

House Amendments to Senate Bill No. 2828

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

96 **SECTION 1.** The following is the Mississippi Guardianship and
97 Conservatorship Act and shall be codified in Title 93, Mississippi
98 Code of 1972, to replace those statutes in Title 93, Chapter 13,
99 Mississippi Code of 1972, which are repealed in Sections 11
100 through 19 of this act:

ARTICLE 1

GENERAL PROVISIONS

103 **Section 101. Short title.** This act may be cited as the
104 Mississippi Guardianship and Conservatorship Act.

105 **Section 102. Definitions.** In this act:

106 (a) "Adult" means an individual at least twenty-one
107 (21) years of age or an emancipated individual under twenty-one
108 (21) years of age.

109 (b) "Claim" includes a claim against an individual or
110 conservatorship estate, whether arising in contract, tort, or
111 otherwise.

112 (c) "Conservator" means a person appointed by a court
113 to make decisions with respect to the property or financial
114 affairs of a ward. The term includes a co-conservator.

115 (d) "Conservatorship estate" means the property subject
116 to conservatorship under this act.

117 (e) "Full conservatorship" means a conservatorship that
118 grants the conservator all powers available under this act.

119 (f) "Full guardianship" means a guardianship that
120 grants the guardian all powers available under this act.

121 (g) "Guardian" means a person appointed by the court to
122 make decisions with respect to the personal affairs of the ward.
123 The term includes a co-guardian but does not include a guardian ad
124 litem.

125 (h) "Guardian ad litem" means a qualified person
126 appointed by the court to inform the court about the ward, to
127 protect the best interests of the ward, and to make
128 recommendations to the court in the best interests of the ward.

129 (i) "Less restrictive alternative" means an approach to
130 meeting an individual's needs which restricts fewer rights of the
131 individual than would the appointment of a guardian or conservator
132 in the discretion of the court.

133 (j) "Letters of guardianship or conservatorship" means
134 a record issued by a court certifying a guardian's or
135 conservator's authority to act.

136 (k) "Limited conservatorship" means a conservatorship
137 that grants the conservator less than all powers available under

138 this act, grants powers over only certain property, or otherwise
139 restricts the powers of the conservator.

140 (l) "Limited guardianship" means a guardianship that
141 grants the guardian less than all powers available under this act
142 or otherwise restricts the powers of the guardian.

143 (m) "Minor" means an unemancipated individual under
144 twenty-one (21) years of age.

145 (n) "Parent" does not include an individual whose
146 parental rights have been terminated.

147 (o) "Person" means an individual, estate, business or
148 nonprofit entity, public corporation, government or governmental
149 subdivision, agency, or instrumentality, or other legal entity.

150 (p) "Property" includes tangible and intangible
151 property.

152 (q) "Record," used as a noun, means information that is
153 inscribed on a tangible medium or that is stored in an electronic
154 or other medium and is retrievable in perceivable form.

155 (r) "Respondent" means an individual for whom
156 appointment of a guardian or conservator is sought.

157 (s) "Sign" means, with present intent to authenticate
158 or adopt a record:

159 (i) To execute or adopt a tangible symbol; or

160 (ii) To attach to or logically associate with the
161 record an electronic symbol, sound, or process.

162 (t) "State" means a state of the United States, the
163 District of Columbia, Puerto Rico, the United States Virgin

164 Islands, or any territory or insular possession subject to the
165 jurisdiction of the United States. The term includes a federally
166 recognized Indian tribe.

167 (u) "Ward" means an adult or minor for whom a guardian
168 or conservator has been appointed under this act.

169 **Section 103. Supplemental principles of law and equity**
170 **applicable.** Unless displaced by a particular provision of this
171 act, the principles of law and equity supplement its provisions.

172 **Section 104. Subject-matter jurisdiction.** (1) Except to
173 the extent jurisdiction is precluded by the Uniform Child Custody
174 Jurisdiction and Enforcement Act (Title 93, Chapter 27,
175 Mississippi Code of 1972), the chancery court has jurisdiction
176 over a guardianship or conservatorship for a respondent domiciled
177 or present in this state or having property in this state.

178 (2) After notice is given in a proceeding for a guardianship
179 or conservatorship and until termination of the proceeding, the
180 court in which the petition is filed has:

181 (a) Exclusive jurisdiction to determine the need for
182 the guardianship or conservatorship;

183 (b) Exclusive jurisdiction to determine how property of
184 the respondent must be managed, expended, or distributed to or for
185 the use of the respondent, an individual who is dependent in fact
186 on the respondent, or other claimant;

187 (c) Nonexclusive jurisdiction to determine the validity
188 of a claim against the respondent or property of the respondent or
189 a question of title concerning the property; and

190 (d) If a guardian or conservator is appointed,
191 exclusive jurisdiction over issues related to administration of
192 the guardianship or conservatorship.

193 (3) A court that appoints a guardian or conservator has
194 exclusive and continuing jurisdiction over the proceeding until
195 the court terminates the proceeding.

196 **Section 105. Transfer of proceeding.** (1) This section does
197 not apply to a guardianship or conservatorship for an adult that
198 is subject to the transfer provisions of the Uniform Adult
199 Guardianship and Protective Proceedings Jurisdiction Act (Title
200 93, Chapter 14, Mississippi Code of 1972).

201 (2) After appointment of a guardian or conservator, the
202 court that made the appointment may transfer the proceeding to a
203 court in another county in this state or another state if transfer
204 is in the best interest of the ward, a final settlement of the
205 conservatorship accounts is made, and the guardian or conservator
206 qualifies as such in the county or state to which the proceeding
207 is being removed.

208 (3) If a proceeding for a guardianship or conservatorship is
209 pending in another state or a foreign country and a petition for
210 guardianship or conservatorship for the same respondent is filed
211 in a court in this state, the court must notify the court in the
212 other state or foreign country and, after consultation with that
213 court, assume or decline jurisdiction, whichever is in the best
214 interest of the respondent.

215 (4) A guardian or conservator appointed in another state or
216 country may petition the court for appointment as a guardian or
217 conservator in this state for the same individual if jurisdiction
218 in this state is or will be established. The appointment may be
219 made on proof as outlined in Section 124 of Section 1 of this act.

220 (5) Notice of hearing on a petition under subsection (4),
221 together with a copy of the petition, must be given to the
222 respondent, if the respondent is at least fourteen (14) years of
223 age at the time of the hearing, and to the persons that would be
224 entitled to notice if the procedures for appointment of a guardian
225 or conservator under this act were applicable. The court shall
226 make the appointment unless it determines the appointment would
227 not be in the best interest of the respondent.

228 (6) Not later than fourteen (14) days after appointment
229 under subsection (5), the guardian or conservator must give a copy
230 of the order of appointment to the ward, if the ward is at least
231 fourteen (14) years of age, and to all persons given notice of the
232 hearing on the petition.

233 **Section 106. Venue.** (1) Venue for a guardianship
234 proceeding for a minor is in:

235 (a) The county in which the minor resides or is present
236 at the time the proceeding commences; or

237 (b) The county in which another proceeding concerning
238 the custody or parental rights of the minor is pending.

239 (2) Venue for a guardianship proceeding for an adult is in:

240 (a) The county in which the respondent resides;

241 (b) If the respondent has been admitted to an
242 institution by court order, the county in which the court is
243 located; or

244 (c) If the proceeding is for appointment of an
245 emergency guardian for an adult, the county in which the
246 respondent is present.

247 (3) Venue for a conservatorship proceeding is in:

248 (a) The county in which the respondent resides, whether
249 or not a guardian has been appointed in another county or other
250 jurisdiction; or

251 (b) If the respondent does not reside in this state, in
252 any county in which property of the respondent is located.

253 (4) If proceedings under this act are brought in more than
254 one (1) county, the court of the county in which the first
255 proceeding is brought has the exclusive right to proceed unless
256 the court determines venue is properly in another court or that
257 the interest of justice otherwise requires transfer of the
258 proceeding.

259 **Section 107. Practice in court.** (1) Except as otherwise
260 provided in this act, the Mississippi Rules of Evidence and
261 Mississippi Rules of Civil Procedure, including rules concerning
262 appellate review, govern a proceeding under this act.

263 (2) If proceedings for a guardianship or
264 conservatorship for the same individual are commenced or pending
265 in the same court, the proceedings may be consolidated.

266 **Section 108. Letters of guardianship or conservatorship.**

267 (1) The clerk must issue letters of guardianship to a
268 guardian who takes the proper oath, posts bond if required, and
269 submits a certificate of attorney and certificate of fiduciary,
270 unless waived by the court.

271 (2) The clerk must issue letters of conservatorship to a
272 conservator who takes the proper oath, posts bond if required, and
273 submits a certificate of attorney and certificate of fiduciary,
274 unless waived by the court or unless the conservator complies with
275 another asset-protection arrangement required by the court.

276 (3) The court in its initial order of appointment or at any
277 subsequent time may limit the powers conferred on a guardian or
278 conservator. The court shall direct the clerk to issue new
279 letters of guardianship or conservatorship that reflect the
280 limitation. The court shall direct the clerk to give notice of
281 the limitation by service of a copy of the court's order on the
282 guardian or conservator, the ward, and any other person the court
283 determines.

284 (4) Limitations on the powers of a guardian or conservator
285 or on the property subject to conservatorship must be stated in
286 the letters of guardianship or conservatorship.

287 **Section 109. Effect of acceptance of appointment.** By

288 accepting appointment, a guardian or conservator submits to the
289 personal jurisdiction of the court in this state in any proceeding
290 relating to the guardianship or conservatorship.

291 **Section 110. Co-guardian; co-conservator.** When the court
292 deems appropriate, the co-guardian or co-conservator must comply
293 with Section 108.

294 **Section 111. Judicial appointment of successor guardian or**
295 **successor conservator.** (1) The court at any time may appoint a
296 successor guardian or successor conservator to serve immediately
297 as ordered by the court.

298 (2) A person entitled under Section 202 or 302 to petition
299 the court to appoint a guardian may petition the court to appoint
300 a successor guardian. A person entitled under Section 402 to
301 petition the court to appoint a conservator may petition the court
302 to appoint a successor conservator.

303 (3) A successor guardian or successor conservator appointed
304 to serve may act as guardian or conservator upon compliance with
305 Section 108.

306 **Section 112. Effect of death, removal, or resignation of**
307 **guardian or conservator.** (1) The appointment of a guardian or
308 conservator terminates on the death or removal of the guardian or
309 conservator, or when the court approves a resignation of the
310 guardian or conservator under subsection (2).

311 (2) A guardian or conservator must petition the court to
312 resign. The petition may include a request that the court appoint
313 a successor. Resignation of a guardian or conservator is
314 effective on the date the resignation is approved by the court.

315 (3) Death, removal, or resignation of a guardian or
316 conservator does not affect liability for a previous act or the
317 obligation to account for:

318 (a) An action taken on behalf of the ward; or

319 (b) The ward's funds or other property.

320 **Section 113. Notice of hearing generally.** (1) Except as
321 otherwise provided in Section 203, 303(3) or 403(3), if notice of
322 a hearing under this act is required, the movant must give notice
323 of the date, time, and place of the hearing to the person to be
324 notified unless otherwise ordered by the court for good cause
325 shown. Except as otherwise provided in this act, notice must be
326 given in compliance with Rule 81 of the Mississippi Rules of Civil
327 Procedure.

328 (2) Proof of notice of a hearing under this act must be made
329 before or at the hearing and filed in the proceeding.

330 (3) Notice of a hearing under this act must be in at least
331 sixteen-point font, in plain language, and, to the extent
332 feasible, in a language in which the person to be notified is
333 proficient.

334 (4) Any person interested in the ward's welfare may file a
335 motion to intervene as provided by Rule 24 of the Mississippi
336 Rules of Civil Procedure.

337 **Section 114. Waiver of notice.** Except as otherwise provided
338 in this act, a person may waive notice under this act in a record
339 signed by the person or person's attorney and filed in the

340 proceeding. However, a respondent or ward may not waive notice
341 under this act.

342 **Section 115. Guardian ad litem.** The court at any time may
343 appoint a guardian ad litem for an individual. If no conflict of
344 interest exists, a guardian ad litem may be appointed to represent
345 multiple individuals or interests. The guardian ad litem may not
346 be the same individual as the attorney representing the
347 respondent. The court shall state the duties of the guardian ad
348 litem and the reasons for the appointment.

349 **Section 116. Request for notice.** (1) A person may file
350 with the court a request for notice under this act if the person
351 is:

352 (a) Not otherwise entitled to notice under Section 203,
353 303(c) or 403(c); and

354 (b) Interested in the welfare of a respondent or ward.

355 (2) A request under subsection (1) must include a statement
356 showing the interest of the person making the request and the
357 address of the person or an attorney for the person to whom notice
358 is to be given.

359 (3) If the court approves a request under subsection (1),
360 the court must give notice of the approval to the guardian or
361 conservator, if one has been appointed, or to the respondent if no
362 guardian or conservator has been appointed.

363 **Section 117. Disclosure of bankruptcy or criminal history.**

364 Before accepting appointment as a guardian or conservator, a
365 person must disclose to the court whether the person:

366 (a) Is or has been a debtor in a bankruptcy,
367 insolvency, or receivership proceeding; or
368 (b) Has been convicted of:
369 (i) A felony;
370 (ii) A crime involving dishonesty, neglect,
371 violence, or use of physical force; or
372 (iii) Other crime relevant to the functions the
373 person would assume as guardian or conservator.

374 **Section 118. Compensation and expenses; in general.** (1) An
375 attorney for a respondent in a proceeding under this act may be
376 awarded reasonable compensation for services and reasonable
377 expenses in the discretion of the court.

378 (2) An attorney or other person whose services resulted in
379 an order beneficial to a ward may be awarded reasonable
380 compensation for services and reasonable expenses in the
381 discretion of the court.

382 (3) The court must approve compensation and expenses payable
383 under this section before payment. Approval is not required
384 before a service is provided or an expense is incurred.

385 (4) If the court dismisses a petition under this act and
386 determines the petition was filed in bad faith, the court may
387 assess any costs the court deems appropriate.

388 **Section 119. Compensation of guardian or conservator.** (1)
389 Subject to court approval, a guardian may be awarded reasonable
390 compensation for services as guardian and to reimbursement for
391 room, board, clothing, and other appropriate expenses advanced for

392 the benefit of the ward. If a conservator other than the guardian
393 or a person affiliated with the guardian is appointed for the
394 ward, reasonable compensation and reimbursement to the guardian
395 may be approved and paid by the conservator in the discretion of
396 the court.

397 (2) Subject to court approval, a conservator may be awarded
398 reasonable compensation for services and reimbursement for
399 appropriate expenses from the property of the ward in the
400 discretion of the court.

401 (3) In determining reasonable compensation for a guardian or
402 conservator, the court shall consider:

403 (a) The necessity and quality of the services provided;

404 (b) The experience, training, professional standing,
405 and skills of the guardian or conservator;

406 (c) The difficulty of the services performed, including
407 the degree of skill and care required;

408 (d) The conditions and circumstances under which a
409 service was performed, including whether the service was provided
410 outside regular business hours or under dangerous or extraordinary
411 conditions;

412 (e) The effect of the services on the ward;

413 (f) The extent to which the services provided were or
414 were not consistent with the guardian's plan under Section 315 or
415 conservator's plan under Section 419; and

416 (g) The fees customarily paid to a person that performs
417 a like service in the community.

418 (4) A guardian or conservator need not use personal funds of
419 the guardian or conservator for the expenses of the ward.

420 (5) If a ward seeks to modify or terminate the guardianship
421 or conservatorship or remove the guardian or conservator, the
422 court may order compensation to the guardian or conservator for
423 time spent opposing modification, termination, or removal only to
424 the extent the court determines the opposition was reasonably
425 necessary to protect the interest of the ward.

426 **Section 120. Liability of guardian or conservator for act of**
427 **ward.** A guardian or conservator is not personally liable to
428 another person solely because of the guardianship or
429 conservatorship for an act or omission of the ward.

430 **Section 121. Petition after appointment for instruction or**
431 **ratification.** (1) A guardian or conservator may petition the
432 court for instruction concerning fiduciary responsibility or
433 ratification of a particular act related to the guardianship or
434 conservatorship.

435 (2) On notice and hearing on a petition under subsection
436 (1), the court may give an instruction and issue an appropriate
437 order.

438 **Section 122. Third-party acceptance of authority of guardian**
439 **or conservator.** (1) A person may choose to not recognize the
440 authority of a guardian or conservator to act on behalf of a ward
441 if:

442 (a) The person has actual knowledge or a reasonable
443 belief that the letters of guardianship or conservatorship are

444 invalid or the conservator or guardian is exceeding or improperly
445 exercising authority granted by the court; or

446 (b) The person has actual knowledge that the ward is
447 subject to physical or financial abuse, neglect, exploitation, or
448 abandonment by the guardian or conservator or a person acting for
449 or with the guardian or conservator.

450 (2) A person may refuse to recognize the authority of a
451 guardian or conservator to act on behalf of a ward if:

452 (a) The guardian's or conservator's proposed action
453 would be inconsistent with this act; or

454 (b) The person makes, or has actual knowledge that
455 another person has made, a report to a government agency providing
456 protective services to adults or children stating a good-faith
457 belief that the ward is subject to physical or financial abuse,
458 neglect, exploitation, or abandonment by the guardian or
459 conservator or a person acting for or with the guardian or
460 conservator.

461 (3) A person that refuses to accept the authority of a
462 guardian or conservator in accordance with subsection (2) may
463 report the refusal and the reason for refusal to the court. The
464 court on receiving the report shall consider whether removal of
465 the guardian or conservator or other action is appropriate.

466 (4) A guardian or conservator may petition the court to
467 require a third party to accept a decision made by the guardian or
468 conservator on behalf of the ward.

469 **Section 123. Temporary substitute guardian or conservator.**

470 (1) The court may appoint a temporary substitute guardian or
471 conservator for a ward in the discretion of the court.

472 (2) Except as otherwise ordered by the court, a temporary
473 substitute guardian or temporary substitute conservator appointed
474 under this section has the powers stated in the order of
475 appointment of the guardian or conservator. The authority of the
476 existing guardian or conservator is suspended for as long as the
477 temporary substitute guardian or conservator has authority.

478 (3) Notice of appointment of a temporary substitute guardian
479 or temporary substitute conservator shall be given to the ward and
480 all interested parties as directed by the court.

481 (4) The court may remove a temporary substitute guardian or
482 temporary substitute conservator at any time. The temporary
483 substitute guardian or temporary substitute conservator must make
484 any report the court requires.

485 **Section 124. Registration of order; effect.** (1) If a

486 guardian has been appointed in another state for an individual,
487 and a petition for guardianship for the individual is not pending
488 in this state, the guardian appointed in the other state, after
489 giving notice to the appointing court, may register the
490 guardianship order in this state by filing certified copies of the
491 order and letters of guardianship as a foreign judgment in a court
492 of an appropriate county of this state.

493 (2) If a conservator has been appointed in another state for
494 an individual, and a petition for conservatorship for the

495 individual is not pending in this state, the conservator appointed
496 for the individual in the other state, after giving notice to the
497 appointing court, may register the conservatorship in this state
498 by filing certified copies of the order of conservatorship,
499 letters of conservatorship, and any bond or other asset-protection
500 arrangement required by the court as a foreign judgment in a court
501 of a county in which property belonging to the individual is
502 located.

503 (3) Upon registration under this section of a guardianship
504 or conservatorship order from another state, the guardian or
505 conservator may exercise in this state all powers authorized in
506 the order except as prohibited by this act and law of this state
507 other than this act. If the guardian or conservator is not a
508 resident of this state, the guardian or conservator may maintain
509 an action or proceeding in this state subject to any condition
510 imposed by this state on an action or proceeding by a nonresident
511 party.

512 (4) The court may grant any relief available under this act
513 and law of this state other than this act to enforce an order
514 registered under this section.

515 **Section 125. Transition provisions.** Except as otherwise
516 provided in this chapter:

517 (a) This chapter applies to all guardianship and
518 conservatorship proceedings commenced on or after January 1, 2020;

519 (b) This chapter applies to all guardianship and
520 conservatorship proceedings commenced before January 1, 2020,

521 unless the court finds that application of a particular provision
522 of this chapter would substantially interfere with the effective
523 conduct of the proceedings or prejudice the rights of the parties,
524 in which case the particular provision of this chapter does not
525 apply and the superseded law applies; and

526 (c) An act done before January 1, 2020, is not affected
527 by this act.

528 **ARTICLE 2**

529 **GUARDIANSHIP OF MINOR**

530 **Section 201. Basis for appointment of guardian for minor.**

531 (1) A person becomes a guardian for a minor only on appointment
532 by the court.

