his personal liberty or his freedom to manage his
 95 financial resources to any greater extent than is necessary to protect his person
 96 and his financial resources. The court shall consider whether or not the
 97 respondent may be fully protected by the rendition of temporary protective
 98 services provided by a private or public agency or agencies; or by the
 99 appointment of a guardian or conservator ad litem; or by the appointment of a
 100 limited guardian or conservator; or, as a last resort, by the appointment of a
 101 guardian or conservator. The limitations imposed upon the authority of the
 102 guardian or conservator as set forth in the findings of the court shall be stated in
 103 the letters of the guardian or conservator and shall be set forth in the notice of
 104 first publication of letters of conservatorship granted.

105 11. If an alleged incapacitated or disabled person has no guardian or
 106 conservator and an emergency exists which presents a substantial risk that serious
 107 physical harm will occur to his person or irreparable damage will occur to his
 108 property because of his failure or inability to provide for his essential human
 109 needs or to protect his property, the court may, with notice to such person's
 110 attorney, as provided in subsection 3 of this section, and service of notice upon
 111 such person as provided in subsection 2 of this section, and, with or without
 112 notice to other persons interested in the proceeding, after hearing, appoint a
 113 guardian or conservator ad litem for a specified period not to exceed thirty days
 114 and for specified purposes. Orders appointing the guardian or conservator ad
 115 litem may be modified upon motion and hearing. After hearing and a showing
 116 of continuing emergency need, orders appointing the guardian or conservator ad
 117 litem may be extended from time to time, not to exceed thirty days each. A
 118 guardian or conservator ad litem may be removed at any time and shall make any
 119 report the court requires. Proceedings under this subsection shall not be
 120 employed as alternative to proceedings for the involuntary detention and
 121 treatment of a mentally ill person under the provisions of chapter 632.]
 122

2 [475.079. 1. If it appears to the court that a guardian should be appointed
 3 for a minor who is not incapacitated or if it is found by the jury or the court upon
 proof by clear and convincing evidence that the person for whom a guardian is

4 sought is incapacitated as defined in this law, the court may appoint a guardian
5 of the person. The appointment of guardians of minors shall be made in
6 accordance with section 475.045, except that if a person entitled to appointment
7 as a guardian or entitled to select a guardian fails to appear after notice or to
8 apply for such appointment or make selection in accordance with the order of the
9 court the court may appoint any suitable person as guardian.

10 2. If it is found that the person for whom a conservator of the estate is
11 sought is a minor or is disabled as defined in section 475.010 by a disability other
12 than or in addition to minority, the court may appoint a conservator of the estate,
13 who may be the same person appointed guardian of the person.]
14

[475.082. 1. At least annually, the court shall inquire into the status of
2 every ward and protectee under its jurisdiction for the purpose of determining
3 whether the incapacity or disability may have ceased and to insure that the
4 guardian or conservator is discharging his responsibilities and duties in
5 accordance with this chapter.

6 2. In order to implement the court review prescribed by this section, the
7 guardian or limited guardian shall file annually on the anniversary date of his
8 letters, a report concerning the personal status of the ward. Such report may be
9 combined with the settlement of accounts if the guardian is also conservator of
10 the estate of the ward. The report shall be in the form prescribed by the court and
11 shall include the following information:

- 12 (1) The present address of the ward;
- 13 (2) The present address of the guardian;
- 14 (3) The number of times the guardian has had contact with the ward, and
15 the nature of such contacts including the date the ward was last seen by the
16 guardian;
- 17 (4) If the ward is institutionalized, whether the guardian has received a
18 copy of the treatment or habilitation plan and whether the guardian agrees with
19 its provision;
- 20 (5) The date the ward was last seen by a physician and the purpose;
- 21 (6) Any major changes in the physical or mental condition of the ward
22 observed by the guardian;
- 23 (7) The opinion of the guardian as to the need for the continuation of the
24 guardianship and whether it is necessary to increase or decrease the powers of the
25 guardian;
- 26 (8) The opinion of the guardian as to the adequacy of the present care of
27 the ward.