533 (2) The court may appoint a guardian for a minor who does
534 not have a guardian if the court finds the appointment is in the
535 minor's best interest, and:

536 (a) Each parent of the minor, after being fully
537 informed of the nature and consequences of guardianship, consents;

538 (b) All parental rights have been terminated; or

539 (c) There is clear and convincing evidence that no
540 parent of the minor is willing or able to exercise the powers the
541 court is granting the guardian.

542 **Section 202. Petition for appointment of guardian for minor.**

543 (1) A person interested in the welfare of a minor, including the
544 minor, may petition for appointment of a guardian for the minor.

545 (2) A petition under subsection (1) must comply with the
546 requirement for an affidavit under the Uniform Child Custody

547 Jurisdiction and Enforcement Act (Title 93, Chapter 27,
548 Mississippi Code of 1972) and must also include:

549 (a) The name and address of any attorney for the
550 parents of the minor;

551 (b) The reason guardianship is sought and would be in
552 the best interest of the minor;

553 (c) The name and address of any proposed guardian and
554 the reason the proposed guardian should be selected; and

555 (d) If the minor has property other than personal
556 effects, a general statement of the minor's property with an
557 estimate of its value.

558 (3) Notice of a hearing on a petition filed after the
559 appointment of a guardian which seeks an order under this article,
560 together with a copy of the petition, must be given to the
561 respondent, the guardian, and any other person the court
562 determines.

563 **Section 203. Notice of hearing for appointment of guardian**

564 **for minor.** (1) If a petition is filed under Section 202, the
565 court must set a date, time and place for a hearing, and the
566 petitioner must serve not less than seven (7) days' notice of the
567 hearing, together with a copy of the petition, on each of the
568 following who is not the petitioner:

569 (a) The minor, if the minor will be fourteen (14) years
570 of age or older at the time of the hearing;

571 (b) Each parent of the minor who can be found with
572 reasonable diligence or, if there is none, the adult nearest in
573 kinship who can be found with reasonable diligence;

574 (c) Any adult with whom the minor resides;

575 (d) Each individual who had primary care or custody of
576 the minor for at least sixty (60) days during the six (6) months
577 immediately before the filing of the petition; and

578 (e) Any other person the court determines should
579 receive service of notice.

580 (2) A petition under this article must state the name and
581 address of an attorney representing the petitioner, if any, and
582 must set forth under the style of the case and before the body of
583 the petition the following language in bold or highlighted type:

584 **"THE RELIEF SOUGHT HEREIN MAY AFFECT YOUR LEGAL RIGHTS. YOU**
585 **HAVE A RIGHT TO NOTICE OF ANY HEARING ON THIS PETITION, TO ATTEND**
586 **ANY SUCH HEARING, AND TO BE REPRESENTED BY AN ATTORNEY."**

587 (3) If a petitioner is unable to serve notice under
588 subsection (1)(a), the court may appoint a guardian ad litem for
589 the minor for the purpose of receiving notice.

590 **Section 204. Attorney for minor.** The court may appoint an
591 attorney to represent a minor who is the subject of a proceeding
592 under Section 202 if:

593 (a) Requested by the minor who is fourteen (14) years
594 of age or older;

595 (b) Recommended by a guardian ad litem; or

596 (c) The court determines the minor needs
597 representation.

598 **Section 205. Rights at hearing.** (1) The court shall
599 require a minor who is the subject of a hearing for appointment of
600 a guardian to attend the hearing and allow the minor to
601 participate in the hearing unless the court determines, by clear
602 and convincing evidence presented at the hearing or at a separate
603 hearing, that:

604 (a) The minor consistently and repeatedly refused to
605 attend the hearing after being fully informed of the right to
606 attend and, if the minor is fourteen (14) years of age or older,
607 the potential consequences of failing to do so;

608 (b) There is no practicable way for the minor to attend
609 the hearing;

610 (c) The minor lacks the ability or maturity to
611 participate meaningfully in the hearing; or

612 (d) Attendance would be harmful to the minor.

613 (2) Unless excused by the court for good cause shown, the
614 person proposed to be appointed as guardian for a minor must
615 attend a hearing for appointment of a guardian.

616 (3) Each parent of a minor who is the subject of a hearing
617 for appointment of a guardian has the right to attend the hearing.

618 **Section 206. Order on appointment; limited guardianship for**
619 **minor.** (1) After a hearing under Section 202, the court may
620 appoint a guardian for a minor, dismiss the proceeding, or take

621 other appropriate action consistent with this act or law of this
622 state other than this act.

623 (2) In appointing a guardian under subsection (1), the
624 following apply:

625 (a) The court shall appoint a person nominated as
626 guardian by a parent of the minor in a will or other record unless
627 the court finds the appointment is contrary to the best interest
628 of the minor.

629 (b) If multiple parents have nominated different
630 persons to serve as guardian, the court shall appoint the nominee
631 whose appointment is in the best interest of the minor, unless the
632 court finds that appointment of none of the nominees is in the
633 best interest of the minor.

634 (c) If a guardian is not appointed under paragraph (a)
635 or (b), the court shall appoint the person nominated by the minor
636 if the minor is fourteen (14) years of age or older unless the
637 court finds that appointment is contrary to the best interest of
638 the minor. In that case, the court shall appoint as guardian a
639 person whose appointment is in the best interest of the minor.

640 (3) In the interest of maintaining or encouraging
641 involvement by a minor's parent in the minor's life, developing
642 self-reliance of the minor, or for other good cause, the court, at
643 the time of appointment of a guardian for the minor or later, on
644 its own or on motion of the minor or other interested person, may
645 create a limited guardianship by limiting the powers otherwise
646 granted by this article to the guardian. Following the same

647 procedure, the court may grant additional powers or withdraw
648 powers previously granted.

649 (4) The court, as part of an order appointing a guardian for
650 a minor, shall state rights retained by any parent of the minor,
651 which may include contact or visitation with the minor,
652 decision-making regarding the minor's health care, education, or
653 other matter, or access to a record regarding the minor.

654 (5) An order granting a guardianship for a minor must state
655 that each parent of the minor is entitled to notice that:

656 (a) The location of the minor's residency has changed;

657 (b) The court has modified or limited the powers of the
658 guardian; or

659 (c) The court has removed the guardian.

660 **Section 207. Emergency guardian for minor.** (1) On a
661 petition by a person interested in a minor's welfare or a petition
662 filed under Section 202, the court may appoint an emergency
663 guardian for the minor if the court finds:

664 (a) Appointment of an emergency guardian is likely to
665 prevent substantial harm to the minor's health, safety, or
666 welfare; and

667 (b) No other person appears to have authority and
668 willingness to act in the circumstances.

669 (2) The duration of authority of an emergency guardian for a
670 minor may not exceed sixty (60) days, and the emergency guardian
671 may exercise only the powers specified in the order of
672 appointment. The emergency guardian's authority may be extended

673 one (1) time for not more than sixty (60) days if the court finds
674 that the conditions for appointment of an emergency guardian in
675 subsection (1) continue.

676 (3) Except as otherwise provided in subsection (4),
677 reasonable notice of the date, time, and place of a hearing on a
678 petition for appointment of an emergency guardian for a minor must
679 be given to:

680 (a) The minor, if the minor is fourteen (14) years of
681 age or older;

682 (b) Any attorney appointed under Section 204;

683 (c) Each parent of the minor;

684 (d) Any person, other than a parent, having care or
685 custody of the minor; and

686 (e) Any other person the court determines.

687 (4) The court may appoint an emergency guardian for a minor
688 under subsection (3) without notice or a hearing only if the court
689 finds from an affidavit or testimony that the minor's health,
690 safety, or welfare will be substantially harmed before a hearing
691 after notice of the appointment could be held. If the court
692 appoints an emergency guardian to an unrepresented minor or the
693 attorney for a represented minor without notice, notice of the
694 appointment must be given not later than forty-eight (48) hours
695 after the appointment to the individuals listed in subsection (3).
696 The court must hold a hearing on continuation of a guardianship
697 within five (5) days of any objection or other contest. Not later

698 than five (5) days after the appointment, the court must hold a
699 hearing on the appropriateness of the appointment.

700 (5) Appointment of an emergency guardian under this section,
701 with or without notice, is not a determination that a basis exists
702 for appointment of a guardian under Section 201.

703 (6) The court may remove an emergency guardian appointed
704 under this section at any time. The emergency guardian must
705 make any report the court requires.

706 **Section 208. Duties of guardian for minor.** (1) A guardian
707 for a minor is a fiduciary. Except as otherwise limited by the
708 court, a guardian for a minor has the duties and responsibilities
709 of a parent regarding the minor's support, care, education,
710 health, safety, and welfare. A guardian must act in the minor's
711 best interest and exercise reasonable care, diligence, and
712 prudence.

713 (2) A guardian for a minor must:

714 (a) Become personally acquainted with the minor and
715 maintain sufficient contact with the minor to know and report to
716 the court the minor's abilities, limitations, needs,
717 opportunities, and physical and mental health;

718 (b) Take reasonable care of the minor's personal
719 effects and bring a proceeding for a conservatorship if necessary
720 to protect other property of the minor;

721 (c) Expend funds of the minor that have been received
722 by the guardian for the minor's current needs for support, care,
723 education, health, safety, and welfare;

724 (d) Conserve any funds of the minor not expended under
725 paragraph (c) for the minor's future needs, but if a conservator
726 is appointed for the minor, pay the funds as directed by the court
727 to the conservator to be conserved for the minor's future needs;

728 (e) Report the condition of the minor and account for
729 funds and other property of the minor in the guardian's possession
730 or subject to the guardian's control, as required by court rule or
731 ordered by the court on application of a person interested in the
732 minor's welfare;

733 (f) Inform the court of any change in the minor's
734 dwelling or address; and

735 (g) In determining what is in the minor's best
736 interest, take into account the minor's preferences to the extent
737 actually known or reasonably ascertainable by the guardian.

738 **Section 209. Powers of guardian for minor.** (1) Except as
739 otherwise limited by court order, a guardian of a minor has the
740 powers a parent otherwise would have regarding the minor's
741 support, care, education, health, safety, and welfare.

742 (2) Except as otherwise limited by court order, a guardian
743 for a minor may:

744 (a) Apply for and receive funds up to the amount set
745 forth in Section 431 and benefits otherwise payable for the
746 support of the minor to the minor's parent, guardian, or custodian
747 under a statutory system of benefits or insurance or any private
748 contract, devise, trust, conservatorship, or custodianship.

749 (b) Unless inconsistent with a court order entitled to
750 recognition in this state, take custody of the minor and establish
751 the minor's place of dwelling and, on authorization of the court,
752 establish or move the minor's dwelling outside this state.

753 (c) If the minor is not subject to conservatorship,
754 commence a proceeding, including an administrative proceeding, or
755 take other appropriate action to compel a person to support the
756 minor or make a payment for the benefit of the minor;

757 (d) Consent to health or other care, treatment, or
758 service for the minor; or

759 (e) To the extent reasonable, delegate to the minor
760 responsibility for a decision affecting the minor's well-being.

761 (3) The court may authorize a guardian for a minor to
762 consent to the adoption of the minor if the minor does not have a
763 parent.

764 (4) A guardian for a minor may consent to the marriage of
765 the minor if authorized by the court.

766 **Section 210. Removal of guardian for minor; termination of**
767 **guardianship; appointment of successor.** (1) Guardianship for a
768 minor under this act terminates:

769 (a) On the minor's death, adoption, emancipation,
770 attainment of majority, or on a date set by the court; or

771 (b) When the court finds that the standard in Section
772 201 for appointment of a guardian is not satisfied, unless the
773 court finds that:

774 (i) Termination of the guardianship would be
775 harmful to the minor; and

776 (ii) The minor's interest in the continuation of
777 the guardianship outweighs the interest of any parent of the minor
778 in restoration of the parent's right to make decisions for the
779 minor.

780 (2) A ward or any party may petition the court to terminate
781 the guardianship, modify the guardianship, remove the guardian and
782 appoint a successor guardian.

783 (3) A petitioner under subsection (2) must give notice of
784 the hearing on the petition to the minor, if the minor is fourteen
785 (14) years of age or older and is not the petitioner, and to the
786 guardian, each parent of the minor, and any other person the court
787 determines.

788 (4) Not later than thirty (30) days after appointment of a
789 successor guardian for a minor, notice must be given of the
790 appointment to the ward, if the minor is fourteen (14) years of
791 age or older, to each parent of the minor, and to any other person
792 the court determines.

793 (5) When terminating a guardianship for a minor under this
794 section, the court may issue an order providing for transitional
795 arrangements that will assist the minor with a transition of
796 custody and that is in the best interest of the minor.

797 (6) A guardian for a minor who is removed must cooperate
798 with a successor guardian to facilitate transition of the

799 guardian's responsibilities and protect the best interest of the
800 minor.

801 **ARTICLE 3**

802 **GUARDIANSHIP OF ADULT**

803 **Section 301. Basis for appointment of guardian for adult.**

804 (1) The court may appoint a guardian for an adult when the
805 respondent lacks the ability to meet essential requirements for
806 physical health, safety or self-care because:

807 (a) The adult is unable to receive and evaluate
808 information or make or communicate decisions, even with
809 appropriate supportive services or technological assistance; or

810 (b) The adult is found to be a person with mental
811 illness or a person with an intellectual disability as defined in
812 Section 41-21-61 who is also incapable of taking care of his or
813 her person.

814 (2) The court shall grant to a guardian appointed under
815 subsection (1) only those powers necessitated by the limitations
816 and demonstrated needs of the ward and must enter orders that will
817 encourage the development of the ward's maximum self-determination
818 and independence. The court must consider any less restrictive
819 alternative that would meet the needs of the ward.

820 **Section 302. Petition for appointment of guardian for adult.**

821 (1) A proceeding under this article may be instituted by the
822 chancellor or clerk of the chancery court, any relative or friend
823 of the adult, or any other interested party, including the adult
824 for whom the order is sought, by filing a sworn petition in the

825 chancery court of the county of the residence of the adult,
826 setting forth that the adult is alleged to be in need of a
827 guardianship.

828 (2) The petition must state the name and address of an
829 attorney representing the petitioner, if any, and must set forth
830 under the style of the case and before the body of the petition
831 the following language in bold or highlighted type:

832 **"THE RELIEF SOUGHT HEREIN MAY AFFECT YOUR LEGAL RIGHTS. YOU**
833 **HAVE A RIGHT TO NOTICE OF ANY HEARING ON THIS PETITION, TO ATTEND**
834 **ANY SUCH HEARING, AND TO BE REPRESENTED BY AN ATTORNEY."**

835 **Section 303. Notice of hearing for appointment of guardian**
836 **for adult.** (1) On receipt of a petition under Section 302 for
837 appointment of a guardian for a respondent who is an adult, the
838 court must set a date, time and place for a hearing, and shall
839 cause not less than seven (7) days' notice thereof to be given to
840 the adult for whom the guardian is to be appointed, except that
841 the court may, for good cause shown, direct that a shorter notice
842 be given.

843 (2) In a proceeding on a petition under Section 302, notice
844 of the hearing must also be given to any of the persons required
845 to be listed in the petition under subsection (3) and any other
846 person the court determines is entitled to notice. Failure to
847 give notice does not preclude the court from appointing a
848 guardian.

849 (3) Unless the court finds that the adult for whom the
850 guardian is to be appointed is competent and joins in the
851 petition, the notice shall also be given to:

852 (a) Any conservator appointed to the respondent; and

853 (b) The following persons, listed in order of
854 preference, so that personal service is had on the person for whom
855 the guardian is to be appointed and on at least one (1) relative
856 who resides in Mississippi, other than the petitioner:

857 (i) Each of the spouse, children, parents and
858 siblings of the adult for whom the guardian is to be appointed,
859 but if none of those can be found, then to:

860 (ii) One (1) adult relative of the person for whom
861 the guardian is to be appointed who is not the petitioner and who
862 resides in Mississippi if that relative is within the third degree
863 of kinship. If no relative within the third degree of kinship to
864 the person for whom the guardian is to be appointed is found
865 residing in the State of Mississippi, the court shall either
866 designate some other appropriate person to receive the notice or
867 appoint a guardian ad litem to receive notice.

868 (4) If the person for whom the guardian is to be appointed
869 is entitled to any benefit, estate or income paid or payable by or
870 through the Veterans' Administration of the United States
871 government, such administration must also be given notice.

872 (5) Notice of a hearing on a petition seeking an order under
873 this article that is filed after the appointment of a guardian,
874 together with a copy of the petition, must be given to the

875 respondent, the guardian, and any other person the court
876 determines.

877 **Section 304. Appointment of guardian ad litem.** The court
878 may appoint a guardian ad litem to any respondent and allow
879 suitable compensation payable out of the estate of the respondent,
880 but the appointment shall not be made except when the court
881 considers it necessary for the protection of the interest of the
882 respondent; a judgment of any court is not void or erroneous for
883 failure to have a guardian ad litem.

884 **Section 305. Professional evaluation.** (1) The chancery
885 court must conduct a hearing to determine whether a guardian is
886 needed for the respondent. Before the hearing, the court, in its
887 discretion, may appoint a guardian ad litem to look after the
888 interest of the person in question; the guardian ad litem must be
889 present at the hearing and present the interests of the respondent
890 for whose person a guardian is to be appointed.

891 (2) The chancery judge shall be the judge of the number and
892 character of the witnesses and proof to be presented, except that
893 the proof must include certificates made after a personal
894 examination of the respondent by the following professionals, each
895 of whom shall make in writing a certificate of the result of that
896 examination to be filed with the clerk of the court and become a
897 part of the record of the case

898 (a) Two (2) licensed physicians; or

899 (b) One (1) licensed physician and either one (1)
900 licensed psychologist, nurse practitioner, or physician's
901 assistant.

902 (3) The personal examination may occur face-to-face or via
903 telemedicine, but any telemedicine examination must be made using
904 an audio-visual connection by a physician licensed in this state
905 and as defined in Section 83-9-351. A nurse practitioner or
906 physician assistant conducting an examination shall not also be in
907 a collaborative or supervisory relationship, as the law may
908 otherwise require, with the physician conducting the examination.
909 A professional conducting an examination under this section may
910 also be called to testify at the hearing.

911 **Section 306. Rights at hearing.** (1) At a hearing held
912 under Section 303, the respondent may:

913 (a) Present evidence and subpoena witnesses and
914 documents;

915 (b) Examine witnesses; and

916 (c) Otherwise participate in the hearing.

917 (2) Unless excused by the court for good cause shown, a
918 proposed guardian must attend a hearing under Section 303.

919 (3) A hearing under Section 303 must be closed upon request
920 of the respondent and a showing of good cause.

921 (4) Any person may request to participate in a hearing under
922 Section 303. The court may grant the request, with or without a
923 hearing, on determining that the best interest of the respondent

924 will be served. The court may impose appropriate conditions on
925 the person's participation.

926 **Section 307. Confidentiality of records.** (1) An adult
927 subject to a proceeding for a guardianship, an attorney designated
928 by the adult, and a person entitled to notice either under Section
929 309(4) or a court order may access court records of the proceeding
930 and resulting guardianship, including the guardian's plan under
931 Section 315 and guardian's well-being report under Section 316. A
932 person not otherwise entitled to access court records under this
933 subsection may petition the court for access to court records of
934 the guardianship, including the guardian's report and plan, for
935 good cause. The court shall grant access if access is in the best
936 interest of the respondent or ward or furthers the public interest
937 and does not endanger the welfare or financial interests of the
938 respondent or ward.

939 (2) A report under Section 304 of a guardian ad litem or a
940 professional evaluation under Section 305 may be considered
941 confidential and may be sealed on filing when determined necessary
942 by the court. If the court finds the file should be sealed, the
943 file will remain available to:

944 (a) The court;

945 (b) The individual who is the subject of the report or
946 evaluation, without limitation as to use;

947 (c) The petitioner, guardian ad litem, and petitioner's
948 and respondent's attorneys, for purposes of the proceeding;

949 (d) Unless the court orders otherwise, an agent
950 appointed under a power of attorney for health care or power of
951 attorney for finances in which the respondent is the principal;
952 and

953 (e) Any other person if it is in the public interest or
954 for a purpose the court orders for good cause.