28 3. The court may as part of its review, in its discretion, order the
29 performance of a mental status evaluation of an incapacitated ward and may
30 require any hospital, physician, or custodial facility to submit copies of their
31 records relating to the treatment, habilitation or care of the ward.

32 4. If there is an indication that the incapacity or disability of the ward or
 33 protectee has ceased, the court shall appoint an attorney to file on behalf of the
 34 ward or protectee a petition for termination of the guardianship or
 35 conservatorship or for restoration.

36 5. If it appears to the court as part of its review or at any time upon
 37 motion of any interested person, including the ward or protectee or some person
 38 on his behalf, that the guardian or conservator is not discharging his
 39 responsibilities and duties as required by this chapter or has not acted in the best
 40 interests of his ward or protectee, the court may order that a hearing be held and
 41 direct that the guardian or conservator appear before the court. In the event that
 42 such a hearing is ordered and the ward or protectee is not represented by an
 43 attorney, the court shall appoint an attorney to represent the ward or protectee in
 44 the proceedings. At the conclusion of the hearing, if the court finds that the
 45 guardian or conservator is not discharging his duties and responsibilities as
 46 required by this code, or is not acting in the best interests of the ward or
 47 protectee, the court shall enter such orders as it deems appropriate under the
 48 circumstances. Such orders may include the removal of the guardian or
 49 conservator and the appointment of a successor guardian or conservator or
 50 termination of the guardianship or conservatorship on finding that the ward has
 51 recovered his capacity or the protectee is no longer disabled. The court in
 52 framing its orders and findings shall give due consideration to the exercise by the
 53 guardian or conservator of any discretion vested in him by law.]
 54

[475.083. 1. The authority of a guardian or conservator terminates:

- 2 (1) When a minor ward becomes eighteen years of age;
- 3 (2) Upon an adjudication that an incapacitated or disabled person has
 4 been restored to his capacity or ability;
- 5 (3) Upon revocation of the letters of the guardian or conservator;
- 6 (4) Upon the acceptance by the court of the resignation of the guardian
 7 or conservator;
- 8 (5) Upon the death of the ward or protectee except that if there is no
 9 person other than the estate of the ward or protectee liable for the funeral and
 10 burial expenses of the ward or protectee the guardian or conservator may, with
 11 the approval of the court, contract for the funeral and burial of the deceased ward
 12 or protectee;
- 13 (6) Upon the expiration of an order appointing a guardian or conservator
 14 ad litem unless the court orders extension of the appointment;
- 15 (7) Upon an order of court terminating the guardianship or
 16 conservatorship.

17 2. A guardianship or conservatorship may be terminated by court order
 18 after such notice as the court may require:

- 19 (1) If the conservatorship estate is exhausted;
- 20 (2) If the conservatorship is no longer necessary for any other reason;

21 (3) If the court finds that a parent is fit, suitable and able to assume the
22 duties of guardianship and it is in the best interest of the minor that the
23 guardianship be terminated.

24 3. Notwithstanding the termination of the authority of a conservator, he
25 shall continue to have such authority as may be necessary to wind up his
26 administration.

27 4. At any time the guardian, conservator or any person on behalf of the
28 ward or protectee may, individually or jointly with the ward or protectee, or the
29 ward or protectee individually may petition the court to restore the ward or
30 protectee, or to decrease the powers of the guardian or conservator, except that
31 if the court determines that the petition is frivolous, the court may summarily
32 dismiss the petition without hearing.

33 5. Upon the filing of a joint petition by the guardian or conservator and
34 the ward or protectee, the court, if it finds restoration or modification to be in the
35 best interests of the ward or protectee, may summarily order restoration or
36 modification of the powers of the guardian or conservator without the necessity
37 of notice and hearing.

38 6. Upon the filing of a petition without the joinder of the guardian or
39 conservator, the court shall cause the petition to be set for hearing with notice to
40 the guardian or conservator. If the ward or protectee is not represented by an
41 attorney, the court shall appoint an attorney to represent the ward or protectee in
42 such proceeding. The burden of proof by a preponderance of the evidence shall
43 be upon the petitioner. Such a petition may not be filed more than once every
44 one hundred eighty days.