955 **Section 308. Who may be guardian for adult. (1)**

956 Appointment of a guardian for an adult will be at the discretion
957 of the court and in the best interest of the respondent. If two
958 (2) or more persons have requested responsibility as guardian for
959 the adult, the court shall select as guardian the person the court
960 considers best qualified. In determining the best qualified
961 person, the court shall consider the person's relationship with
962 the respondent, the person's skills, the expressed wishes of the
963 respondent, including any designation made in a will, durable
964 power of attorney, or health-care directive, the extent to which
965 the person and the respondent have similar values and preferences,
966 and the likelihood the person will be able to perform the duties
967 of a guardian successfully. The court, acting in the best
968 interest of the respondent, may decline to appoint as guardian a
969 person requesting such an appointment.

970 (2) If a qualified guardian under this section cannot be
971 determined, or if other circumstances arise where the court
972 determines that a guardian must instead be appointed, the court,
973 at its discretion, may appoint the chancery court clerk for the
974 county in which the proceedings were filed, to serve as the

975 respondent's guardian. The chancery court clerk shall serve in
976 the capacity ordered by the court unless a conflict of interest
977 arises or the clerk presents circumstances where the court
978 determines the clerk's recusal from appointment is permitted.

979 (3) A person that provides paid services to the respondent,
980 or an individual who is employed by a person who provides paid
981 services to the respondent or is the spouse, parent, or child of
982 an individual who provides or is employed to provide paid services
983 to the respondent, may not be appointed as guardian unless:

984 (a) The individual is related to the respondent by
985 blood, marriage, or adoption; or

986 (b) The court finds by clear and convincing evidence
987 that the person is the best qualified person available for
988 appointment and the appointment is in the best interest of the
989 respondent.

990 (4) An owner, operator, or employee of a long-term-care
991 institution at which the respondent is receiving care may not be
992 appointed as guardian unless the owner, operator, or employee is
993 related to the respondent by blood, marriage, or adoption.

994 **Section 309. Order on appointment of guardian.** (1) A court
995 order appointing a guardian for an adult must:

996 (a) Include a specific finding that clear and
997 convincing evidence established that the identified needs of the
998 respondent cannot be met by a less restrictive alternative,
999 including use of appropriate supportive services and technological
1000 assistance; and

1001 (b) Include a specific finding that clear and
1002 convincing evidence established the respondent was given proper
1003 notice of the hearing on the petition;

1004 (2) A court order establishing a full guardianship for an
1005 adult must state the basis for granting a full guardianship and
1006 include specific findings that support the conclusion that a
1007 limited guardianship would not meet the functional needs of the
1008 ward.

1009 (3) A court order establishing a limited guardianship for an
1010 adult must state the specific powers granted to the guardian.

1011 (4) The court, as part of an order establishing a
1012 guardianship for an adult, must identify and include the contact
1013 information for any person that subsequently is entitled to:

1014 (a) Notice of the rights of the adult under Section
1015 310(b);

1016 (b) Notice of a change in the primary dwelling of the
1017 adult;

1018 (c) Notice that the guardian has delegated:

1019 (i) The power to manage the care of the adult;

1020 (ii) The power to make decisions about where the
1021 adult lives;

1022 (iii) The power to make major medical decisions on
1023 behalf of the adult;

1024 (iv) A power that requires court approval under
1025 Section 314; or

1026 (v) Substantially all powers of the guardian;

1027 (d) A copy of the guardian's plan under Section 315 and
1028 the guardian's well-being report under Section 316;

1029 (e) Access to court records relating to the
1030 guardianship;

1031 (f) Notice of the death or significant change in the
1032 condition of the adult;

1033 (g) Notice that the court has limited or modified the
1034 powers of the guardian; and

1035 (h) Notice of the removal of the guardian.

1036 (5) A spouse and adult children of a ward are entitled to
1037 notice under Section 303(3) unless the court determines notice
1038 would be contrary to the preferences or prior directions of the
1039 ward or not in the best interest of the ward.

1040 (6) (a) If the chancellor finds from the evidence that the
1041 adult is incapable of taking care of his person, the chancellor
1042 shall appoint a guardian over the person.

1043 (b) The costs and expenses of the proceedings shall be
1044 paid out of the estate of the person if a guardian is appointed.
1045 If a guardian is appointed and the adult has no estate, or if no
1046 guardian is appointed, then the costs and expenses must be paid by
1047 the person instituting the proceedings.

1048 **Section 310. Notice of order of appointment; rights.** (1) A
1049 guardian appointed under Section 309 must give the ward and all
1050 other persons given notice under Section 309(4) a copy of the
1051 order of appointment, together with notice of the right to request

1052 termination or modification. The order and notice must be given
1053 not later than fourteen (14) days after the appointment.

1054 (2) Not later than fourteen (14) days after appointment of a
1055 guardian under Section 309, the guardian must request from the
1056 court a statement of the rights of the ward and must give the
1057 statement to the ward and any other person entitled to notice
1058 under Section 303(3) or a court order. The statement must notify
1059 the ward of the right to:

1060 (a) Seek termination or modification of the
1061 guardianship, or removal of the guardian, and choose an attorney
1062 to represent the adult in these matters;

1063 (b) Be involved in decisions affecting the adult,
1064 including decisions about the adult's care, dwelling, activities,
1065 or social interactions, to the extent reasonably feasible;

1066 (c) Be involved in health-care decision-making to the
1067 extent reasonably feasible and supported in understanding the
1068 risks and benefits of health-care options to the extent reasonably
1069 feasible;

1070 (d) Be notified at least fourteen (14) days before a
1071 change in the adult's primary dwelling or permanent move to a
1072 nursing home, mental-health facility, or other facility that
1073 places restrictions on the individual's ability to leave or have
1074 visitors, unless the change or move is proposed in the guardian's
1075 plan under Section 315 or authorized by the court by specific
1076 order;

1077 (e) Object to a change or move described in paragraph
1078 (d) and the process for objecting;

1079 (f) Communicate, visit, or interact with others,
1080 including receiving visitors, and making or receiving telephone
1081 calls, personal mail, or electronic communications, including
1082 through social media, unless:

1083 (i) The guardian has been authorized by the court
1084 by specific order to restrict communications, visits, or
1085 interactions;

1086 (ii) A protective order is in effect that limits
1087 contact between the adult and a person; or

1088 (iii) The guardian has good cause to believe
1089 restriction is necessary because interaction with a specified
1090 person poses a risk of significant physical, psychological, or
1091 financial harm to the adult, and the restriction is:

1092 1. For a period of not more than seven (7)
1093 business days if the person has a family or pre-existing social
1094 relationship with the adult; or

1095 2. For a period of not more than sixty (60)
1096 days if the person does not have a family or pre-existing social
1097 relationship with the adult;

1098 (g) Receive a copy of the guardian's plan under Section
1099 315 and the guardian's well-being report under Section 316; and

1100 (h) Object to the guardian's plan or report.

1101 **Section 311. Emergency guardian for adult.** (1) On a
1102 petition by a person interested in an adult's welfare or a

1103 petition filed under Section 302, the court may appoint an
1104 emergency guardian for the adult if the court finds:

1105 (a) Appointment of an emergency guardian is likely to
1106 prevent substantial harm to the adult's physical health, safety,
1107 or welfare;

1108 (b) No other person appears to have authority and
1109 willingness to act in the circumstances; and

1110 (c) There is reason to believe that a basis for
1111 appointment of a guardian under Section 301 exists.

1112 (2) The duration of authority of an emergency guardian for
1113 an adult may not exceed sixty (60) days, and the emergency
1114 guardian may exercise only the powers specified in the order of
1115 appointment. The emergency guardian's authority may be extended
1116 once for not more than sixty (60) days if the court finds that the
1117 conditions for appointment of an emergency guardian in subsection
1118 (1) continue.

1119 (3) Except as otherwise provided in subsection (4),
1120 reasonable notice of the date, time, and place of a hearing on the
1121 petition must be given to the respondent, the respondent's
1122 attorney, and any other person the court determines.

1123 (4) The court may appoint an emergency guardian for an adult
1124 without notice to the adult and any attorney for the adult only if
1125 the court finds from an affidavit or testimony that the
1126 respondent's physical health, safety, or welfare will be
1127 substantially harmed before a hearing with notice on the
1128 appointment can be held. If the court appoints an emergency

1129 guardian without giving notice under subsection (3), the court
1130 must give notice of the appointment not later than forty-eight
1131 (48) hours after the appointment to:

- 1132 (a) The respondent;
- 1133 (b) The respondent's attorney;
- 1134 (c) Any other person the court determines; and
- 1135 (d) Hold a hearing on the appropriateness of the
1136 appointment not later than five (5) days after the appointment.

1137 (5) Appointment of an emergency guardian under this section
1138 is not a final determination that a basis exists for appointment
1139 of a guardian under Section 301.

1140 (6) The court may remove an emergency guardian appointed
1141 under this section at any time. The emergency guardian must make
1142 any report the court requires.

1143 **Section 312. Duties of guardian for adult.** (1) A guardian
1144 for an adult is a fiduciary. Except as otherwise limited by the
1145 court, a guardian for an adult shall make decisions regarding the
1146 support, care, education, health, and welfare of the ward to the
1147 extent necessitated by the adult's limitations.

1148 (2) A guardian for an adult promotes the self-determination
1149 of the adult and, to the extent reasonably feasible, encourages
1150 the adult to participate in decisions, act on the adult's own
1151 behalf, and develop or regain the capacity to manage the adult's
1152 personal affairs. In furtherance of this duty, the guardian may:

- 1153 (a) Become personally acquainted with the adult and
1154 maintain sufficient contact with the adult through regular

1155 visitation and other means, and to know the adult's abilities,
1156 limitations, needs, opportunities, and physical and mental health;

1157 (b) To the extent reasonably feasible, identify the
1158 values and preferences of the adult and involve the adult in
1159 decisions affecting the adult, including decisions about the
1160 adult's care, dwelling, activities, or social interactions; and

1161 (c) Make reasonable efforts to identify and facilitate
1162 supportive relationships and services for the adult.

1163 (3) A guardian for an adult at all times shall exercise
1164 reasonable care, diligence, and prudence when acting on behalf of
1165 or making decisions for the adult. In furtherance of this duty,
1166 the guardian shall:

1167 (a) Take reasonable care of the personal effects, pets,
1168 and service or support animals of the adult and bring a proceeding
1169 for a conservatorship if necessary to protect the adult's
1170 property;

1171 (b) Expend funds and other property of the adult
1172 received by the guardian for the adult's current needs for
1173 support, care, education, health, and welfare;

1174 (c) Conserve any funds and other property of the adult
1175 not expended under paragraph (b) for the adult's future needs, but
1176 if a conservator has been appointed for the adult, pay the funds
1177 and other property at least quarterly to the conservator to be
1178 conserved for the adult's future needs; and

1179 (d) Monitor the quality of services, including
1180 long-term care services, provided to the adult.

1181 (4) In making a decision for a ward, the guardian must make
1182 the decision the guardian reasonably believes the adult would make
1183 if the adult were able unless doing so would unreasonably harm or
1184 endanger the welfare or personal or financial interests of the
1185 adult. To determine the decision the ward would make if able, the
1186 guardian shall consider the adult's previous or current
1187 directions, preferences, opinions, values, and actions, to the
1188 extent actually known or reasonably ascertainable by the guardian.

1189 (5) If a guardian for an adult cannot make a decision under
1190 subsection (4) because the guardian does not know and cannot
1191 reasonably determine the decision the adult probably would make if
1192 able, or the guardian reasonably believes the decision the adult
1193 would make would unreasonably harm or endanger the welfare or
1194 personal or financial interests of the adult, the guardian must
1195 act in accordance with the best interest of the adult. In
1196 determining the best interest of the adult, the guardian may
1197 consider:

1198 (a) Information received from professionals and persons
1199 that demonstrate sufficient interest in the welfare of the adult;

1200 (b) Other information the guardian believes the adult
1201 would have considered if the adult were able to act; and

1202 (c) Other factors a reasonable person in the
1203 circumstances of the adult would consider, including consequences
1204 for others.

1205 (6) A guardian for an adult immediately must notify the
1206 court if the condition of the adult has changed so that the adult
1207 is capable of exercising rights previously removed.

1208 **Section 313. Powers of guardian for adult.** (1) Except as
1209 limited by court order, a guardian for an adult may:

1210 (a) Apply for and receive funds and benefits for the
1211 support of the adult, unless a conservator is appointed for the
1212 adult and the application or receipt is within the powers of the
1213 conservator;

1214 (b) Unless inconsistent with a court order, establish
1215 the adult's place of dwelling;

1216 (c) Consent to health or other care, treatment, or
1217 service for the adult;

1218 (d) If a conservator for the adult has not been
1219 appointed, commence a proceeding, including an administrative
1220 proceeding, or take other appropriate action to compel a person to
1221 support the adult or pay funds for the adult's benefit;

1222 (e) To the extent reasonable, delegate to the adult
1223 responsibility for a decision affecting the adult's well-being;
1224 and

1225 (f) Receive personally identifiable health-care
1226 information regarding the adult.

1227 (2) In exercising a guardian's power under subsection (1)(b)
1228 to establish the adult's place of dwelling, the guardian must:

1229 (a) Select a residential setting the guardian believes
1230 the adult would select if the adult were able, in accordance with

1231 the decision-making standard in Section 312(4) and (5). If the
1232 guardian does not know and cannot reasonably determine what
1233 setting the ward likely would choose if able, or if the guardian
1234 reasonably believes the decision the adult would make would
1235 unreasonably harm or endanger the welfare or personal or financial
1236 interests of the adult, the guardian must choose in accordance
1237 with Section 312(5) a residential setting that is consistent with
1238 the adult's best interest;

1239 (b) In selecting among residential settings, give
1240 priority to a residential setting in a location that will allow
1241 the adult to interact with persons important to the adult and meet
1242 the adult's needs in the least restrictive manner reasonably
1243 feasible unless to do so would be inconsistent with the
1244 decision-making standard in Section 312(4) and (5);

1245 (c) Establish or move the permanent place of dwelling
1246 of the adult to a nursing home, mental-health facility, or other
1247 facility that places restrictions on the adult's ability to leave
1248 or have visitors only if:

1249 (i) The establishment or move is in the guardian's
1250 plan under Section 315;

1251 (ii) The court authorizes the establishment or
1252 move; or

1253 (iii) The guardian gives notice of the
1254 establishment or move at least fourteen (14) days before the
1255 establishment or move to the adult and all persons entitled to

1256 notice under Section 309(4) or court order, and no objection is
1257 filed;

1258 (d) Establish or move the place of dwelling of the
1259 adult outside this state only if consistent with the guardian's
1260 plan and authorized by the court by specific order; and

1261 (e) Take action that would result in the sale of or
1262 surrender of the lease to the primary dwelling of the adult only
1263 if:

1264 (i) The action is specifically included in the
1265 guardian's plan under Section 315;

1266 (ii) The court authorizes the action by specific
1267 order; or

1268 (iii) Notice of the action was given at least
1269 fourteen (14) days before the action to the adult and all persons
1270 entitled to the notice under Section 309(4) or court order and no
1271 objection has been filed;

1272 (f) Notify the court that the adult's dwelling or
1273 permanent residence has become so damaged by fire, flood, or other
1274 emergency circumstance that the guardian has had to temporarily or
1275 permanently relocate the adult to another residential setting.

1276 (3) In exercising a guardian's power under subsection (1)(c)
1277 to make health-care decisions, the guardian shall:

1278 (a) Involve the adult in decision-making to the extent
1279 reasonably feasible, including, when practicable, by encouraging
1280 and supporting the adult in understanding the risks and benefits
1281 of health-care options;

1282 (b) Defer to a decision by an agent under an advanced
1283 healthcare directive executed by the adult and cooperate to the
1284 extent feasible with the agent making the decision; and

1285 (c) Take into account:

1286 (i) The risks and benefits of treatment options;
1287 and

1288 (ii) The current and previous wishes and values of
1289 the adult, if known or reasonably ascertainable by the guardian.

1290 **Section 314. Special limitations on guardian's power.** (1)

1291 Unless authorized by the court by specific order, a guardian for
1292 an adult does not have the power to revoke or amend an advanced
1293 health-care directive or power of attorney for finances executed
1294 by the adult. If an advanced health-care directive is in effect,
1295 unless there is a court order to the contrary, a health-care
1296 decision of an agent takes precedence over that of the guardian
1297 and the guardian must cooperate with the agent to the extent
1298 feasible. If a power of attorney for finances is in effect,
1299 unless there is a court order to the contrary, a decision by the
1300 agent which the agent is authorized to make under the power of
1301 attorney for finances takes precedence over that of the guardian
1302 and the guardian must cooperate with the agent to the extent
1303 feasible.

1304 (2) A guardian for an adult may not initiate the commitment
1305 of the adult to a mental health facility except in accordance with
1306 the state's procedure for involuntary civil commitment.

1307 (3) A guardian for an adult may not restrict the ability of
1308 the adult to communicate, visit, or interact with others,
1309 including receiving visitors and making or receiving telephone
1310 calls, personal mail, or electronic communications, including
1311 through social media, or participating in social activities,
1312 unless:

1313 (a) Authorized by the court by specific order;

1314 (b) A protective order is in effect that limits contact
1315 between the adult and a person; or

1316 (c) The guardian has good cause to believe restriction
1317 is necessary because interaction with a specified person poses a
1318 risk of significant physical, psychological, or financial harm to
1319 the adult and the restriction is:

1320 (i) For a period of not more than seven (7)
1321 business days if the person has a family or pre-existing social
1322 relationship with the adult; or

1323 (ii) For a period of not more than sixty (60) days
1324 if the person does not have a family or pre-existing social
1325 relationship with the adult.

1326 **Section 315. Guardian's plan.** (1) If required by the
1327 court, a guardian must file with the court a plan for the care of
1328 the adult no later than ninety (90) days after the court's order
1329 of appointment or order to file a plan. If a plan is required and
1330 there is a significant change in circumstances, or if the guardian
1331 seeks to deviate significantly from the guardian's plan, a
1332 guardian must file with the court a revised plan no later than

1333 ninety (90) days after the change in circumstances or decision to
1334 deviate from the plan. Every plan must be based on the needs of
1335 the adult and take into account the best interest of the adult as
1336 well as the adult's preferences, values, and prior directions, to
1337 the extent known to or reasonably ascertainable by the guardian.
1338 Along with other items determined necessary by the court, the
1339 guardian's plan must include:

1340 (a) The living arrangement, services, and supports the
1341 guardian expects to arrange, facilitate, or continue for the
1342 adult;

1343 (b) Social and educational activities the guardian
1344 expects to facilitate on behalf of the adult;

1345 (c) Any person with whom the adult has a close personal
1346 relationship or relationship involving regular visitation and any
1347 plan the guardian has for facilitating visits with the person;

1348 (d) The anticipated nature and frequency of the
1349 guardian's visits and communication with the adult;

1350 (e) Goals for the adult, including any goal related to
1351 the restoration of the adult's rights, and how the guardian
1352 anticipates achieving the goals;

1353 (f) Whether the adult has an existing plan and, if so,
1354 whether the guardian's plan is consistent with the adult's plan;
1355 and

1356 (g) A statement or list of the amount the guardian
1357 proposes to charge for each service the guardian anticipates
1358 providing to the adult.

1359 (2) A guardian must give reasonable notice of the filing of
1360 the guardian's plan under subsection (1), and a copy of the plan,
1361 to the adult ward, the adult ward's spouse, parents, children, and
1362 any other person the court determines. The notice must include a
1363 statement of the right to object to the plan and be given not
1364 later than fourteen (14) days after the filing.

1365 (3) After the guardian's plan filed under this section is
1366 approved by the court, the guardian must provide a copy of the
1367 plan to the adult ward, the adult ward's spouse, parents,
1368 children, and any other person the court determines.

1369 **Section 316. Guardian's well-being report; monitoring of**

1370 **guardianship.** (1) If there is a significant change in
1371 circumstances, or if the guardian seeks to deviate significantly
1372 from the guardian's plan, a guardian must file with the court a
1373 report in a record regarding the condition of the adult and
1374 accounting for funds and other property in the guardian's
1375 possession or subject to the guardian's control within ninety (90)
1376 days after being so ordered by the court.