45 7. At any time the guardian or conservator may petition the court to
46 increase his powers. Proceedings on the petition shall be in accordance with the
47 provisions of section 475.075.]

48

2 [475.094. If the court determines and enters a finding that a permanently
3 totally mentally disabled protectee's estate would be substantially depleted upon
4 his death by the payment of federal estate taxes, the court is hereby empowered:
5 to exercise or release powers of appointment, to change the beneficiaries and
6 elect options under insurance and annuity policies, to make gifts to the natural
7 objects of the protectee's bounty, to convey or release his contingent and
8 expectant interests in property including marital property rights and any right of
9 survivorship incident to joint tenancy or tenancy by the entirety, to surrender
10 insurance or annuity policies for their cash values, to exercise his right to an
11 elective share in the estate of his deceased spouse, and to renounce any interest
12 by testate or intestate succession or by inter vivos transfer, if such act or acts will
13 not deplete the protectee's estate so as to impair the ability to provide for the
14 protectee's foreseeable lifetime needs, and if such act will cause financial benefits
to inure solely to the natural objects of the protectee's bounty. Such act shall be

15 undertaken by the court only to the extent that it will result in a substantial saving
16 of federal estate tax for the estate of the disabled protectee upon his death.]
17

[475.100. Every conservator of the estate of a minor or disabled person,
2 before entering upon the duties of his office, shall execute and file a bond,
3 approved by the court, procured at the expense of the estate with sufficient surety
4 in an amount fixed by the court. Sections 473.157 to 473.217, relating to the
5 bonds of personal representatives, except subsection 1 of section 473.157 and
6 subsection 1 of section 473.160, are applicable to the bonds of conservators.]
7

[475.105. 1. When a duly appointed guardian or conservator has given
2 bond, as required by law, and the bond has been approved, letters under the seal
3 of the court shall be issued to the person appointed. Such letters shall specify
4 whether they are of guardianship, limited guardianship, or standby guardianship
5 of the person, or conservatorship or limited conservatorship of the estate, or both,
6 and the original or duly certified copies thereof shall be prima facie evidence of
7 the facts therein stated.

8 2. Letters of guardianship and conservatorship for minors may be in the
9 following form:

10
11 IN THE PROBATE DIVISION OF THE
12 CIRCUIT COURT OF COUNTY, MISSOURI
13 LETTERS OF (STANDBY) GUARDIANSHIP
14 (AND CONSERVATORSHIP) OF MINOR

15 Estate No.

16 On was appointed and has qualified as (standby) guardian
17 of the person (and conservator of the estate) for the following minor(s):

18Born, 20. . .

19Born, 20. . .

20Born, 20. .

21Born, 20. .
22

23 By reason thereof, the above-named (standby) guardian (and conservator)
24 is authorized and empowered to perform the duties of such (standby) guardian
25 (and conservator) as provided by law under the supervision of the court having
26 care and custody of the person (and of the estate) of the above-named minor(s).
27

28 IN TESTIMONY WHEREOF, the undersigned Clerk has signed these
29 letters and affixed the seal of this court on

30

31
32

33 Clerk

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Recorded onin Book at Page

.....

Clerk

3. Letters of guardianship and conservatorship for incapacitated and disabled persons may be in the following form:

IN THE PROBATE DIVISION OF THE
CIRCUIT COURT OF COUNTY, MISSOURI LETTERS
OF (STANDBY) GUARDIANSHIP OF INCAPACITATED PERSON
(AND CONSERVATORSHIP OF DISABLED PERSON)

Estate No.

On, was appointed and has qualified as (standby) guardian of the person (and conservator of the estate) for, an incapacitated (and disabled) person.

By reason thereof, the above-named (standby) guardian (and conservator) is authorized and empowered to perform the duties of such (standby) guardian (and conservator) as provided by law under the supervision of the court having care and custody of the person (and estate) of the above-named incapacitated (and disabled) person.

IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and affixed the seal of this court on, 20 ...

.....

Clerk]

[475.120. 1. The guardian of the person of a minor shall be entitled to the custody and control of the ward and shall provide for the ward's education, support and maintenance.

2. A guardian or limited guardian of an incapacitated person shall act in the best interest of the ward. A limited guardian of an incapacitated person shall have the powers and duties enumerated by the court in the adjudication order or any later modifying order.

3. The general powers and duties of a guardian of an incapacitated person shall be to take charge of the person of the ward and to provide for the ward's care, treatment, habilitation, education, support and maintenance; and the powers and duties shall include, but not be limited to, the following:

(1) Assure that the ward resides in the best and least restrictive setting reasonably available;

- 14 (2) Assure that the ward receives medical care and other services that are
- 15 needed;
- 16 (3) Promote and protect the care, comfort, safety, health, and welfare of
- 17 the ward;
- 18 (4) Provide required consents on behalf of the ward;
- 19 (5) To exercise all powers and discharge all duties necessary or proper
- 20 to implement the provisions of this section.
- 21 4. A guardian of an adult or minor ward is not obligated by virtue of such
- 22 guardian's appointment to use the guardian's own financial resources for the
- 23 support of the ward. If the ward's estate and available public benefits are
- 24 inadequate for the proper care of the ward, the guardian or conservator may apply
- 25 to the county commission pursuant to section 475.370.
- 26 5. No guardian of the person shall have authority to seek admission of the
- 27 guardian's ward to a mental health or intellectual disability facility for more than
- 28 thirty days for any purpose without court order except as otherwise provided by
- 29 law.
- 30 6. Only the director or chief administrative officer of a social service
- 31 agency serving as guardian of an incapacitated person, or such person's designee,
- 32 is legally authorized to act on behalf of the ward.
- 33 7. A social service agency serving as guardian of an incapacitated person
- 34 shall notify the court within fifteen days after any change in the identity of the
- 35 professional individual who has primary responsibility for providing guardianship
- 36 services to the incapacitated person.
- 37 8. Any social service agency serving as guardian may not provide other
- 38 services to the ward.]
- 39

2 [475.121. 1. Pursuant to an application alleging that the admission of the

3 ward to a particular mental health or developmental disability facility is

4 appropriate and in the best interest of the ward, the court may authorize the

5 guardian or limited guardian to admit the ward to such facility. Such application

6 shall be accompanied by a physician's statement setting forth the factual basis for

7 the need for continued admission including a statement of the ward's current

8 diagnosis, plan of care, treatment or habilitation and the probable duration of the

9 admission.

10 2. If the court finds that the application establishes the need for inpatient

11 care, habilitation or treatment of the ward in a mental health or developmental

12 disability facility without the adduction of further evidence, it shall issue an order

13 authorizing the guardian to admit the ward to such facility in accordance with the

14 provisions of section 632.120 or section 633.120.

15 3. The court may, in its discretion, appoint an attorney to represent the

16 ward. The attorney shall meet with the ward and may request a hearing on the

17 application. If a hearing is requested, the court shall set the application for

hearing. If there is no request for hearing, the court may rule on the application

18 without a hearing. The attorney for the ward shall be allowed a reasonable fee
19 for his services rendered to be assessed as costs under section 475.085.

20 4. Proceedings under this section may be combined with adjudication
21 proceedings under section 475.075.]
22

2 [475.123. 1. No medical or surgical procedure shall be performed on any
3 ward unless consent is obtained from the guardian of his person except as
4 provided in subsections 2 and 3 hereof.

5 2. If the life of the ward is threatened and there is not time to obtain
6 consent, a medical or surgical procedure may be performed without consent after
7 the medical necessity for the procedure has been documented in the medical
8 record of the ward.

9 3. If the life of a person is threatened and his consent to a necessary
10 medical or surgical procedure cannot be obtained, a court, on petition filed
11 pursuant to section 475.060, after hearing, may authorize consent on behalf of
12 such person.