1377 (2) A report under subsection (1) must state:

1378 (a) The mental, physical, and social condition of the
1379 adult;

1380 (b) The living arrangements of the adult during the
1381 reporting period;

1382 (c) A summary of any technological assistance, medical
1383 services, educational and vocational services, and other supports

1384 and services provided to the adult and the guardian's opinion as
1385 to the adequacy of the adult's care;

1386 (d) A summary of the guardian's visits with the adult,
1387 including the dates of the visits;

1388 (e) Action taken on behalf of the adult;

1389 (f) The extent to which the adult has participated in
1390 decision-making;

1391 (g) If the adult is living in a mental health facility
1392 or living in a facility that provides the adult with health-care
1393 or other personal services, whether the guardian considers the
1394 facility's current plan for support, care, treatment, or
1395 habilitation consistent with the adult's preferences, values,
1396 prior directions, and best interest;

1397 (h) Any business relation the guardian has with a
1398 person the guardian has paid or that has benefited from the
1399 property of the adult;

1400 (i) A copy of the guardian's most recently approved
1401 plan under Section 315 and a statement whether the guardian has
1402 deviated from the plan and, if so, how the guardian has deviated
1403 and why;

1404 (j) Plans for future care and support of the adult;

1405 (k) A recommendation as to the need for continued
1406 guardianship and any recommended change in the scope of the
1407 guardianship, when determined applicable by the court;

1408 (1) Whether any co-guardian or successor guardian
1409 appointed to serve when a designated event occurs is alive and
1410 able to serve;

1411 (m) Photographs of the adult ward and the adult ward's
1412 living conditions, as required by the court at its discretion; and

1413 (n) Any amounts requested for reimbursement by the
1414 guardian of fees related to the administration of the guardianship
1415 or legal fees incurred for matters related to the guardianship.

1416 (3) The court may appoint a guardian ad litem to review a
1417 report submitted under this section or any guardian's plan
1418 submitted under Section 315, interview the guardian or ward, or
1419 investigate any other matter involving the guardianship.

1420 (4) Notice of the filing under this section of a guardian's
1421 well-being report, together with a copy of the report, must be
1422 given to the adult ward, the adult ward's spouse, parents,
1423 children, and any other person the court determines. The notice
1424 and report must be delivered not later than fourteen (14) days
1425 after the filing.

1426 (5) The court must establish procedures for monitoring a
1427 report submitted under this section and review each report at
1428 least annually to determine whether:

1429 (a) The report provides sufficient information to
1430 establish if the guardian has complied with the guardian's duties;

1431 (b) The guardianship should continue; and

1432 (c) The guardian's requested fees, if any, should be
1433 approved.

1434 (6) If the court determines there is reason to believe a
1435 guardian for an adult has not complied with the guardian's duties
1436 or the guardianship should be modified or terminated, the court:

1437 (a) Shall notify the adult ward, the adult ward's
1438 spouse, parents, children, and persons entitled to notice under
1439 Section 309(4) or a court order;

1440 (b) May appoint a guardian ad litem to interview the
1441 adult or guardian or investigate any matter involving the
1442 guardianship; and

1443 (c) May hold a hearing to consider removal of the
1444 guardian, termination of the guardianship, or a change in the
1445 powers granted to the guardian or terms of the guardianship.

1446 (7) A guardian for an adult may petition the court for
1447 approval of a report filed under this section. The court after
1448 review may approve the report. If the court approves the report,
1449 there is a rebuttable presumption the report is accurate as to a
1450 matter adequately disclosed in the report.

1451 **Section 317. Removal of guardian for adult; appointment of**
1452 **successor.** (1) Upon petition and for good cause shown, the court
1453 may hold a hearing to consider whether to remove a guardian for an
1454 adult for failure to perform the guardian's duties and appoint a
1455 successor guardian to assume the duties of guardian.

1456 (2) Notice of a petition under this section must be given to
1457 the ward, the guardian, and any other person the court determines.

1458 (3) A ward who seeks to remove the guardian and have a
1459 successor guardian appointed has the right to choose an attorney

1460 for representation in this matter. The court shall award
1461 reasonable attorney's fees to the attorney for the adult as
1462 provided in Section 118.

1463 (4) Not later than ten (10) days after appointing a
1464 successor guardian, the court shall give notice of the appointment
1465 to the adult ward, the adult ward's spouse, parents, children, and
1466 any person entitled to notice under a court order.

1467 **Section 318. Termination or modification of guardianship for**
1468 **adult.** (1) Upon petition and for good cause shown, the court may
1469 hold a hearing to consider whether termination of the guardianship
1470 exists on the ground that a basis for appointment under Section
1471 301 does not exist or termination would be in the best interest of
1472 the adult or for other good cause; or modification of the
1473 guardianship exists on the ground that the extent of protection or
1474 assistance granted is not appropriate or for other good cause.

1475 (2) Notice of a petition under this section must be given to
1476 the ward, the guardian, and any other person the court determines.

1477 (3) On presentation of prima facie evidence for termination
1478 of a guardianship for an adult, the court shall order termination
1479 unless it is proven that a basis for appointment of a guardian
1480 under Section 301 exists.

1481 (4) The court shall modify the powers granted to a guardian
1482 for an adult if the powers are excessive or inadequate due to a
1483 change in the abilities or limitations of the adult, the adult's
1484 supports, or other circumstances.

1485 (5) Unless the court otherwise orders for good cause shown,
1486 before terminating or modifying a guardianship for an adult, the
1487 court shall follow the same procedures to safeguard the rights of
1488 the adult which apply to a petition for guardianship.

1489 (6) A ward who seeks to terminate or modify the terms of the
1490 guardianship has the right to choose an attorney for
1491 representation in the matter. The court shall award reasonable
1492 attorney's fees to the attorney for the adult as provided in
1493 Section 118.

1494 **ARTICLE 4**

1495 **CONSERVATORSHIP**

1496 **Section 401. Basis for appointment of conservator. (1) For**
1497 **a minor.** The court may appoint a conservator for the property or
1498 financial affairs of a minor if the court finds by clear and
1499 convincing evidence that appointment of a conservator is in the
1500 minor's best interest, and:

1501 (a) If the minor has a parent, the court gives weight
1502 to any recommendation of the parent whether an appointment is in
1503 the minor's best interest; and

1504 (b) Either:

1505 (i) The minor owns funds or other property
1506 requiring management or protection that otherwise cannot be
1507 provided;

1508 (ii) The minor has or may have financial affairs
1509 that may be put at unreasonable risk or hindered because of the
1510 minor's age; or

1511 (iii) Appointment is necessary or desirable to
1512 obtain or provide funds or other property needed for the support,
1513 care, education, health, or welfare of the minor.

1514 (2) **For an adult.** The court may appoint a conservator for
1515 the property or financial affairs of an adult if the court finds
1516 by clear and convincing evidence that:

1517 (a) The adult is unable to manage property or financial
1518 affairs because:

1519 (i) Of a limitation in the adult's ability to
1520 receive and evaluate information or make or communicate decisions,
1521 even with the use of appropriate supportive services or
1522 technological assistance;

1523 (ii) The adult is missing, detained, incarcerated,
1524 or unable to return to the United States;

1525 (b) Appointment is necessary to:

1526 (i) Avoid harm to the adult or significant
1527 dissipation of the property of the adult; or

1528 (ii) Obtain or provide funds or other property
1529 needed for the support, care, education, health, or welfare of the
1530 adult or of an individual entitled to the adult's support; and

1531 (c) The respondent's identified needs cannot be met by
1532 a less restrictive alternative.

1533 (3) The court shall grant a conservator only those powers
1534 necessitated by demonstrated limitations and needs of the
1535 respondent and issue orders that will encourage development of the
1536 respondent's maximum self-determination and independence. The

1537 court may not establish a full conservatorship if a limited
1538 conservatorship or other less restrictive alternative would meet
1539 the needs of the respondent.

1540 **Section 402. Petition for appointment of conservator;**

1541 **notice.** (1) A person interested in the estate, financial
1542 affairs, or welfare of the individual, including a person that
1543 would be adversely affected by lack of effective management of
1544 property or financial affairs of the individual, may petition for
1545 the appointment of a conservator for the individual.

1546 (2) The proceeding may be instituted by the chancellor or
1547 clerk of the chancery court, any relative or friend of the
1548 individual, or any other interested party, including the
1549 individual for whom the order is sought, by filing a sworn
1550 petition in the chancery court of the residence of the individual
1551 setting forth that the individual is alleged to be in need of a
1552 conservatorship.

1553 (3) The petition must state the name and address of an
1554 attorney representing the petitioner, if any, and must set forth
1555 under the style of the case and before the body of the petition
1556 the following language in bold or highlighted type:

1557 **"THE RELIEF SOUGHT IN THIS PETITION MAY AFFECT YOUR LEGAL**
1558 **RIGHTS. YOU HAVE A RIGHT TO NOTICE OF ANY HEARING ON THIS**
1559 **PETITION, TO ATTEND ANY HEARING, AND TO BE REPRESENTED BY AN**
1560 **ATTORNEY."**

1561 **Section 403. Notice and hearing for appointment of**

1562 **conservator.** (1) On receipt of a petition under Section 402 for

1563 appointment of a conservator for a respondent, the court must set
1564 a date, time, and place for a hearing on the petition and shall
1565 cause not less than seven (7) days' notice thereof to be given to
1566 the person for whom the conservator is to be appointed, except
1567 that the court may, for good cause shown, direct that a shorter
1568 notice be given.

1569 (2) In a proceeding on a petition under Section 402, notice
1570 of the hearing also must be given to any of the persons required
1571 to be listed in the petition under Section 403(3) and any other
1572 person interested in the respondent's welfare the court
1573 determines. Failure to give notice under this subsection does not
1574 preclude the court from appointing a conservator.

1575 (3) Unless the court finds that the respondent for whom the
1576 conservator is to be appointed is competent and joins in the
1577 petition, the notice shall also be given to the following persons,
1578 listed in order of preference, so that personal service is had on
1579 the person for whom the conservator is to be appointed and on at
1580 least one (1) relative who resides in Mississippi, other than the
1581 petitioner:

1582 (i) Each of the spouse, children, parents and
1583 siblings of the respondent for whom the conservator is to be
1584 appointed, but if none of those can be found, then to:

1585 (ii) One (1) adult relative of the person for whom
1586 the conservator is to be appointed who is not the petitioner and
1587 who resides in Mississippi if that relative is within the third
1588 degree of kinship. If no relative within the third degree of

1589 kinship to the person for whom the conservator is to be appointed
1590 is found residing in the State of Mississippi, the court must
1591 either designate some other appropriate person to receive the
1592 notice or appoint a guardian ad litem to receive notice.

1593 (4) If the person for whom the conservator is to be
1594 appointed is entitled to any benefit, estate or income paid or
1595 payable by or through the Veterans' Administration of the United
1596 States government, such administration shall also be given notice.

1597 (5) Notice of a hearing on a petition seeking an order under
1598 this article that is filed after the appointment of a conservator,
1599 together with a copy of the petition, must be given to the
1600 respondent, the conservator, and any other person the court
1601 determines.

1602 **Section 404. Order to preserve or apply property while**
1603 **proceeding pending.** While a petition under Section 402 is
1604 pending, after preliminary hearing and without notice to others,
1605 the court may issue an order to preserve and apply property of the
1606 respondent as required for the support of the respondent or an
1607 individual who is in fact dependent on the respondent.

1608 **Section 405. Appointment and role of guardian ad litem.** The
1609 court may appoint a guardian ad litem to any respondent and allow
1610 suitable compensation payable out of the estate of the respondent,
1611 but the appointment shall not be made unless the court considers
1612 it necessary for the protection of the interest of the respondent;
1613 a judgment of any court is not void or erroneous because of the
1614 failure to have a guardian ad litem.

1615 **Section 406. Appointment of attorney.** If the respondent in
1616 a proceeding for appointment of a conservator is not represented
1617 by an attorney, the court, in its discretion, may appoint an
1618 attorney to represent the respondent.

1619 **Section 407. Professional evaluation.** (1) The chancery
1620 court must conduct a hearing to determine whether a conservator is
1621 needed for the respondent. Before the hearing, the court, in its
1622 discretion, may appoint a guardian ad litem to look after the
1623 interest of the person in question, and the guardian ad litem must
1624 be present at the hearing and present the interests of the
1625 respondent.

1626 (2) The chancery judge shall be the judge of the number and
1627 character of the witnesses and proof to be presented, except that
1628 the proof must include certificates made after a personal
1629 examination of the respondent by the following professionals, each
1630 of whom must make in writing a certificate of the result of that
1631 examination to be filed with the clerk of the court and become a
1632 part of the record of the case

1633 (a) Two (2) licensed physicians; or

1634 (b) One (1) licensed physician and either one (1)
1635 licensed psychologist, nurse practitioner, or physician's
1636 assistant.

1637 (3) The personal examination may occur face-to-face or via
1638 telemedicine, but any telemedicine examination must be made using
1639 an audiovisual connection by a physician licensed in this state
1640 and as defined in Section 83-9-351. A nurse practitioner or

1641 physician assistant conducting an examination shall not also be in
1642 a collaborative or supervisory relationship, as the law may
1643 otherwise require, with the physician conducting the examination.
1644 A professional conducting an examination under this section may
1645 also be called to testify at the hearing.

1646 (4) The personal examination requirement in subsections (2)
1647 and (3) shall not apply if the respondent is missing, detained or
1648 unable to return to the United States.

1649 **Section 408. Rights at hearing.** (1) At a hearing under
1650 Section 403, the respondent may:

- 1651 (a) Present evidence and subpoena witnesses and
1652 documents;
1653 (b) Examine witnesses; and
1654 (c) Otherwise participate in the hearing.

1655 (2) Unless excused by the court for good cause, a proposed
1656 conservator must attend a hearing under Section 403.

1657 (3) A hearing under Section 403 must be closed on request of
1658 the respondent and a showing of good cause.

1659 (4) Any person may request to participate in a hearing under
1660 Section 403. The court may grant the request, with or without a
1661 hearing, on determining that the best interest of the respondent
1662 will be served. The court may impose appropriate conditions on
1663 the person's participation.

1664 **Section 409. Confidentiality of records.** (1) An individual
1665 subject to a proceeding for a conservatorship, an attorney
1666 designated by the respondent or ward, and a person entitled to

1667 notice either under Section 411(5) or court order may access court
1668 records of the proceeding and resulting conservatorship, including
1669 the conservator's plan under Section 419 and the conservator's
1670 report under Section 423. A person not otherwise entitled to
1671 access to court records under this section for good cause may
1672 petition the court for access to court records of the
1673 conservatorship, including the conservator's plan and report. The
1674 court must grant access if access is in the best interest of the
1675 respondent or ward or furthers the public interest and does not
1676 endanger the welfare or financial interests of the respondent or
1677 individual.

1678 (2) A report under Section 405 of a guardian ad litem or
1679 professional evaluation under Section 407 may be confidential and
1680 may be sealed on filing when determined necessary by the court.
1681 If the court finds the file should be sealed, the file shall
1682 remain available to:

1683 (a) The court;

1684 (b) The individual who is the subject of the report or
1685 evaluation, without limitation as to use;

1686 (c) The petitioner, guardian ad litem and petitioner's
1687 and respondent's attorneys, for purposes of the proceeding;

1688 (d) Unless the court directs otherwise, a person
1689 appointed under a power of attorney for finances in which the
1690 respondent is identified as the principal; and

1691 (e) Any other person if it is in the public interest or
1692 for a purpose the court orders for good cause.

1693 **Section 410. Who may be conservator.** (1) Appointment of a
1694 conservator is at the discretion of the court, and in the best
1695 interest of the respondent. If two (2) or more persons have
1696 requested responsibility as conservator, the court shall select as
1697 conservator the person the court considers best qualified. In
1698 determining the best qualified person, the court shall consider
1699 the person's relationship with the respondent, the person's
1700 skills, the expressed wishes of the respondent including any
1701 designation made in a will, durable power of attorney, or
1702 health-care directive, the extent to which the person and the
1703 respondent have similar values and preferences, and the likelihood
1704 the person will be able to perform the duties of a conservator
1705 successfully. The court, acting in the best interest of the
1706 respondent, may decline to appoint as conservator a person
1707 requesting the appointment.

1708 (2) If a qualified conservator cannot be determined, the
1709 court, in its discretion, may appoint the chancery court clerk or
1710 probate administrator for the county in which the proceedings were
1711 filed to serve as the respondent's conservator. The chancery
1712 court clerk or the probate administrator shall serve in the
1713 capacity ordered by the court unless a conflict of interest arises
1714 or the clerk or the probate administrator presents circumstances
1715 where the court determines the clerk's recusal from appointment is
1716 permitted.

1717 (3) A person that provides paid services to the respondent,
1718 or an individual who is employed by a person that provides paid

1719 services to the respondent or is the spouse, parent, or child of
1720 an individual who provides or is employed to provide paid services
1721 to the respondent, may not be appointed as conservator unless:

1722 (a) The individual is related to the respondent by
1723 blood, marriage, or adoption; or

1724 (b) The court finds by clear and convincing evidence
1725 that the person is the best qualified person available for
1726 appointment and the appointment is in the best interest of the
1727 respondent.

1728 (4) An owner, operator, or employee of a long-term-care
1729 institution at which the respondent is receiving care may not be
1730 appointed as conservator unless the owner, operator, or employee
1731 is related to the respondent by blood, marriage, or adoption.

1732 **Section 411. Order on appointment of conservator.** (1) A
1733 court order appointing a conservator for a minor must include
1734 findings to support appointment of a conservator and, if a full
1735 conservatorship is granted, the reason a limited conservatorship
1736 would not meet the identified needs of the minor.

1737 (2) A court order appointing a conservator for an adult
1738 must:

1739 (a) Include a specific finding that clear and
1740 convincing evidence has established that the identified needs of
1741 the respondent cannot be met by a less restrictive alternative,
1742 including use of appropriate supportive services or technological
1743 assistance; and

1744 (b) Include a specific finding that clear and
1745 convincing evidence established that the respondent was given
1746 proper notice of the hearing on the petition.

1747 (3) A court order establishing a full conservatorship for an
1748 adult must state the basis for granting a full conservatorship and
1749 include specific findings to support the conclusion that a limited
1750 conservatorship would not meet the functional needs of the adult.

1751 (4) A court order establishing a limited conservatorship
1752 must state the specific property placed under the control of the
1753 conservator and the powers granted to the conservator.

1754 (5) The court, as part of an order establishing a
1755 conservatorship, must identify and include the contact information
1756 for any person that subsequently is entitled to:

1757 (a) Notice of the rights of the ward under Section
1758 412(2);

1759 (b) Notice of a sale of or surrender of a lease to the
1760 primary dwelling of the individual;

1761 (c) Notice that the conservator has delegated a power
1762 that requires court approval under Section 414 or substantially
1763 all powers of the conservator;

1764 (d) Notice that the conservator will be unavailable to
1765 perform the conservator's duties for more than one (1) month;

1766 (e) A copy of the conservator's plan under Section 419
1767 and the conservator's report under Section 423;

1768 (f) Access to court records relating to the
1769 conservatorship;

1770 (g) Notice of a transaction involving a substantial
1771 conflict between the conservator's fiduciary duties and personal
1772 interests;

1773 (h) Notice of the death or significant change in the
1774 condition of the individual;

1775 (i) Notice that the court has limited or modified the
1776 powers of the conservator; and

1777 (j) Notice of the removal of the conservator.

1778 (6) If a ward is an adult, the spouse and adult children of
1779 the ward are entitled under subsection (5) to notice unless the
1780 court determines notice would be contrary to the preferences or
1781 prior directions of the ward or are not in the best interest of
1782 the ward.

1783 (7) If a ward is a minor, each parent and adult sibling of
1784 the minor is entitled to notice under subsection (5) unless the
1785 court determines notice would not be in the best interest of the
1786 minor.

1787 (8) (a) If the chancellor finds from the evidence that the
1788 person is in need of a conservatorship, the chancellor must
1789 appoint a conservator over the person.

1790 (b) The costs and expenses of the proceedings shall be
1791 paid out of the estate of the respondent if a conservator is
1792 appointed. If a conservator is not appointed, the costs and
1793 expenses shall be paid by the person instituting the proceedings.

1794 **Section 412. Notice of order of appointment; rights.** (1) A
1795 conservator appointed under Section 411 must give to the ward and

1796 to all other persons given notice under Section 403 a copy of the
1797 order of appointment. The order and notice must be given not
1798 later than fourteen (14) days after the appointment.

1799 (2) Not later than fourteen (14) days after appointment of a
1800 conservator under Section 411, the court must give to the ward,
1801 the conservator, and any other person entitled to notice under
1802 Section 411(5), a statement of the rights of the ward and
1803 procedures to seek relief if the ward is denied those rights. The
1804 statement must be in plain language, in at least sixteen-point
1805 font, and to the extent feasible, in a language in which the ward
1806 is proficient. The statement must notify the ward of the right
1807 to:

1808 (a) Seek termination or modification of the
1809 conservatorship, or removal of the conservator, and choose an
1810 attorney to represent the individual in these matters;

1811 (b) Participate in decision-making to the extent
1812 reasonably feasible;

1813 (c) Receive a copy of the conservator's plan under
1814 Section 419, the conservator's inventory under Section 420, and
1815 the conservator's report under Section 423; and

1816 (d) Object to the conservator's inventory, plan, or
1817 report.

1818 (3) If a conservator is appointed for the reasons stated in
1819 Section 401(2)(a)(ii) and the ward is missing, notice under this
1820 section to the individual is not required.

1821 **Section 413. Emergency conservator.** (1) Upon a petition by
1822 a person interested in an individual's welfare or a petition filed
1823 under Section 402, the court may appoint an emergency conservator
1824 for the individual if the court finds:

1825 (a) Appointment of an emergency conservator is likely
1826 to prevent substantial and irreparable harm to the individual's
1827 property or financial interests;

1828 (b) No other person appears to have authority and
1829 willingness to act in the circumstances; and

1830 (c) There is reason to believe that a basis for
1831 appointment of a conservator under Section 401 exists.

1832 (2) The duration of authority of an emergency conservator
1833 may not exceed sixty (60) days and the emergency conservator may
1834 exercise only the powers specified in the order of appointment.
1835 The emergency conservator's authority may be extended once for not
1836 more than sixty (60) days if the court finds that the conditions
1837 for appointment of an emergency conservator under subsection (1)
1838 continue.

1839 (3) Except as otherwise provided in subsection (4),
1840 reasonable notice of the date, time, and place of a hearing on the
1841 petition must be given to the respondent, the respondent's
1842 attorney, and any other person the court determines.

1843 (4) The court may appoint an emergency conservator without
1844 notice to the respondent and any attorney for the respondent only
1845 if the court finds from an affidavit or testimony that the
1846 respondent's property or financial interests will be substantially

1847 and irreparably harmed before a hearing with notice on the
1848 appointment can be held. If the court appoints an emergency
1849 conservator without giving notice under subsection (3), the court
1850 must give notice of the appointment not later than forty-eight
1851 (48) hours after the appointment to:

- 1852 (a) The respondent;
- 1853 (b) The respondent's attorney;
- 1854 (c) Any other person the court determines; and
- 1855 (d) Hold a hearing on the appropriateness of the
1856 appointment not later than five (5) days after the appointment.

1857 (5) Appointment of an emergency conservator under this
1858 section is not a determination that a basis exists for appointment
1859 of a conservator under Section 401.

1860 (6) The court may remove an emergency conservator appointed
1861 under this section at any time. The emergency conservator shall
1862 make any report the court requires.

1863 **Section 414. Powers of conservator requiring court approval.**

1864 (1) Except as otherwise ordered by the court, a conservator must
1865 give notice to persons entitled to notice under Section 411(5) and
1866 receive specific authorization by the court before the conservator
1867 may exercise with respect to the conservatorship the power to:

- 1868 (a) Make a gift;
- 1869 (b) Sell, encumber an interest in, or surrender a lease
1870 to the primary dwelling of the ward;
- 1871 (c) Convey, release, or disclaim a contingent or
1872 expectant interest in property, including marital property and any

1873 right of survivorship incident to joint tenancy or tenancy by the
1874 entireties;

1875 (d) Exercise or release a power of appointment;

1876 (e) Create a revocable or irrevocable trust of property
1877 of the conservatorship estate, whether or not the trust extends
1878 beyond the duration of the conservatorship, or revoke or amend a
1879 trust revocable by the ward;

1880 (f) Exercise a right to elect an option or change a
1881 beneficiary under an insurance policy or annuity or surrender the
1882 policy or annuity for its cash value;

1883 (g) Exercise a right to an elective share in the estate
1884 of a deceased spouse of the ward or renounce or disclaim a
1885 property interest;

1886 (h) Grant a creditor priority for payment over
1887 creditors of the same or higher class if the creditor is providing
1888 property or services used to meet the basic living and care needs
1889 of the ward and preferential treatment otherwise would be
1890 impermissible under Section 427(6);

1891 (i) Make, modify, amend, or revoke the will of the ward
1892 in compliance with Section 91-5-1 et seq.;

1893 (j) Pay premiums on any insurance policy issued on the
1894 life of the ward if the individual is a minor, the policy was
1895 issued during the lifetime of the individual's deceased parent,
1896 and the court finds the policy's continuance is warranted;

1897 (k) Acquire or dispose of real property, including real
1898 property in another state, for cash or on credit, at public or

1899 private sale, and manage, develop, improve, exchange, partition,
1900 change the character of, or abandon property;

1901 (1) Make repairs or alterations in a building or other
1902 structure, demolish any improvement, or raze an existing or erect
1903 a new wall or building if costs exceed Two Thousand Five Hundred
1904 Dollars (\$2,500.00);

1905 (m) Subdivide or develop land, dedicate land to public
1906 use, make or obtain the vacation of a plat and adjust a boundary,
1907 adjust a difference in valuation of land, exchange or partition
1908 land by giving or receiving consideration, and dedicate an
1909 easement to public use without consideration;

1910 (n) Enter for any purpose into a lease of property as
1911 lessor or lessee, with or without an option to purchase or renew,
1912 for a term within or extending beyond the term of the
1913 conservatorship;

1914 (o) Enter into a lease or arrangement for exploration
1915 and removal of minerals or other natural resources or a pooling or
1916 unitization agreement;

1917 (p) Borrow funds, with or without security, to be
1918 repaid from the conservatorship estate or otherwise;

1919 (q) Pay or contest a claim, settle a claim by or
1920 against the conservatorship estate or the ward by compromise,
1921 arbitration, or otherwise, or release, in whole or in part, a
1922 claim belonging to the conservatorship estate to the extent the
1923 claim is uncollectible; or

1924 (r) Bring an action, claim, or proceeding in any
1925 jurisdiction for the protection of the conservatorship estate or
1926 the conservator in the performance of the conservator's duties;

1927 (2) In approving a conservator's exercise of a power listed
1928 in subsection (1), the court must consider the wards' prior or
1929 current directions, preferences, opinions, values, and actions, to
1930 the extent actually known or reasonably ascertainable by the
1931 conservator. The court also must consider:

1932 (a) The financial needs of the ward and individuals who
1933 are in fact dependent on the ward for support, and the interests
1934 of creditors of the individual;

1935 (b) Possible reduction of income, estate, inheritance,
1936 or other tax liabilities;

1937 (c) Eligibility for governmental assistance;

1938 (d) The previous pattern of giving or level of support
1939 provided by the individual;

1940 (e) Any existing estate plan or lack of estate plan of
1941 the individual;

1942 (f) The life expectancy of the individual and the
1943 probability the conservatorship will terminate before the ward's
1944 death; and

1945 (g) Any other relevant factor.

1946 (3) A conservator may not revoke or amend a power of
1947 attorney for finances executed by the ward. If a power of
1948 attorney for finances is in effect, a decision of the conservator
1949 takes precedence over that of the attorney-in-fact only to the

1950 extent of the authorization granted to the conservator by court
1951 order.

1952 **Section 415. Petition for order after appointment.** A ward
1953 or a person interested in the welfare of the individual may
1954 petition for an order:

1955 (a) Requiring the conservator to furnish a bond or
1956 collateral or additional bond or collateral or allowing a
1957 reduction in a bond or collateral previously furnished;

1958 (b) Requiring an accounting for the administration of
1959 the conservatorship estate;

1960 (c) Directing distribution;

1961 (d) Removing the conservator and appointing a temporary
1962 or successor conservator;

1963 (e) Modifying the type of appointment or powers granted
1964 to the conservator, if the extent of protection or management
1965 previously granted is excessive or insufficient to meet the
1966 individual's needs, including because the individual's abilities
1967 or supports have changed;

1968 (f) Rejecting or modifying the conservator's plan under
1969 Section 419, the conservator's inventory under Section 420, or the
1970 conservator's report under Section 423; or

1971 (g) Granting other appropriate relief.

1972 **Section 416. Bond; oath; waiver; financial institutions;**
1973 **alternative asset-protection arrangement.** (1) Except as
1974 otherwise provided in subsection (3), the court shall require a
1975 conservator to furnish a bond with a surety the court specifies,

1976 or require an alternative asset-protection arrangement,
1977 conditioned on faithful discharge of all duties of the
1978 conservator. The court may waive or partially waive the
1979 requirement if:

1980 (a) The respondent is a minor and the minor's parent
1981 has waived the requirement in a valid holographic will or another
1982 instrument to take effect at the parent's death that is signed by
1983 the parent and attested by two (2) or more credible witnesses, not
1984 including the person nominated as conservator; or

1985 (b) Part of the assets of the ward's estate are
1986 deposited in one or more banking corporations, building and loan
1987 associations or savings and loan associations ("financial
1988 institutions") in this state if the deposits are fully insured by
1989 the Federal Deposit Insurance Corporation (FDIC) and will remain
1990 on deposit in that institution until further order of the court, a
1991 certified copy or MEC-filed copy of the order for deposit having
1992 been furnished to the depository or depositories and its receipt
1993 acknowledged in a form that substantially complies with subsection
1994 (7); or

1995 (c) The court finds that a bond or other
1996 asset-protection arrangement is not necessary to protect the
1997 interests of the individual subject to conservatorship. Except as
1998 otherwise provided in subsection (3), the court may not waive the
1999 requirement of bond or other asset-protection arrangement if the
2000 conservator is in the business of serving as a conservator and is
2001 being paid for the conservator's service.

2002 (2) Unless the court directs otherwise, the bond required
2003 under this section must be in the amount of the aggregate capital
2004 value of the conservatorship estate, plus one (1) year's estimated
2005 income, less the value of property deposited under an arrangement
2006 requiring a court order for its removal and real property the
2007 conservator lacks power to sell or convey without specific court
2008 authorization. The court, in place of surety on a bond, may
2009 accept collateral for the performance of the bond, including a
2010 pledge of securities or a mortgage of real property.

2011 (3) A banking institution insured by the FDIC qualified to
2012 do trust business in this state is not required to give a bond
2013 under this section.

2014 (4) Every bond must be filed in the records of the chancery
2015 court and may be put in suit for any breach of the condition,
2016 whether the appointment be legal or not; and the condition shall
2017 be as follows:

2018 "The condition of the above obligation is that if the above
2019 bound, as conservator of _____ in _____ County
2020 shall faithfully discharge all the duties required of him by law,
2021 then the above obligation shall cease."

2022 The conservator must also take and subscribe on oath, at or
2023 before the conservator's appointment, faithfully to discharge the
2024 duties of conservator of the ward according to law.

2025 (5) A financial institution that substantially complies with
2026 the provisions of this article when acting as a depository of

2027 conservatorship funds is not liable to any person for so acting
2028 except for willful default, gross negligence or malfeasance.

2029 (6) A financial institution that acts as a depository of the
2030 funds may charge a fee for servicing the account.

2031 (7) ACKNOWLEDGMENT OF RECEIPT OF ORDER FOR DEPOSIT

2032 AND RECEIPT OF CASH FUNDS

2033 The Chancery Court of _____ County, Mississippi,
2034 having rendered its order in the above-entitled and numbered cause
2035 on the ____ day of _____, _____, designating a
2036 banking institution insured by the Federal Deposit Insurance
2037 Corporation as the depository of the funds of
2038 _____, by and through
2039 _____, as conservator, and the
2040 conservator, having elected to use

2041 _____ (Name of Financial
2042 Institution) as the aforesaid depository, I, acting pursuant to my
2043 authority in and for said bank, do hereby acknowledge that I have
2044 received a copy of the order of the chancery court, duly certified
2045 as true and correct by the chancery clerk of _____
2046 County, Mississippi, or a MEC filed copy of the order of the
2047 chancery court. I further note that said order provides that all
2048 funds so deposited to the account shall remain on deposit until
2049 further order of the court.

2050 Receipt is also hereby acknowledged of the funds in the
2051 amount of \$ _____ in this matter.

2052 _____ (Name of Financial Institution)
2053 hereby acknowledges that the funds, described above, shall not be
2054 disbursed without further order of this court.

2055 This the _____ day of _____, _____.

2056 STATE OF MISSISSIPPI

2057 COUNTY OF _____

2058 Personally came and appeared before me, the undersigned
2059 authority in and for the jurisdiction aforesaid, the within named
2060 _____ (Name of Bank Officer), who is
2061 _____ (Job Title) of
2062 _____ (Name of Financial Institution) and
2063 who acknowledged to me that he/she signed and delivered the above
2064 and foregoing Acknowledgment of Receipt of Order for Deposit and
2065 Receipt of Cash Funds as the act and deed of said bank, he/she
2066 being first duly authorized so to do.

2067 Given under my hand and official seal, this the
2068 _____ day of _____, _____.

2069 _____

2070 Notary Public My commission expires

2071 **Section 417. Terms and requirements of bond.** (1) The
2072 following rules apply to the bond required under Section 416:

2073 (a) Except as otherwise provided by the bond, the
2074 surety and the conservator are jointly and severally liable.

2075 (b) By executing a bond provided by a conservator, the
2076 surety submits to the personal jurisdiction of the court that
2077 issued letters of office to the conservator in a proceeding

2078 relating to the duties of the conservator in which the surety is
2079 named as a party. Notice of the proceeding must be given to the
2080 surety at the address shown in the records of the court in which
2081 the bond is filed and any other address of the surety then known
2082 to the person required to provide the notice.

2083 (c) On petition of a successor conservator or person
2084 affected by a breach of the obligation of the bond, a proceeding
2085 may be brought against the surety for breach of the obligation of
2086 the bond.

2087 (d) A proceeding against the bond may be brought until
2088 liability under the bond is exhausted.

2089 (2) A proceeding may not be brought under this section
2090 against a surety of a bond on a matter as to which a proceeding
2091 against the conservator is barred.

2092 (3) If a bond under Section 416 is not renewed by the
2093 conservator, the surety or sureties immediately must give notice
2094 to the court and the attorney for the conservatorship.

2095 **Section 418. Duties of conservator.** (1) A conservator is a
2096 fiduciary and has duties of prudence and loyalty to the ward.

2097 (2) A conservator must promote the self-determination of the
2098 ward and, to the extent feasible, encourage the ward to
2099 participate in decisions, act on the ward's own behalf, and
2100 develop or regain the capacity to manage the ward's personal
2101 affairs.

2102 (3) In making a decision for a ward, the conservator must
2103 make the decision the conservator reasonably believes the ward

2104 would make if able, unless doing so would fail to preserve the
2105 resources needed to maintain the ward's well-being and lifestyle
2106 or otherwise unreasonably harm or endanger the welfare or personal
2107 or financial interests of the ward. To determine the decision the
2108 ward would make if able, the conservator must consider the ward's
2109 prior or current directions, preferences, opinions, values, and
2110 actions, to the extent actually known or reasonably ascertainable
2111 by the conservator.

2112 (4) If a conservator cannot make a decision under subsection
2113 (3) because the conservator does not know and cannot reasonably
2114 determine the decision the ward probably would make if able, or
2115 the conservator reasonably believes the decision the individual
2116 would make would fail to preserve resources needed to maintain the
2117 ward's well-being and lifestyle or otherwise unreasonably harm or
2118 endanger the welfare or personal or financial interests of the
2119 ward, the conservator shall act in accordance with the best
2120 interest of the ward. In determining the best interest of the
2121 ward, the conservator shall consider:

2122 (a) Information received from professionals and persons
2123 who demonstrate sufficient interest in the welfare of the ward;

2124 (b) Other information the conservator believes the ward
2125 would have considered if the ward were able to act; and

2126 (c) Other factors a reasonable person in the
2127 circumstances of the ward would consider, including consequences
2128 for others.

2129 (5) Except when inconsistent with the conservator's duties
2130 under subsections (1) through (4), and where investments other
2131 than in FDIC-insured investments are permitted in the court's
2132 order approving the conservator's plan, a conservator must invest
2133 and manage the conservatorship estate as a prudent investor would,
2134 by considering:

2135 (a) The circumstances of the ward and the
2136 conservatorship estate;

2137 (b) General economic conditions;

2138 (c) The possible effect of inflation or deflation;

2139 (d) The expected tax consequences of an investment
2140 decision or strategy;

2141 (e) The role of each investment or course of action in
2142 relation to the conservatorship estate as a whole;

2143 (f) The expected total return from income and
2144 appreciation of capital;

2145 (g) The need for liquidity, regularity of income, and
2146 preservation or appreciation of capital; and

2147 (h) The special relationship or value, if any, of
2148 specific property to the ward.

2149 (6) The propriety of a conservator's investment and
2150 management of the conservatorship estate is determined in light of
2151 the facts and circumstances existing when the conservator decides
2152 or acts and not by hindsight.

2153 (7) A conservator must make a reasonable effort to verify
2154 facts relevant to the investment and management of the
2155 conservatorship estate.

2156 (8) A conservator that has special skills or expertise, or
2157 is named conservator in reliance on the conservator's
2158 representation of special skills or expertise, has a duty to use
2159 the special skills or expertise in carrying out the conservator's
2160 duties.

2161 (9) In investing, selecting specific property for
2162 distribution, and invoking a power of revocation or withdrawal for
2163 the use or benefit of the ward, a conservator must consider any
2164 estate plan of the ward known or reasonably ascertainable to the
2165 conservator and may examine the will or other donative,
2166 nominative, or appointive instrument of the individual.

2167 (10) A conservator must maintain insurance on the insurable
2168 real and personal property of the ward, unless the conservatorship
2169 estate lacks sufficient funds to pay for insurance or the court
2170 finds:

2171 (a) The property lacks sufficient equity; or

2172 (b) Insuring the property would unreasonably dissipate
2173 the conservatorship estate or otherwise not be in the best
2174 interest of the ward.

2175 (11) A conservator has access to and authority over a
2176 digital asset of the ward to the extent provided by the Revised
2177 Uniform Fiduciary Access to Digital Assets Act (Title 21, Chapter
2178 23, Mississippi Code of 1972).

2179 (12) A conservator for an adult must notify the court if the
2180 condition of the adult has changed so that the adult has become
2181 capable of autonomy in exercising rights previously delegated to
2182 the conservator. The notice must be given immediately on learning
2183 of the change.

2184 **Section 419. Conservator's plan.** (1) If required by the
2185 court, a conservator must file with the court a plan for
2186 investing, protecting, managing, expending, and distributing the
2187 assets of the conservatorship estate no later than ninety (90)
2188 days after the court's order of appointment or order to file a
2189 plan. If a plan is required and there is a significant change in
2190 circumstances, or if the conservator seeks to deviate
2191 significantly from the conservator's plan, a conservator must file
2192 with the court a revised plan no later than ninety (90) days after
2193 the change in circumstances or decision to deviate from the plan.
2194 Every plan must be based on the needs of the ward and take into
2195 account the best interest of the ward as well as the ward's
2196 preferences, values, and prior directions, to the extent known to
2197 or reasonably ascertainable by the conservator. Along with other
2198 items determined necessary by the court, the conservator's plan
2199 must include:

2200 (a) A budget containing projected expenses and
2201 resources, including an estimate of the total amount of fees the
2202 conservator anticipates charging per year and a statement or list
2203 of the amount the conservator proposes to charge for each service
2204 the conservator anticipates providing to the individual;

2205 (b) How the conservator will involve the individual in
2206 decisions about management of the conservatorship estate;

2207 (c) Any step the conservator plans to take to develop
2208 or restore the ability of the ward to manage the conservatorship
2209 estate; and

2210 (d) An estimate of the duration of the conservatorship.

2211 (2) A conservator must give reasonable notice of the filing
2212 of the conservator's plan under subsection (1), together with a
2213 copy of the plan, to the ward, a person entitled to notice under
2214 Section 411(5) or a court order, and any other person the court
2215 determines. The notice must include a statement of the right to
2216 object to the plan and be given not later than fourteen (14) days
2217 after the filing.

2218 (3) A ward and any person entitled under subsection (2) to
2219 receive notice and a copy of the conservator's plan may object to
2220 the plan.

2221 (4) The court must review the conservator's plan filed under
2222 subsection (1) and determine whether to approve the plan or
2223 require a new plan. In deciding whether to approve the plan, the
2224 court shall consider objections made under subsection (3) and
2225 whether the plan is consistent with the conservator's duties and
2226 powers. The court may not approve the plan until thirty (30) days
2227 after its filing.

2228 (5) After a conservator's plan under this section is
2229 approved by the court, the conservator must provide a copy of the

2230 plan to the ward, a person entitled to notice under Section 411(5)
2231 or a court order, and any other person the court determines.

2232 **Section 420. Inventory; records.** (1) Unless the inventory
2233 requirement has been waived, not later than ninety (90) days after
2234 appointment, a conservator must prepare and file with the
2235 appointing court a detailed inventory of the conservatorship
2236 estate, together with an oath or affirmation that the inventory is
2237 believed to be complete and accurate as far as information
2238 permits.