13 4. Any hearing conducted pursuant to subsection 3 of this section,
14 involving a life threatening medical emergency, may be conducted within or
15 without the county at the medical facility where the person has been admitted
16 with such notice and in such form as is practicable considering the time
17 limitations imposed due to the condition of person. The fact of attempted oral
18 notice to persons interested in the welfare of the person shall be made a part of
19 the record of the hearing.]

2 [475.130. 1. The conservator of the estate of a minor or disabled person
3 shall, under supervision of the court, protect, preserve and manage the estate,
4 apply it as provided in this code, account for it faithfully, perform all other duties
5 required of the conservator by law, and at the termination of the conservatorship
6 deliver the assets of the protectee to the persons entitled thereto. In protecting,
7 preserving and managing the estate, the conservator of the estate is under a duty
8 to use the degree of care, skill and prudence which an ordinarily prudent person
9 uses in managing the property of, and conducting transactions on behalf of,
10 others. If a conservator of the estate has special skills or is appointed on the basis
11 of representations of special skills or expertise, the conservator is under a duty
12 to use those skills in the conduct of the protectee's affairs. A conservator of the
13 estate is under a duty to act in the interest of the protectee and to avoid conflicts
14 of interest which impair the conservator's ability so to act.

15 2. The conservator of the estate shall take possession of all of the
16 protectee's real and personal property, and of rents, income, issue and profits
17 therefrom, whether accruing before or after the conservator's appointment, and
18 of the proceeds arising from the sale, mortgage, lease or exchange thereof.
19 Subject to such possession, the title to all such estate, and to the increment and
proceeds thereof, is in the protectee and not in the conservator. Upon a showing

20 that funds available or payable for the benefit of the protectee by any federal
21 agency are being applied for the benefit of the protectee, or that such federal
22 agency has refused to recognize the authority of the conservator to administer
23 such funds, the court may waive, by order, the duty of the conservator to account
24 therefor.

25 3. The court has full authority under the rules of civil procedure to enjoin
26 any person from interfering with the right of the conservator to possession of the
27 assets of the protectee, including benefits payable from any source.

28 4. The conservator of the estate shall prosecute and defend all actions
29 instituted in behalf of or against the protectee; collect all debts due or becoming
30 due to the protectee, and give acquittances and discharges therefor, and adjust,
31 settle and pay all claims due or becoming due from the protectee so far as his or
32 her estate and effects will extend, except as provided in sections 507.150 and
33 507.188.

34 5. A conservator of the estate has power, without authorization or
35 approval of the court, to:

36 (1) Settle or compromise a claim against the protectee or the estate
37 agreeing to pay or paying not more than one thousand dollars;

38 (2) Settle, abandon or compromise a claim in favor of the estate which
39 does not exceed one thousand dollars;

40 (3) Sell, or agree to sell, chattels and choses in action reasonably worth
41 not more than one thousand dollars for cash or upon terms involving a reasonable
42 extension of credit;

43 (4) Exchange, or agree to exchange, chattels and choses in action for
44 other such property of equivalent value, not in excess of one thousand dollars;

45 (5) Insure or contract for insurance of property of the estate against fire,
46 theft and other hazards;

47 (6) Insure or contract for insurance protecting the protectee against any
48 liability likely to be incurred, including medical and hospital expenses, and
49 protecting the conservator against liability to third parties arising from acts or
50 omissions connected with possession or management of the estate;

51 (7) Contract for needed repairs and maintenance of property of the estate;

52 (8) Lease land and buildings for terms not exceeding one year, reserving
53 reasonable rent, and renew any such lease for a like term;

54 (9) Vote corporate stock in person or by general or limited proxy;

55 (10) Contract for the provision of board, lodging, education, medical
56 care, or necessaries of the protectee for periods not exceeding one year, and
57 renew any such contract for a like period;

58 (11) On or after August 28, 2009, invest the estate in accordance with the
59 provisions of section 475.190.