2239 (2) A conservator must give reasonable notice of the filing
2240 of an inventory to the ward, a person entitled to notice under
2241 Section 411(5) or a court order, and any other person the court
2242 determines. The notice must be given not later than fourteen (14)
2243 days after the filing.

2244 (3) A conservator must keep records of the administration of
2245 the conservatorship estate and make them available for examination
2246 on reasonable request of the ward, a guardian for the ward, or any
2247 other person the conservator or the court determines.

2248 **Section 421. Administrative powers of conservator not**
2249 **requiring court approval.** (1) Except as otherwise provided in
2250 Section 414 or qualified or limited in the court's order of
2251 appointment and stated in the letters of conservatorship, a
2252 conservator has all powers granted in this section and any
2253 additional power granted to a trustee by law of this state other
2254 than this act.

2255 (2) The court may authorize the conservator in a court order
2256 to execute powers not listed in Section 414 without prior specific
2257 court authorization or confirmation, including by way of
2258 illustration, but not limited to, the following:

2259 (a) To collect, hold, and retain property, including
2260 property in which the conservator has a personal interest and real
2261 property in another state, until the conservator determines
2262 disposition of the property should be made;

2263 (b) To receive additions to the conservatorship estate;

2264 (c) To continue or participate in the operation of a
2265 business or other enterprise;

2266 (d) To acquire an undivided interest in property in
2267 which the conservator, in a fiduciary capacity, holds an undivided
2268 interest;

2269 (e) To acquire or dispose of personal property;

2270 (f) To continue to invest assets;

2271 (g) To deposit funds or other property in a financial
2272 institution, including one operated by the conservator;

2273 (h) To grant an option involving disposition of
2274 property or accept or exercise an option for the acquisition of
2275 property;

2276 (i) To vote a security, in person or by general or
2277 limited proxy;

2278 (j) To pay a call, assessment, or other sum chargeable
2279 or accruing against or on account of a security;

2280 (k) To sell or exercise a stock subscription or
2281 conversion right;

2282 (l) To consent, directly or through a committee or
2283 agent, to the reorganization, consolidation, merger, dissolution,
2284 or liquidation of a corporation or other business enterprise;

2285 (m) To hold a security in the name of a nominee or in
2286 other form without disclosure of the conservatorship so that title
2287 to the security may pass by delivery;

2288 (n) To insure:

2289 (i) The conservatorship estate, in whole or in
2290 part, against damage or loss in accordance with Section 418(10);
2291 and

2292 (ii) The conservator against liability with
2293 respect to a third person;

2294 (o) Advance funds for the protection of the
2295 conservatorship estate or the ward and all expenses, losses, and
2296 liability sustained in the administration of the conservatorship
2297 estate or because of holding any property for which the
2298 conservator has a lien on the conservatorship estate;

2299 (p) Pay a tax, assessment, compensation of the
2300 conservator or any guardian, and other expense incurred in the
2301 collection, care, administration, and protection of the
2302 conservatorship estate;

2303 (q) Pay a sum distributable to the ward or an
2304 individual who is in fact dependent on the ward by paying the sum
2305 to the distributee or for the use of the distributee:

- 2306 (i) To the guardian for the distributee;
- 2307 (ii) To the custodian of the distributee under the
2308 Uniform Transfers to Minors Act, Section 91-20-1 et seq.; or
- 2309 (iii) If there is no guardian, custodian, or
2310 custodial trustee, to a relative or other person having physical
2311 custody of the distributee;
- 2312 (r) Defend an action, claim, or proceeding in any
2313 jurisdiction for the protection of the conservatorship estate or
2314 the conservator in the performance of the conservator's duties;
- 2315 (s) Structure the finances of the ward to establish
2316 eligibility for a public benefit, including by making gifts
2317 consistent with the ward's preferences, values, and prior
2318 directions, if the conservator's action does not jeopardize the
2319 ward's welfare and otherwise is consistent with the conservator's
2320 duties; and
- 2321 (t) Execute and deliver any instrument that will
2322 accomplish or facilitate the exercise of a power of the
2323 conservator.

2324 **Section 422. Distribution from conservatorship estate.**
2325 Except as otherwise provided in Section 414 or qualified or
2326 limited in the court's order of appointment and stated in the
2327 letters of conservatorship, and unless contrary to a conservator's
2328 plan under Section 419, the conservator may expend or distribute
2329 income or principal of the conservatorship estate for the support,
2330 care, education, health, or welfare of the ward or an individual
2331 who is in fact dependent on the ward, including the payment of

2332 child or spousal support, without specific court authorization or
2333 confirmation in accordance with the following rules:

2334 (a) The conservator shall consider a recommendation
2335 relating to the appropriate standard of support, care, education,
2336 health, or welfare for the ward or individual who is dependent on
2337 the ward, made by a guardian for the ward, if any, and, if the
2338 ward is a minor, a recommendation made by a parent of the minor.
2339 If the minor has a father or mother, the court shall determine
2340 whether the expense of maintaining and educating the minor shall
2341 be borne by the ward's estate.

2342 (b) The conservator acting in compliance with the
2343 conservator's duties under Section 418 is not liable for an
2344 expenditure or distribution made based on a recommendation under
2345 paragraph (a) unless the conservator knows the expenditure or
2346 distribution is not in the best interest of the ward.

2347 (c) In making an expenditure or distribution under this
2348 section, the conservator must consider:

2349 (i) The size of the conservatorship estate, the
2350 estimated duration of the conservatorship, and the likelihood the
2351 ward, at some future time, may be fully self-sufficient and able
2352 to manage the individual's financial affairs and the
2353 conservatorship estate;

2354 (ii) The accustomed standard of living of the ward
2355 and individual who is dependent on the ward;

2356 (iii) Other funds or sources used for the support
2357 of the ward; and

2358 (iv) The preferences, values, and prior directions
2359 of the ward.

2360 (d) Funds expended or distributed under this section
2361 may be paid by the conservator to any person, including the ward,
2362 as reimbursement for expenditures the conservator might have made,
2363 or in advance for services to be provided to the ward or
2364 individual who is dependent on the ward if it is reasonable to
2365 expect the services will be performed and advance payment is
2366 customary or reasonably necessary under the circumstances.

2367 **Section 423. Conservator's report and accounting;**

2368 **monitoring.** (1) Except as otherwise provided under subsection
2369 (11), a conservator must file a report in a record regarding the
2370 administration of the conservatorship estate with the court
2371 annually unless the court otherwise directs, if provided by will,
2372 or made necessary by resignation or removal, or termination of the
2373 conservatorship. A conservator must petition the court for
2374 approval of a report filed under this section. The court, after
2375 review, may approve the report.

2376 (2) A report under subsection (1) must state or contain:

2377 (a) An accounting that lists property included in the
2378 conservatorship estate and the receipts, disbursements,
2379 liabilities, and distributions during the period for which the
2380 report is made;

2381 (b) A list of the services provided to the ward;

2382 (c) A statement whether the conservator has deviated
2383 from the plan and, if so, how the conservator has deviated and
2384 why;

2385 (d) A recommendation as to the need for continued
2386 conservatorship and any recommended change in the scope of the
2387 conservatorship;

2388 (e) Anything of more than de minimis value which the
2389 conservator, any individual who resides with the conservator, or
2390 the spouse, parent, child, or sibling of the conservator has
2391 received from a person providing goods or services to the ward;
2392 and

2393 (f) Any business relationship the conservator has with
2394 a person the conservator has paid or that has benefited from the
2395 property of the ward.

2396 (3) The court, in its discretion, may request a copy of the
2397 most recent reasonably available financial statements evidencing
2398 the status of bank accounts, investment accounts, and mortgages or
2399 other debts of the ward with all but the last four (4) digits of
2400 the account numbers and social security number redacted;

2401 (4) The court may appoint a guardian ad litem to review a
2402 report under this section or a conservator's plan under Section
2403 419, to interview the ward or conservator, or to investigate any
2404 other matter involving the conservatorship. In connection with
2405 the report, the court may order the conservator to submit the
2406 conservatorship estate to appropriate examination in a manner the
2407 court directs.

2408 (5) Reasonable notice of the filing under this section of a
2409 conservator's report, together with a copy of the report, must be
2410 provided to the ward, a person entitled to notice under Section
2411 411(5) or a court order, and other persons the court determines.
2412 The notice and report must be given not later than fourteen (14)
2413 days after filing.

2414 (6) The court may establish procedures for monitoring a
2415 report submitted under this section and review each report at
2416 least annually unless otherwise directed by the court. The court
2417 must consider whether:

2418 (a) The reports provide sufficient information to
2419 establish that the conservator has complied with the conservator's
2420 duties;

2421 (b) The conservatorship should continue; and

2422 (c) The conservator's requested fees, if any, should be
2423 approved.

2424 (7) If the court determines there is reason to believe a
2425 conservator has not complied with the conservator's duties or the
2426 conservatorship should not continue, the court:

2427 (a) Shall notify the ward, the conservator, and any
2428 other person entitled to notice under Section 411(5) or a court
2429 order;

2430 (b) May require additional information from the
2431 conservator;

2432 (c) May appoint a guardian ad litem to interview the
2433 ward or conservator or investigate any matter involving the
2434 conservatorship; and

2435 (d) Consistent with Sections 430 and 431, may hold a
2436 hearing to consider removal of the conservator, termination of the
2437 conservatorship, or a change in the powers granted to the
2438 conservator or terms of the conservatorship.

2439 (8) If the court has reason to believe fees requested by a
2440 conservator are not reasonable, the court shall hold a hearing to
2441 determine whether to adjust the requested fees.

2442 (9) An order may be entered, after notice and consideration
2443 by the court, approving a report of a conservator filed under this
2444 section.

2445 (10) A conservator may seek an order, after notice and
2446 hearing, approving a report filed under this section that
2447 discharges the conservator from all liabilities, claims, and
2448 causes of action by a person given notice of the report and the
2449 hearing as to a matter adequately disclosed in the report.

2450 (11) When the funds and personal property of the ward do not
2451 exceed the sum or value of Ten Thousand Dollars (\$10,000.00) and
2452 there is no foreseeable prospect of further receipt to come into
2453 the hands of the conservator other than interest thereon, or in
2454 conservatorships in which the only funds on hand or to be received
2455 by the guardian are funds paid or to be paid by a government
2456 agency providing protective services to adults or children for the
2457 benefit of the ward, the chancery court or chancellor in vacation,

2458 for good cause shown, in the chancellor's discretion and upon
2459 being satisfied it is to the best interest and welfare of the
2460 ward, may authorize the guardian to dispense with further annual
2461 accounts, except for a final account.

2462 **Section 424. Attempted transfer of property by the ward.**

2463 (1) The interest of a ward in property included in the
2464 conservatorship estate is not transferrable or assignable by the
2465 ward and is not subject to levy, garnishment, or similar process
2466 for claims against the ward unless allowed under Section 427.

2467 (2) If a ward enters into a contract after the right to
2468 enter the contract has been delegated to another by the court, the
2469 contract is void against the ward and the ward's property but is
2470 enforceable against the person that contracted with the ward.

2471 (3) A person other than the conservator that deals with a
2472 ward with respect to property included in the conservatorship
2473 estate is entitled to protection provided by law of this state
2474 other than this act.

2475 **Section 425. Transaction involving conflict of interest.** A

2476 transaction involving a conservatorship estate which is affected
2477 by a substantial conflict between the conservator's fiduciary
2478 duties and personal interests is voidable unless the transaction
2479 is authorized by court order after notice to persons entitled to
2480 notice under Section 411(5) or a court order. A transaction
2481 affected by a substantial conflict includes a sale, encumbrance,
2482 or other transaction involving the conservatorship estate entered
2483 into by the conservator, an individual with whom the conservator

2484 resides, the spouse, descendant, sibling, or attorney of the
2485 conservator, or a corporation or other enterprise in which the
2486 conservator has a substantial beneficial interest.

2487 **Section 426. Protection of person dealing with conservator.**

2488 (1) A person that assists or deals with a conservator in good
2489 faith and for value in any transaction, other than a transaction
2490 requiring a court order under Section 414, is protected as though
2491 the conservator properly exercised any power in question. Mere
2492 knowledge by a person that the person is dealing with a
2493 conservator does not require the person to inquire into the
2494 existence of authority of the conservator or the propriety of the
2495 conservator's exercise of authority, but restrictions on authority
2496 stated in letters of conservatorship, or otherwise provided by
2497 law, are effective as to the person. A person that pays or
2498 delivers property to a conservator is not responsible for proper
2499 application of the property.

2500 (2) Protection under subsection (1) extends to a procedural
2501 irregularity or jurisdictional defect in the proceeding leading to
2502 the issuance of letters of conservatorship and does not substitute
2503 for protection for a person that assists or deals with a
2504 conservator provided by comparable provisions in law of this state
2505 other than this act relating to a commercial transaction or
2506 simplifying a transfer of securities by a fiduciary.

2507 **Section 427. Presentation and allowance of claim.** (1) A
2508 conservator may pay, or secure by encumbering property included in
2509 the conservatorship estate, a claim against the conservatorship

2510 estate or the ward arising before or during the conservatorship,
2511 on presentation and allowance in accordance with the priorities
2512 under subsection (6). A claimant may present a claim by filing
2513 the claim with the court, in a form acceptable to the court, and
2514 sending or delivering a copy of the claim to the conservator.

2515 (2) A presented claim is allowed if it is not disallowed in
2516 whole or in part by the conservator in a record sent or delivered
2517 to the claimant not later than ninety (90) days after its
2518 presentation. Before payment, the conservator may change an
2519 allowance of the claim to a disallowance in whole or in part, but
2520 not after allowance under a court order or order directing payment
2521 of the claim. Presentation of a claim tolls the running of a
2522 statute of limitations that has not expired relating to the claim
2523 until thirty (30) days after disallowance of the claim.

2524 (3) A claimant whose claim has not been paid may petition
2525 the court to determine the claim at any time before it is barred
2526 by a statute of limitations, and the court may order its
2527 allowance, payment, or security by encumbering property included
2528 in the conservatorship estate. If a proceeding is pending against
2529 the ward at the time of appointment of the conservator or is
2530 initiated after the appointment, the moving party must give the
2531 conservator notice of the proceeding if it could result in
2532 creating a claim against the conservatorship estate.

2533 (4) If a conservatorship estate is likely to be exhausted
2534 before all existing claims are paid, the provisions of the law on
2535 proceedings to insolvency and distribution of assets of insolvent

2536 estates shall, as far as applicable and not otherwise provided, be
2537 observed and enforced.

2538 (5) When the claims are established and the amount of assets
2539 ascertained, the court shall adjudge the pro rata share of each
2540 claimant, deducting first the preference claims in the following
2541 order:

2542 (a) Costs and expenses of administration;

2543 (b) A claim of the federal or state government having
2544 priority under law other than this article;

2545 (c) A claim incurred by the conservator for support,
2546 care, education, health, or welfare previously provided to the
2547 ward or an individual who is in fact dependent on the ward;

2548 (d) A claim arising before the conservatorship; and

2549 (e) All other claims.

2550 (6) Preference may not be given in the payment of a claim
2551 under subsection (5) over another claim of the same class. A
2552 claim due and payable may not be preferred over a claim not due
2553 unless:

2554 (a) Doing so would leave the conservatorship estate
2555 without sufficient funds to pay the basic living and health-care
2556 expenses of the ward; and

2557 (b) The court authorizes the preference under Section
2558 414(1)(h).

2559 (7) If assets of a conservatorship estate are adequate to
2560 meet all existing claims, the court, acting in the best interest
2561 of the ward, may order the conservator to grant a security

2562 interest in the conservatorship estate for payment of a claim at a
2563 future date.

2564 **Section 428. Personal liability of conservator.** (1) Except
2565 as otherwise agreed by a conservator, the conservator is not
2566 personally liable on a contract properly entered into in a
2567 fiduciary capacity in the course of administration of the
2568 conservatorship estate unless the conservator fails to reveal the
2569 conservator's representative capacity in the contract or before
2570 entering into the contract.

2571 (2) A conservator may be personally liable for an obligation
2572 arising from control of property of the conservatorship estate or
2573 an act or omission occurring in the course of administration of
2574 the conservatorship estate only if the conservator is personally
2575 grossly negligent or in breach of fiduciary duty.

2576 (3) A claim based on a contract entered into by a
2577 conservator in a fiduciary capacity, an obligation arising from
2578 control of property included in the conservatorship estate, or a
2579 tort committed in the course of administration of the
2580 conservatorship estate may be asserted against the conservatorship
2581 estate in a proceeding against the conservator in a fiduciary
2582 capacity, whether or not the conservator is personally liable for
2583 the claim.

2584 (4) A question of liability between a conservatorship estate
2585 and the conservator personally may be determined in a proceeding
2586 for accounting, surcharge, or indemnification or another
2587 appropriate proceeding or action.

2588 **Section 429. Removal of conservator; appointment of**
2589 **successor.** (1) The court may remove a conservator for failure to
2590 perform the conservator's duties or other good cause and appoint a
2591 successor conservator to assume the duties of the conservator.

2592 (2) The court must hold a hearing to determine whether to
2593 remove a conservator and appoint a successor on:

2594 (a) A petition of the ward, conservator, or person
2595 interested in the welfare of the ward that contains allegations
2596 which, if true, would support a reasonable belief that removal of
2597 the conservator and appointment of a successor may be appropriate,
2598 but the court may decline to hold a hearing if a petition based on
2599 the same or substantially similar facts was filed during the
2600 preceding six (6) months;

2601 (b) Communication from the ward, conservator, or person
2602 interested in the welfare of the ward which supports a reasonable
2603 belief that removal of the conservator and appointment of a
2604 successor may be appropriate; or

2605 (c) Determination by the court that a hearing would be
2606 in the best interest of the ward.

2607 (3) Notice of a petition under subsection (2)(a) must be
2608 given to the ward, the conservator, and any other person the court
2609 determines.

2610 (4) A ward who seeks to remove the conservator and have a
2611 successor appointed has the right to choose an attorney to
2612 represent the ward in this matter. If the ward is not represented
2613 by an attorney, the court may appoint an attorney under the same

2614 conditions as in Section 406. The court may award reasonable
2615 attorney's fees to the attorney as provided in Section 118.

2616 (5) In selecting a successor conservator, the court must
2617 follow the priorities under Section 410.

2618 **Section 430. Termination or modification of conservatorship.**

2619 (1) A conservatorship must be terminated when the minor becomes
2620 an adult, becomes emancipated, or dies; the termination must
2621 comply with Section 423, but a conservatorship may continue into
2622 adulthood when the court finds the ward qualifies for
2623 conservatorship as an adult under the provisions of subsections
2624 (5) and (6).

2625 (2) A ward, the conservator, or a person interested in the
2626 welfare of the individual may petition for:

2627 (a) Termination of the conservatorship on the ground
2628 that a basis for appointment under Section 401 does not exist or
2629 termination would be in the best interest of the ward or for other
2630 good cause; or

2631 (b) Modification of the conservatorship on the ground
2632 that the extent of protection or assistance granted is not
2633 appropriate or for other good cause shown.

2634 (3) The court must hold a hearing to determine whether
2635 termination or modification of a conservatorship is appropriate
2636 on:

2637 (a) A petition that contains allegations which, if
2638 true, would support a reasonable belief that termination or
2639 modification of the conservatorship may be appropriate, but the

2640 court may decline to hold a hearing if a petition based on the
2641 same or substantially similar facts was filed within the preceding
2642 six (6) months;

2643 (b) A communication from the ward, conservator, or
2644 person interested in the welfare of the ward which supports a
2645 reasonable belief that termination or modification of the
2646 conservatorship may be appropriate, including because the
2647 functional needs of the ward or supports or services available to
2648 the ward have changed;

2649 (c) A report from a guardian or conservator which
2650 indicates that termination or modification may be appropriate
2651 because the functional needs or supports or services available to
2652 the ward have changed or other less restrictive alternative is
2653 available; or

2654 (d) A determination by the court that a hearing would
2655 be in the best interest of the ward.

2656 (4) Notice of a petition under this section must be given to
2657 the ward, the conservator, and any other person the court
2658 determines.

2659 (5) On presentation of prima facie evidence for termination
2660 of a conservatorship, the court must order termination unless it
2661 is proven that a basis for appointment of a conservator under
2662 Section 401 exists.

2663 (6) The court must modify the powers granted to a
2664 conservator if the powers are excessive or inadequate due to a

2665 change in the abilities or limitations of the ward, the ward's
2666 supports, or other circumstances.

2667 (7) Unless the court otherwise orders for good cause, before
2668 terminating a conservatorship, the court shall follow the same
2669 procedures to safeguard the rights of the ward which apply to a
2670 petition for conservatorship.

2671 (8) A ward who seeks to terminate or modify the terms of the
2672 conservatorship has the right to choose an attorney to represent
2673 the ward in this matter. If the ward is not represented by an
2674 attorney, the court may appoint an attorney under the same
2675 conditions as in Section 406. The court may award reasonable
2676 attorney's fees to the attorney as provided in Section 119.

2677 (9) On termination of a conservatorship other than by reason
2678 of the death of the ward, property of the conservatorship estate
2679 passes to the ward. The order of termination must direct the
2680 conservator to file a final report and petition for discharge on
2681 approval by the court of the final report.

2682 (10) If a ward dies testate, the conservator must deliver
2683 the will to the named representative and certify that delivery to
2684 the court. If the ward dies intestate, Section 91-7-68 governs.

2685 **Section 431. Transfer for benefit of minor without**
2686 **appointment of conservator.** (1) Unless a person required to
2687 transfer funds or other property to a minor knows that a
2688 conservator for the minor has been appointed or a proceeding is
2689 pending for conservatorship, the person may transfer an amount or

2690 value not exceeding Twenty-five Thousand Dollars (\$25,000.00) in a
2691 twelve-month period to:

2692 (a) A person who has care or custody of the minor and
2693 with whom the minor resides;

2694 (b) A guardian for the minor;

2695 (c) A custodian under the Uniform Transfers to Minors
2696 Act, Section 91-20-1 et seq.; or

2697 (d) A financial institution as a deposit in an account
2698 or certificate solely in the name of the minor; notice of the
2699 deposit must be given to the minor; or

2700 (e) An Achieving a Better Life Experience (ABLE)
2701 account.

2702 (2) A person that transfers funds or other property under
2703 this section is not responsible for its proper application.

2704 (3) A person that receives funds or other property for a
2705 minor under subsection (1)(a) or (b) may apply it only to the
2706 support, care, education, health, or welfare of the minor, and may
2707 not derive a personal financial benefit from it, except for
2708 reimbursement for necessary expenses. Funds not applied for these
2709 purposes must be preserved for the future support, care,
2710 education, health, or welfare of the minor, and the balance, if
2711 any, transferred to the minor when the minor becomes an adult or
2712 otherwise is emancipated.

2713 (4) Contributions to an ABLE account, and the provisions for
2714 permissible disbursements from such account, are governed by 26
2715 U.S.C. Section 529A and the terms of the applicable ABLE plan.

2716 The amount of annual contributions is subject to 26 U.S.C. Section
2717 2503(b) .

2718 **SECTION 2.** Section 9-1-49, Mississippi Code of 1972, is
2719 amended as follows:

2720 9-1-49. (1) The clerk of the court shall prepare and
2721 forward to the Department of Public Safety the information
2722 described by subsection (2) of this section not later than the
2723 thirtieth day after the date the court:

2724 (a) Judicially determines that a person is a person
2725 with mental illness or person with an intellectual disability
2726 under Title 41, Chapter 21, Mississippi Code of 1972, whether
2727 ordered for inpatient treatment, outpatient treatment, day
2728 treatment, night treatment or home health services treatment;

2729 (b) Acquits a person in a criminal case by reason of
2730 insanity or on a ground of intellectual disability, without regard
2731 to whether the person is ordered by a court to receive inpatient
2732 treatment or residential care under Section 99-13-7;

2733 (c) Appoints a guardian or conservator under * * *
2734 Article 2, 3 or 4 of Section 1 of this act, based on the
2735 determination that the person is incapable of managing his own
2736 person or estate * * *;

2737 (d) Determines that a person is incompetent to stand
2738 trial pursuant to Rule 9.06 of the Mississippi Rules of Circuit
2739 and County Court Practice;

2740 (e) Finds under Section * * * 318 or 430 of Section 1
2741 of this act that a person has been restored to reason; or

2742 (f) Enters an order of relief from a firearms
2743 disability under Section 97-37-5(4).

2744 (2) The clerk of the court shall prepare and forward the
2745 following information:

2746 (a) The complete name, race, and sex of the person;

2747 (b) Any known identifying number of the person,
2748 including social security number, driver's license number, or
2749 state identification card number;

2750 (c) The person's date of birth; and

2751 (d) The federal prohibited-person information that is
2752 the basis of the report required by this section.

2753 (3) If practicable, the clerk of the court shall forward to
2754 the Department of Public Safety the information described by
2755 subsection (2) of this section in an electronic format prescribed
2756 by the department.

2757 (4) If an order previously reported to the department under
2758 subsection (1) of this section is reversed by order of any court,
2759 the clerk shall notify the department of the reversal not later
2760 than thirty (30) days after the clerk receives the court order or
2761 the mandate from the appellate court.

2762 (5) The duty of a clerk to prepare and forward information
2763 under this section is not affected by:

2764 (a) Any subsequent appeal of the court order;

2765 (b) Any subsequent modification of the court order; or

2766 (c) The expiration of the court order.

2767 **SECTION 3.** Section 43-47-29, Mississippi Code of 1972, is
2768 amended as follows:

2769 43-47-29. In addition to the powers granted under the
2770 provisions of this chapter, the department is authorized to
2771 petition the court under the provisions of Section * * * 401 or
2772 402 of Section 1 of this act for appointment of a conservator for
2773 any vulnerable person.

2774 **SECTION 4.** Section 45-9-103, Mississippi Code of 1972, is
2775 amended as follows:

2776 45-9-103. (1) In this section, "federal prohibited-person
2777 information" means information that identifies an individual as:

2778 (a) A person who has been judicially determined by a
2779 court as a person with mental illness or person with an
2780 intellectual disability under Title 41, Chapter 21, Mississippi
2781 Code of 1972, whether ordered for inpatient treatment, outpatient
2782 treatment, day treatment, night treatment or home health services
2783 treatment;

2784 (b) A person acquitted in a criminal case by reason of
2785 insanity or on a ground of intellectual disability, without regard
2786 to whether the person is ordered by a court to receive inpatient
2787 treatment or residential care under Section 99-13-7;

2788 (c) An adult individual for whom a court has appointed
2789 a guardian or conservator under * * * Article 2, 3 or 4 of Section
2790 1 of this act based on the determination that the person is
2791 incapable of managing his own person or estate * * *; or

2792 (d) A person determined to be incompetent to stand
2793 trial by a court pursuant to Rule 9.06 of the Mississippi Rules of
2794 Circuit and County Court Practice.

2795 (2) The Department of Public Safety by rule shall establish
2796 a procedure to provide federal prohibited-person information to
2797 the Federal Bureau of Investigation for use with the National
2798 Instant Criminal Background Check System. Except as otherwise
2799 provided by state law, the department may disseminate federal
2800 prohibited-person information under this subsection only to the
2801 extent necessary to allow the Federal Bureau of Investigation to
2802 collect and maintain a list of persons who are prohibited under
2803 federal law from engaging in certain activities with respect to a
2804 firearm.

2805 (3) The department shall grant access to a person's own
2806 federal prohibited-person information to the person who is the
2807 subject of the information.

2808 (4) Federal prohibited-person information maintained by the
2809 department is confidential information for the use of the
2810 department and, except as otherwise provided by this section and
2811 other state law, is not a public record and may not be
2812 disseminated by the department.

2813 (5) The department by rule shall establish a procedure to
2814 correct department records and transmit those corrected records to
2815 the Federal Bureau of Investigation when a person provides:

2816 (a) A copy of a judicial order or finding under
2817 Section * * * 318 or 430 of Section 1 of this act that a person
2818 has been restored to reason;

2819 (b) Proof that the person has obtained notice of relief
2820 from disabilities under 18 USC, Section 925; or

2821 (c) A copy of a judicial order of relief from a
2822 firearms disability under Section 97-37-5(4).

2823 **SECTION 5.** Section 81-5-62, Mississippi Code of 1972, is
2824 amended as follows:

2825 81-5-62. Accounts payable at death may be established under
2826 the following conditions:

2827 (a) An account in a bank, including a national bank,
2828 may be opened by any person or persons with directions to make
2829 such an account payable on the death of the person or persons
2830 opening such an account to the named beneficiary or beneficiaries.
2831 When an account is so opened, the bank shall pay any monies to the
2832 credit of the account from time to time to, or pursuant to the
2833 order of, the person or persons opening such an account during his
2834 or their lifetime in the same manner as if the account were in the
2835 sole name or names of such person or persons. The term "accounts"
2836 or "account" as used in this section shall include, but not be
2837 limited to, any form of deposit or account, such as a savings
2838 account, checking account, time deposit, demand deposit or
2839 certificate of deposit, whether negotiable, nonnegotiable or
2840 otherwise.

2841 (b) If the named beneficiary or one (1) of the
2842 beneficiaries so named is an individual beneficiary and the
2843 individual beneficiary or beneficiaries survive the death of the
2844 person opening such an account, and the individual beneficiary or
2845 all of the individual beneficiaries so named are sixteen (16)
2846 years of age or over at the death of the person opening such an
2847 account, the bank shall pay the monies to the credit of the
2848 account, less all setoffs and charges, to the named individual
2849 beneficiary or beneficiaries or upon his or their order, as
2850 hereinafter provided, and such payment by the bank shall be valid,
2851 notwithstanding any lack of legal age of the named beneficiary or
2852 beneficiaries; provided, however, where such an account is opened
2853 or subsequently held by more than one (1) person, the death of one
2854 (1) of such persons shall not terminate the account and the
2855 account shall continue as to the surviving person or persons and
2856 the named beneficiary or beneficiaries subject to the provisions
2857 of paragraphs (c) through (j) of this section. For purposes of
2858 this section, the term "individual beneficiary" shall refer to a
2859 living person who is the named beneficiary of a payable on death
2860 account.

2861 (c) If the named individual beneficiary or all of the
2862 individual beneficiaries so named survive the death of the person
2863 or persons opening such an account and are under sixteen (16)
2864 years of age at such time, the bank shall pay the monies to the
2865 credit of the account, less all setoffs and charges:

2866 (i) When or after the named individual beneficiary
2867 becomes sixteen (16) years of age, to the named beneficiary or
2868 upon his order; or

2869 (ii) When more than one (1) individual beneficiary
2870 is named, the bank shall pay to each individual beneficiary so
2871 named his proportionate interest in such account as each severally
2872 becomes sixteen (16) years of age; or

2873 (iii) To the legal guardian of the named
2874 individual beneficiary, wherever appointed and qualified, or where
2875 more than one (1) beneficiary is named, the bank shall pay such
2876 individual beneficiary's proportionate interest in such account to
2877 his legal guardian wherever and whenever appointed and qualified;
2878 or

2879 (iv) * * * If no guardian is appointed and
2880 qualified, payment may be made in accordance with the provisions
2881 of Section * * * 209 or 431 of Section 1 of this act in situations
2882 to which such section or sections are applicable.

2883 (d) Where the death of the person or persons opening
2884 such an account terminates the account under the provisions of
2885 paragraphs (b) and (c) of this section, and where one or more of
2886 the named individual beneficiaries are under sixteen (16) years of
2887 age and the remainder of the named individual beneficiaries are
2888 sixteen (16) years of age or over, the bank shall pay the monies,
2889 less all setoffs and charges, to:

2890 (i) The named individual beneficiaries sixteen
2891 (16) years of age or over at the time of termination of such
2892 account pursuant to paragraph (b) of this section; and

2893 (ii) The named individual beneficiaries under
2894 sixteen (16) years of age at the time of termination of such
2895 account pursuant to paragraph (c) of this section.

2896 (e) If the named beneficiary or one (1) of the
2897 beneficiaries so named is a revocable trust, evidenced by a
2898 written trust agreement, which trust is still in existence at the
2899 death of the person opening such an account, the bank shall pay
2900 the monies to the credit of the account, less all setoffs and
2901 charges, to the trustee of the named revocable trust or upon his
2902 or their order, as hereinafter provided, upon being presented an
2903 affidavit by the trustee stating that the name of the trust, the
2904 names of the current trustees, and that the trust is still in
2905 existence at the time of presentment of the affidavit. Such
2906 payment by the bank shall be valid, notwithstanding any lack of
2907 actual authority by the trustee, and the bank shall be discharged
2908 and released to the same extent as if the bank had dealt with the
2909 personal representative of the decedent. Such bank shall not be
2910 required to see to the proper application of the monies or
2911 evidence thereof or to inquire into the truth of any statement
2912 presented in the affidavit by the trustee.

2913 (f) Where such account is opened or subsequently held
2914 by more than one (1) person, the bank, in the absence of any
2915 written instructions to the contrary which are consented to by the

2916 bank, shall accept payments made to such account and may pay any
2917 monies to the credit of such account from time to time to, or
2918 pursuant to the order of, either or any of such persons during
2919 their life or lives in the same manner as if the account were in
2920 the sole name of either or any of such persons.

2921 (g) When a person or persons open an account in a bank
2922 in the form set forth in paragraph (a) of this section, and makes
2923 a payment or payments to such account or causes a payment or
2924 payments to be made to such account, it shall be conclusively
2925 presumed that such person or persons intend to vest in the named
2926 beneficiary or beneficiaries a present beneficial interest in such
2927 payment so made and in the monies to the credit of the account
2928 from time to time, to the end that, if the named beneficiary or
2929 beneficiaries survive the person or persons opening such an
2930 account, all the right and title of the person or persons opening
2931 such an account in and to the monies to the credit of the account
2932 at the death of such person or persons, less all setoffs and
2933 charges, shall, at such death, vest solely and indefeasibly in the
2934 named beneficiary or beneficiaries subject to the conditions and
2935 limitations of paragraphs (b) through (j) of this section.

2936 (h) If the named individual beneficiary predeceases the
2937 person opening such an account, or if the named beneficiary is a
2938 revocable trust that is terminated, the present beneficial
2939 interest presumed to be vested in the named beneficiary pursuant
2940 to paragraph (g) of this section shall terminate at the death of
2941 the named individual beneficiary or upon the termination of the

2942 revocable trust named as a beneficiary. In such case, the
2943 personal representatives of the named individual beneficiary, the
2944 beneficiaries of the revocable trust, and all others claiming
2945 through or under the named beneficiary, shall have no right in or
2946 title to the monies to the credit of the account, and the bank
2947 shall pay such monies, less all setoffs and charges, to the person
2948 opening such an account or pursuant to his order in the same
2949 manner as if the account were in the sole name of the person
2950 opening such an account; provided, however, where such an account
2951 names more than one (1) beneficiary, the death of one (1) of the
2952 individual beneficiaries or the termination of a revocable trust
2953 beneficiary so named shall not terminate the account and the
2954 account shall continue as to the surviving beneficiary or
2955 beneficiaries subject to the provisions of paragraphs (b) through
2956 (j) of this section.

2957 (i) A bank which makes any payment pursuant to
2958 paragraphs (b) through (h) of this section, prior to service upon
2959 the bank of an order of court restraining such payment, shall, to
2960 the extent of each payment so made, be released from all claims of
2961 the person or persons opening such an account, the named
2962 beneficiary or beneficiaries, their legal representatives, and all
2963 others claiming through or under them.

2964 (j) When an account is opened in a form described in
2965 paragraph (a) of this section, the right of the named beneficiary
2966 or beneficiaries to be vested with sole and indefeasible title to
2967 the monies to the credit of the account on the death of the person

2968 or persons opening such an account shall not be denied, abridged
2969 or in anyway affected because such right has not been created by a
2970 writing executed in accordance with the law of this state
2971 prescribing the requirements to effect a valid testamentary
2972 disposition of property.

2973 **SECTION 6.** Section 81-12-145, Mississippi Code of 1972, is
2974 amended as follows:

2975 81-12-145. Accounts payable at death may be established
2976 under the following conditions:

2977 (a) An account in an association may be opened by any
2978 person or persons with directions to make such an account payable
2979 on the death of the person or persons opening such an account to
2980 the named beneficiary or beneficiaries. When an account is so
2981 opened, the association shall pay any monies to the credit of the
2982 account from time to time to, or pursuant to the order of the
2983 person or persons opening such an account during his or their
2984 lifetime in the same manner as if the account were in the sole
2985 name or names of such person or persons.

2986 (b) If the named beneficiary or one (1) of the
2987 beneficiaries so named survive the death of the person opening
2988 such an account and the beneficiary or all of the beneficiaries so
2989 named are sixteen (16) years of age or over at the death of the
2990 person opening such an account, the association shall pay the
2991 monies to the credit of the account, less all proper setoffs and
2992 charges, to the named beneficiary or beneficiaries or upon his or
2993 their order, as hereinafter provided, and such payment by the

2994 association shall be valid, notwithstanding any lack of legal age
2995 of the named beneficiary or beneficiaries; provided, however,
2996 where such an account is opened or subsequently held by more than
2997 one (1) person, the death of one (1) of such persons shall not
2998 terminate the account and the account shall continue as to the
2999 surviving person or persons and the named beneficiary or
3000 beneficiaries subject to the provisions of subsections (c) through
3001 (i) of this section.

3002 (c) If the named beneficiary or all of the
3003 beneficiaries so named survive the death of the person or persons
3004 opening such an account and are under sixteen (16) years of age at
3005 such time, the association shall pay the monies to the credit of
3006 the account, less all proper setoffs and charges:

3007 (i) When or after the named beneficiary becomes
3008 sixteen (16) years of age, to the named beneficiary or upon his
3009 order; or

3010 (ii) When more than one (1) beneficiary is named,
3011 the association shall pay to each beneficiary so named his
3012 proportionate interest in such account as each severally becomes
3013 sixteen (16) years of age; or

3014 (iii) To the legal guardian of the named
3015 beneficiary, wherever appointed and qualified, or where more than
3016 one (1) beneficiary is named, the association shall pay such
3017 beneficiary's proportionate interest in such account to his legal
3018 guardian wherever and whenever appointed and qualified; or

3019 (iv) * * * If no guardian is appointed and
3020 qualified, payment may be made in accordance with the provisions
3021 of Section * * * 209 or 431 of Section 1 of this act in situations
3022 to which such section or sections are applicable.

3023 (d) Where the death of the person or persons opening
3024 such an account terminates the account under the provisions
3025 of * * * paragraphs (b) and (c) of this section and where one or
3026 more of the named beneficiaries are under sixteen (16) years of
3027 age and the remainder of the named beneficiaries are sixteen (16)
3028 years of age or over, the association shall pay the monies to the
3029 credit of the trust, less all proper setoffs and charges, to:

3030 (i) The named beneficiaries sixteen (16) years of
3031 age or over at the time of termination of said account pursuant
3032 to * * * paragraph (b) of this section, and

3033 (ii) The named beneficiaries under sixteen (16)
3034 years of age at the time of termination of said account pursuant
3035 to * * * paragraph (c) of this section.

3036 (e) Where such account is opened or subsequently held
3037 by more than one (1) person, the association, in the absence of
3038 any written instructions to the contrary, consented to by the
3039 association, shall accept payments made to such account and may
3040 pay any monies to the credit of such account from time to time to,
3041 or pursuant to the order of, either or any of said persons during
3042 their life or lives in the same manner as if the account were in
3043 the sole name of either or any of such persons.

3044 (f) When a person or persons opens an account in an
3045 association, in the form set forth in * * * paragraph (a) of this
3046 section, and makes a payment or payments to such account, or
3047 causes a payment or payments to be made to such account, such
3048 person or persons shall be conclusively presumed to intend to vest
3049 in the named beneficiary or beneficiaries a present beneficial
3050 interest in such payment so made, and in the monies to the credit
3051 of the account from time to time, to the end that, if the named
3052 beneficiary or beneficiaries survive the person or persons opening
3053 such an account, all the right and title of the person or persons
3054 opening such an account in and to the monies to the credit of the
3055 account at the death of such person or persons, less all proper
3056 setoffs and charges, shall, at such death, vest solely and
3057 indefeasibly in the named beneficiary or beneficiaries subject to
3058 the conditions and limitations of * * * paragraphs (c) through (i)
3059 of this section.

3060 (g) If the named beneficiary predeceases the person
3061 opening such an account, the present beneficial interest presumed
3062 to be vested in the named beneficiary pursuant to * * * paragraph
3063 (f) of this section shall terminate at the death of the named
3064 beneficiary. In such case, the personal representatives of the
3065 named beneficiary, and all others claiming through or under the
3066 named beneficiary, shall have no right in or title to the monies
3067 to the credit of the account, and the association shall pay such
3068 monies, less all proper setoffs and charges, to the person opening
3069 such an account, or pursuant to his order, in the same manner as

3070 if the account were in the sole name of the person opening such an
3071 account; provided, however, where such an account names more than
3072 one (1) beneficiary, the death of one (1) of the beneficiaries so
3073 named shall not terminate the account and the account shall
3074 continue as to the surviving beneficiary or beneficiaries subject
3075 to the provisions of * * * paragraphs (c) through (i) of this
3076 section.