60 6. If, in exercising any power conferred by subsection 5 of this section,
61 a conservator breaches any of the duties enumerated in subsection 1 of this
62 section, the conservator may be surcharged for losses to the estate caused by the

63 breach but persons who dealt with the conservator in good faith, without
 64 knowledge of or reason to suspect the breach of duty, may enforce and retain the
 65 benefits of any transaction with the conservator which the conservator has power
 66 under subsection 5 of this section to conduct.]
 67

2 [475.145. When a conservator of the estate has been appointed, an
 3 inventory and appraisalment of the estate of the protectee shall be made in the
 4 same manner and within the same time and subject to the same requirements as
 5 are provided in sections 473.233 to 473.243 for the inventory and appraisalment
 6 of a decedent's estate. The inventory shall include property as to which the
 7 protectee is a joint tenant or tenant by the entirety and all policies of life
 8 insurance owned by the protectee, whether or not payable to a named beneficiary,
 9 together with a statement of all income and benefits to which the protectee is or
 10 will be entitled to receive.]

2 [475.150. When any personal estate is received by a conservator from a
 3 personal representative, or former conservator, which has been appraised, it is not
 4 necessary for the conservator to cause the same to be appraised again, but he shall
 5 state in his inventory the appraised value as it appears in the appraisalment of the
 6 personal representative, or former conservator, and be held to account
 7 accordingly.]

2 [475.265. A guardian or conservator shall be allowed such compensation
 3 for his services as guardian or conservator, as the court shall deem just and
 4 reasonable. Additional compensation may be allowed for his necessary services
 5 as attorney and for other necessary services not required of a guardian or
 6 conservator. Compensation may also be allowed for necessary expenses in the
 7 administration of his trust, including reasonable attorney fees if the employment
 8 of an attorney for the particular purpose is necessary. In all cases, compensation
 9 of the guardian or conservator and his expenses including attorney fees shall be
 10 fixed by the court and may be allowed at any annual or final accounting; but at
 11 any time before final settlement the guardian or conservator or his attorney may
 12 apply to the court for an allowance upon the compensation or necessary expenses
 13 of the guardian or conservator and for attorney fees for services already
 14 performed. If the court finds that the guardian or conservator has failed to
 15 discharge his duties as such in any respect, it may deny him any compensation
 16 whatsoever or may reduce the compensation which would otherwise be allowed.
 17 The court may consider ties of blood, marriage or adoption, in making allowances
 18 of compensation to guardians and conservators.]

2 [475.280. 1. The clerk shall keep a docket in which shall be entered the
 3 names of all conservators and the particular day upon which their annual
 settlements are required.

4 2. The clerk shall notify each conservator by ordinary mail of the day on
 5 which each of his annual settlements is required to be filed at least thirty days
 6 before such date. Failure to receive the notice herein required does not excuse
 7 a conservator from making settlement as required by law.

8 3. Sections 473.560 to 473.567 as to decedents' estates apply to
 9 conservators and their settlements.

10 4. The clerk shall also keep a docket in which shall be entered the names
 11 of all guardians and limited guardians and the particular day upon which their
 12 report of annual personal review is required. The clerk shall notify such
 13 guardians in the same manner as prescribed in subsection 2 of this section.
 14 Failure to receive the notice herein required does not excuse such guardians from
 15 making the report as required by law.]
 16

[475.320. 1. Except in cases mentioned in subsection 2, the court, upon
 2 the death of any protectee, may order that no letters of administration shall be
 3 granted upon his estate, but the funeral and burial expenses and estate taxes for
 4 which the estate of the deceased protectee is liable, and obligations of the
 5 protectee incurred by the conservator, as well as expenses of administration, may
 6 be paid out of the estate by the conservator on order of the court and after the
 7 final settlement of the conservator is approved, and upon a showing that all
 8 obligations of the estate which have been authorized by the court have been paid,
 9 the court shall order the conservator to make distribution to the heirs in the same
 10 manner and with the same effect as in the case of an administrator. In such case
 11 the conservator is subject in all respects and to the same extent to the liabilities
 12 of an administrator and liability on the conservator's bond continues and applies
 13 to the complete administration of the estate of the deceased protectee.

14 2. Whenever a protectee dies leaving debts, other than those payable by
 15 the conservator under subsection 1 hereof, for which his estate would be liable
 16 in an action, or whenever a protectee dies, leaving a will valid under the law
 17 respecting wills, letters testamentary or of administration shall be granted on the
 18 estate of the deceased protectee, in the manner provided by law, as in case of
 19 other testators or intestates.]
 20

[475.322. When a protectee:

2 (1) Purchased United States bonds in co-ownership form, payable to
 3 himself and another or the survivor, or in beneficiary form, payable to himself
 4 during his lifetime and to another upon his death;

5 (2) Deposited funds in a joint account in the name of himself and any one
 6 or more other persons, and in form to be paid to any one or more of them, or the
 7 survivor or survivors of them, or in an account payable to himself during his
 8 lifetime and upon his death to another, or in an account in his own name upon
 9 revocable trust for another; or

10 (3) Owns real or personal property in joint tenancy or tenancy by the
11 entirety;

12
13 the conservator may, with the authorization or approval of the court, redeem such
14 bonds, withdraw funds from such account, and sell, exchange or mortgage the
15 protectee's estate or interest in such joint or entirety property, to the extent that
16 funds are needed to pay expenses under section 475.125 or claims under section
17 475.211. With respect to property held in joint tenancy, the provisions of
18 sections 362.470 and 369.174 shall be applicable and with respect to any property
19 held in tenancy by the entirety, the provisions of section 442.035 shall be
20 applicable and the conservator, with or without court approval, shall not have
21 authority to redeem, withdraw, sell, exchange or mortgage the protectee's estate
22 or interest in such entirety property without the approval of the other tenant by
23 the entirety. The court shall not authorize or approve such redemption,
24 withdrawal, sale, exchange or mortgage as to the share contributed to the
25 purchase of such bonds, the making of deposits in such an account, or the
26 acquisition of such joint or entirety property by the co-owner or beneficiary of the
27 bonds, a joint depositor, a person to whom an account is payable on death, a
28 beneficiary of a revocable trust of an account, or a cotenant of property.]
29

2 [475.330. 1. When the whole estate of a minor does not exceed the value
3 of ten thousand dollars, the court may, in its discretion, without the appointment
4 of a conservator or the giving of bond, authorize:

5 (1) The deposit in a depository authorized to receive fiduciary funds,
6 payable to the conservator of the estate when appointed or to the minor upon his
7 attaining the age of eighteen years; or

8 (2) The delivery thereof to a suitable person designated by the court,
9 deliverable to the conservator of the estate when appointed or to the minor upon
10 his attaining the age of eighteen years; or

11 (3) The payment or delivery thereof to the parent of the minor, or to the
12 person having care or custody of the minor or to the minor himself.

13 The person receiving such money or other assets shall hold and dispose of the
14 same in the manner directed by the court.

15 2. When the whole estate of a person over the age of eighteen who has
16 been adjudicated to be disabled does not exceed the value of ten thousand dollars,
17 the court may, in its discretion, without the appointment of a conservator or the
18 giving of bond, authorize the deposit thereof in a depository authorized to receive
19 fiduciary funds in the name of a suitable person designated by the court, or
20 authorize the delivery thereof to a suitable person designated by the court. The
21 person receiving such money or other assets shall hold and dispose of the same
22 in such manner as the court directs.

23 3. When the whole estate of a minor or a disabled person does not exceed
24 ten thousand dollars, the court may discharge the conservator of the estate and
25 authorize disposition of the assets of the estate of the protectee in the same
26 manner as provided in subsections 1 and 2 of this section.

27 4. The person or officer making payment, delivery, transfer or issuance
28 of personal property or evidence thereof to the person designated by the court
29 under this section is discharged and released to the same extent as if such
30 payment, delivery, transfer or issuance was made to a conservator of the minor
31 or disabled person, and he is not required to see to the application thereof, except
32 that a person or officer making payment, delivery, transfer or issuance of money
33 or personal property, or evidence thereof, to a next friend or guardian ad litem
34 may be discharged and released as provided for in section 507.184.]

✓