3077 (h) An association which makes any payment pursuant
3078 to * * * paragraphs (c) through (g) of this section, prior to
3079 service upon the association or an order of court restraining such
3080 payment, shall, to the extent of each payment so made, be released
3081 from all claims of the person or persons opening such an account,
3082 the named beneficiary or beneficiaries, their legal
3083 representatives, and all others claiming through or under them.

3084 (i) When an account is opened in a form described
3085 in * * * paragraph (a) of this section, the right of the named
3086 beneficiary or beneficiaries to be vested with sole and
3087 indefeasible title to the monies to the credit of the account on
3088 the death of the person or persons opening such an account shall
3089 not be denied, abridged or in anywise affected because such right
3090 has not been created by a writing executed in accordance with the
3091 law of this state prescribing the requirements to effect a valid
3092 testamentary disposition of property.

3093 **SECTION 7.** Section 81-14-363, Mississippi Code of 1972, is
3094 amended as follows:

3095 81-14-363. (1) An account in a savings bank may be opened
3096 by any person or persons with directions to make such account
3097 payable upon his or their death to the named beneficiary or
3098 beneficiaries. When an account is so opened, the savings bank
3099 shall pay any money to the person or persons opening such account
3100 during his or their lifetime in the same manner as if the account
3101 were in the sole name or names of such person or persons.

3102 (2) If the named beneficiary or one (1) of the named
3103 beneficiaries survive the death of the person opening such an
3104 account and the beneficiary or all of the beneficiaries so named
3105 are sixteen (16) years of age or over at the death of such person,
3106 the savings bank shall pay the money to the credit of the account,
3107 less all proper setoffs and charges, to the named beneficiary or
3108 beneficiaries or upon his or their order, as hereinafter provided.
3109 Such payment by the savings bank shall be valid, notwithstanding
3110 any lack of legal age of the named beneficiary or beneficiaries.
3111 However, where such an account is opened or subsequently held by
3112 more than one (1) person, the death of one (1) of such persons
3113 shall not terminate the account and the account shall continue as
3114 to the surviving person or persons and the named beneficiary or
3115 beneficiaries subject to the provisions of subsection (3).

3116 (3) If the named beneficiary or all of the named
3117 beneficiaries survive the death of the person or persons opening
3118 such an account and are under sixteen (16) years of age at such
3119 time, the savings bank shall pay the money to the credit of the
3120 account, less all proper setoffs and charges:

3121 (a) When or after the named beneficiary becomes sixteen
3122 (16) years of age, to the named beneficiary or upon his order; or

3123 (b) When more than one (1) beneficiary is named, the
3124 savings bank shall pay to each beneficiary so named his
3125 proportionate interest in such account as each severally becomes
3126 sixteen (16) years of age; or

3127 (c) To the legal guardian of the named beneficiary,
3128 wherever appointed and qualified, or where more than one (1)
3129 beneficiary is named, the savings bank shall pay such
3130 beneficiary's proportionate interest in such account to his legal
3131 guardian wherever and whenever appointed and qualified; or

3132 (d) * * * If no guardian is appointed and qualified,
3133 payment may be made in accordance with the provisions of
3134 Section * * * 209 or 431 of Section 1 of this act in situations to
3135 which such sections are applicable.

3136 (4) Where the death of the person or persons opening such an
3137 account terminates the account under the provisions of subsections
3138 (2) and (3) of this section and where one or more of the named
3139 beneficiaries are under sixteen (16) years of age and the
3140 remainder of the named beneficiaries are sixteen (16) years of age
3141 or over, the savings bank shall pay the money to the credit of the
3142 trust, less all proper setoffs and charges, to:

3143 (a) The named beneficiaries sixteen (16) years of age
3144 or over at the time of termination of said account pursuant to
3145 subsection (2) of this section; and

3146 (b) The named beneficiaries under sixteen (16) years of
3147 age at the time of termination of said account pursuant to
3148 subsection (3) of this section.

3149 (5) Where such account is opened or subsequently held by
3150 more than one (1) person, the savings bank in the absence of any
3151 written instructions to the contrary, consented to by the savings
3152 bank, shall accept payments made to such account and may pay any
3153 money to the credit of such account from time to time to, or
3154 pursuant to the order of, either or any of such persons during
3155 their life or lives in the same manner as if the account were in
3156 the sole name of either of such persons.

3157 (6) When a person or persons opens an account in a savings
3158 bank in the form set forth in subsection (1) of this section, and
3159 makes a payment or payments to such account, or causes a payment
3160 or payments to be made to such account, such person or persons
3161 shall be conclusively presumed to intend to vest in the named
3162 beneficiary or beneficiaries a present beneficial interest in such
3163 payments made, and in the money to the credit of the account from
3164 time to time, to the end that, if the named beneficiary or
3165 beneficiaries survive the person or persons opening such an
3166 account, all the right and title of the person or persons opening
3167 such an account in and to the money to the credit of the account
3168 at the death of such person or persons, less all proper setoffs
3169 and charges, shall at such death, vest solely and indefeasibly in
3170 the named beneficiary or beneficiaries subject to the conditions
3171 and limitations of subsection (3).

3172 (7) If the named beneficiary predeceases the person opening
3173 such an account, the present beneficial interest presumed to be
3174 vested in the named beneficiary pursuant to subsection (6) of this
3175 section shall terminate at the death of the named beneficiary. In
3176 such case, the personal representatives of the named beneficiary,
3177 and all others claiming through or under the named beneficiary,
3178 shall have no right in or title to the money to the credit of the
3179 account, and the savings bank shall pay such money, less all
3180 proper setoffs and charges, to the person opening such an account,
3181 or pursuant to his order, in the same manner as if the account
3182 were in the sole name of the person opening such an account;
3183 provided, however, where such an account names more than one (1)
3184 beneficiary, the death of one (1) of the beneficiaries so named
3185 shall not terminate the account and the account shall continue as
3186 to the surviving beneficiary or beneficiaries subject to the
3187 provisions of subsection (3) of this section.

3188 (8) A savings bank which makes any payment pursuant to
3189 subsection (3) of this section, prior to service upon the savings
3190 bank of an order of court restraining such payment shall, to the
3191 extent of each payment so made, be released from all claims of the
3192 person or persons opening such an account, the named beneficiary
3193 or beneficiaries, their legal representatives, and all others
3194 claiming through or under them.

3195 (9) When an account is opened in a form described in
3196 subsection (1) of this section, the right of the named beneficiary
3197 or beneficiaries to be vested with sole and indefeasible title to

3198 the money to the credit of the account on the death of the person
3199 or persons opening such an account shall not be denied, abridged
3200 or in anyway affected because such right has not been created by a
3201 writing executed in accordance with the law of this state
3202 prescribing the requirements to effect a valid testamentary
3203 disposition of property.

3204 **SECTION 8.** Section 91-8-103, Mississippi Code of 1972, is
3205 amended as follows:

3206 91-8-103. In this chapter:

3207 (1) "Action," with respect to an act of a trustee,
3208 includes a failure to act.

3209 (2) "Ascertainable standard" means a standard relating
3210 to an individual's health, education, support, or maintenance
3211 within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the
3212 Internal Revenue Code of 1986, as in effect on July 1, 2014, or as
3213 later amended.

3214 (3) "Beneficial interest" means a distribution interest
3215 or a remainder interest; provided, however, a beneficial interest
3216 specifically excludes a power of appointment or a power reserved
3217 by a settlor.

3218 (4) "Beneficiary" means a person that:

3219 (A) Has a present or future beneficial interest in
3220 a trust, vested or contingent; or

3221 (B) In a capacity other than that of trustee,
3222 holds a power of appointment over trust property.

3223 (5) "Beneficiary surrogate" means a person, including a
3224 trust protector or trust advisor, other than a trustee, designated
3225 by the settlor in the trust instrument or in a writing delivered
3226 to the trustee, or designated in a writing delivered to the
3227 trustee by a trust protector or trust advisor with power under the
3228 terms of the trust instrument to receive notices, information, and
3229 reports otherwise required to be provided to a beneficiary under
3230 Section 91-8-813(a) and (b), or to represent a beneficiary under
3231 Section 91-8-303(8).

3232 (6) "Charitable trust" means a trust, or portion of a
3233 trust, created for a charitable purpose described in Section
3234 91-8-405(a).

3235 (7) "Conservator" means a person appointed by the court
3236 to administer the estate of a minor or adult individual * * * as
3237 defined in Section * * * 102 of Section 1 of this act.

3238 (8) "Directed trust" means a trust where through the
3239 terms of the trust, one or more persons are given the authority to
3240 direct or consent to a fiduciary's actual or proposed investment
3241 decision, distribution decision, or any other decision of the
3242 fiduciary.

3243 (9) "Distribution interest" means:

3244 (A) An interest, other than a remainder interest,
3245 held by an eligible distributee or permissible distributee under a
3246 trust and may be a current distribution interest or a future
3247 distribution interest;

3248 (B) A distribution interest is classified as
3249 either a mandatory interest, a support interest or a discretionary
3250 interest; and although not the exclusive means to create each such
3251 respective distribution interest, absent clear and convincing
3252 evidence to the contrary, use of the example language accompanying
3253 the following definitions of each such respective distribution
3254 interest results in the indicated classification of distribution
3255 interest:

3256 (i) A mandatory interest means a distribution
3257 interest in which the timing of any distribution must occur within
3258 one (1) year from the date the right to the distribution arises
3259 and the trustee has no discretion in determining whether a
3260 distribution shall be made or the amount of such distribution;
3261 example distribution language indicating a mandatory interest
3262 includes, but is not limited to:

3263 a. All income shall be distributed to a
3264 named beneficiary; or

3265 b. One Hundred Thousand Dollars
3266 (\$100,000.00) a year shall be distributed to a named beneficiary;

3267 (ii) A support interest means a distribution
3268 interest that is not a mandatory interest but still contains
3269 mandatory language such as "shall make distributions" and is
3270 coupled with a standard capable of judicial interpretation;
3271 example distribution language indicating a support interest
3272 includes, but is not limited to:

3273 a. The trustee shall make distributions
3274 for health, education, maintenance, and support;

3275 b. Notwithstanding the distribution
3276 language used, if a trust instrument containing such distribution
3277 language specifically provides that the trustee exercise
3278 discretion in a reasonable manner with regard to a discretionary
3279 interest, then notwithstanding any other provision of this
3280 subparagraph defining distribution interests, the distribution
3281 interest shall be classified as a support interest;

3282 (iii) A discretionary interest means any
3283 interest that is not a mandatory or a support interest and is any
3284 distribution interest where a trustee has any discretion to make
3285 or withhold a distribution; example distribution language
3286 indicating a discretionary interest includes, but is not limited
3287 to:

3288 a. The trustee may, in the trustee's
3289 sole and absolute discretion, make distributions for health,
3290 education, maintenance, and support;

3291 b. The trustee, in the trustee's sole
3292 and absolute discretion, shall make distributions for health,
3293 education, maintenance, and support;

3294 c. The trustee may make distributions
3295 for health, education, maintenance, and support;

3296 d. The trustee shall make distributions
3297 for health, education, maintenance, and support; however, the

3298 trustee may exclude any of the beneficiaries or may make unequal
3299 distributions among them; or

3300 e. The trustee may make distributions
3301 for health, education, maintenance, support, comfort, and general
3302 welfare;

3303 f. A discretionary interest may also be
3304 evidenced by:

3305 1. Permissive distribution language
3306 such as "may make distributions";

3307 2. Mandatory distribution language
3308 that is negated by the discretionary distribution language
3309 contained in the trust such as "the trustee shall make
3310 distributions in the trustee's sole and absolute discretion";

3311 g. An interest that includes mandatory
3312 distribution language such as "shall" but is subsequently
3313 qualified by discretionary distribution language shall be
3314 classified as a discretionary interest and not as a support or a
3315 mandatory interest;

3316 (C) (i) To the extent a trust contains
3317 distribution language indicating the existence of any combination
3318 of a mandatory, support and discretionary interest, that combined
3319 interest of the trust shall be divided and treated separately as
3320 follows:

3321 a. The trust shall be a mandatory
3322 interest only to the extent of the mandatory distribution
3323 language;

3324 b. The trust shall be a support interest
3325 only to the extent of such support distribution language; and

3326 c. The remaining trust property shall be
3327 held as a discretionary interest;

3328 (ii) For purposes of this subparagraph (C), a
3329 support interest that includes mandatory distribution language
3330 such as "shall" but is subsequently qualified by discretionary
3331 distribution language, shall be classified as a discretionary
3332 interest and not as a support interest.

3333 (10) "Environmental law" means a federal, state, or
3334 local law, rule, regulation, or ordinance relating to protection
3335 of the environment.

3336 (11) "Excluded fiduciary" means any trustee, trust
3337 advisor, or trust protector to the extent that, under the terms of
3338 a trust:

3339 (A) The trustee, trust advisor, or trust protector
3340 is excluded from exercising a power, or is relieved of a duty; and

3341 (B) The power or duty is granted or reserved to
3342 another person.

3343 (12) "Fiduciary" means:

3344 (A) A trustee, conservator, guardian, agent under
3345 any agency agreement or other instrument, an executor, personal
3346 representative or administrator of a decedent's estate, or any
3347 other party, including a trust advisor or a trust protector, who
3348 is acting in a fiduciary capacity for any person, trust, or
3349 estate;

3350 (B) For purposes of subparagraph (A), an agency
3351 agreement includes, but is not limited to, any agreement under
3352 which any delegation is made, either pursuant to Section 91-8-807
3353 or by anyone holding a power or duty pursuant to Article 12;

3354 (C) For purposes of the definition of fiduciary in
3355 Section 91-8-103, fiduciary does not mean any person who is an
3356 excluded fiduciary as such is defined in Section 91-8-103.

3357 (13) "Guardian" means a person appointed by the
3358 court * * * to make decisions regarding the support, care,
3359 education, health, and welfare of a minor or adult individual as
3360 defined in Section 102 of Section 1 of this act. The term does
3361 not include a guardian ad litem.

3362 (14) "Interests of the beneficiaries" means the
3363 beneficial interests provided in the terms of the trust.

3364 (15) "Internal Revenue Code" means the Internal Revenue
3365 Code of 1986, as in effect on July 1, 2014, or as later amended.

3366 (16) "Jurisdiction," with respect to a geographic area,
3367 includes a state or country.

3368 (17) "Person" means an individual, corporation,
3369 business trust, estate, trust, partnership, limited liability
3370 company, association, joint venture, government; governmental
3371 subdivision, agency, or instrumentality; public corporation, or
3372 any other legal or commercial entity.

3373 (18) "Power of appointment" means:

3374 (A) An inter vivos or testamentary power to direct
3375 the disposition of trust property, other than a distribution
3376 decision made by a trustee or other fiduciary to a beneficiary;

3377 (B) Powers of appointment are held by the person
3378 to whom such power has been given, and not by a settlor in that
3379 person's capacity as settlor.

3380 (19) "Power of withdrawal" means a presently
3381 exercisable general power of appointment other than a power: (A)
3382 exercisable by a trustee and limited by an ascertainable standard;
3383 or (B) exercisable by another person only upon consent of the
3384 trustee or a person holding an adverse interest.

3385 (20) "Property" means anything that may be the subject
3386 of ownership, whether real or personal, legal or equitable, or any
3387 interest therein.

3388 (21) "Qualified beneficiary" means a beneficiary who,
3389 on the date the beneficiary's qualification is determined:

3390 (A) Is a distributee or permissible distributee of
3391 trust income or principal;

3392 (B) Would be a distributee or permissible
3393 distributee of trust income or principal if the interests of the
3394 distributees described in subparagraph (A) terminated on that date
3395 without causing the trust to terminate; or

3396 (C) Would be a distributee or permissible
3397 distributee of trust income or principal if the trust terminated
3398 on that date.

3399 (22) "Remainder interest" means an interest under which
3400 a trust beneficiary will receive property held by a trust outright
3401 at some time during the future.

3402 (23) "Reserved power" means a power held by a settlor.

3403 (24) "Revocable," as applied to a trust, means
3404 revocable by the settlor without the consent of the trustee or a
3405 person holding an adverse interest.

3406 (25) "Settlor" means a person, including a testator,
3407 who creates, or contributes property to, a trust. If more than
3408 one (1) person creates or contributes property to a trust, each
3409 person is a settlor of the portion of the trust property
3410 attributable to that person's contribution except to the extent
3411 another person has the power to revoke or withdraw that portion.

3412 (26) "Spendthrift provision" means a term of a trust
3413 which restrains both voluntary and involuntary transfer of a
3414 beneficiary's interest.

3415 (27) "State" means a state of the United States, the
3416 District of Columbia, Puerto Rico, the United States Virgin
3417 Islands, or any territory or insular possession subject to the
3418 jurisdiction of the United States. The term includes an Indian
3419 tribe or band recognized by federal law or formally acknowledged
3420 by a state.

3421 (28) "Successors in interest" means the beneficiaries
3422 under the settlor's will, if the settlor has a will, or in the
3423 absence of an effective will provision, the settlor's heirs at
3424 law.

3425 (29) "Terms of a trust" means the manifestation of the
3426 settlor's intent regarding a trust's provisions as expressed in
3427 the trust instrument or as may be established by other evidence
3428 that would be admissible in a judicial proceeding.

3429 (30) "Trust advisor" means any person described in
3430 Section 91-8-1201(a).

3431 (31) "Trust instrument" means an instrument executed by
3432 the settlor that contains terms of the trust, including any
3433 amendments thereto.

3434 (32) "Trustee" includes an original, additional, and
3435 successor trustee, and a cotrustee.

3436 (33) "Trust protector" means any person described in
3437 Section 91-8-1201(a).

3438 **SECTION 9.** Section 93-14-102, Mississippi Code of 1972, is
3439 amended as follows:

3440 93-14-102. In this chapter:

3441 (1) "Adult" means an individual who has attained * * *
3442 twenty-one (21) years of age.

3443 (2) "Conservator" means a person appointed by the court
3444 to administer the property of an adult, including a person
3445 appointed under * * * Article 4 of Section 1 of this act.

3446 (3) "Guardian" means a person appointed by the court to
3447 make decisions regarding the person of an adult, including a
3448 person appointed under * * * Article 2 or 3 of Section 1 of this
3449 act.

3450 (4) "Guardianship order" means an order appointing a
3451 guardian.

3452 (5) "Guardianship proceeding" means a judicial
3453 proceeding in which an order for the appointment of a guardian is
3454 sought or has been issued.

3455 (6) "Incapacitated person" means an adult for whom a
3456 guardian has been appointed.

3457 (7) "Party" means the respondent, petitioner, guardian,
3458 conservator, or any other person allowed by the court to
3459 participate in a guardianship or protective proceeding.

3460 (8) "Person," except in the term incapacitated person
3461 or protected person, means an individual, corporation, business
3462 trust, estate, trust, partnership, limited liability company,
3463 association, joint venture, public corporation, government or
3464 governmental subdivision, agency, or instrumentality, or any other
3465 legal or commercial entity.

3466 (9) "Protected person" means an adult for whom a
3467 protective order has been issued.

3468 (10) "Protective order" means an order appointing a
3469 conservator or other order related to management of an adult's
3470 property.

3471 (11) "Protective proceeding" means a judicial
3472 proceeding in which a protective order is sought or has been
3473 issued.

3474 (12) "Record" means information that is inscribed on a
3475 tangible medium or that is stored in an electronic or other medium
3476 and is retrievable in perceivable form.

3477 (13) "Respondent" means an adult for whom a protective
3478 order or the appointment of a guardian is sought.

3479 (14) "State" means a state of the United States, the
3480 District of Columbia, Puerto Rico, the United States Virgin
3481 Islands, a federally recognized Indian tribe, or any territory or
3482 insular possession subject to the jurisdiction of the United
3483 States.

3484 **SECTION 10.** Section 93-14-302, Mississippi Code of 1972, is
3485 amended as follows:

3486 93-14-302. (a) To confirm transfer of a guardianship or
3487 conservatorship transferred to this state under provisions similar
3488 to Section 93-14-301, the guardian or conservator must petition
3489 the court in this state to accept the guardianship or
3490 conservatorship. The petition must include a certified copy of
3491 the other state's provisional order of transfer.

3492 (b) Notice of a petition under subsection (a) must be given
3493 to those persons that would be entitled to notice if the petition
3494 were a petition for the appointment of a guardian or conservator
3495 or issuance of a protective order in both the transferring state
3496 and this state. The notice must be given in the same manner as
3497 notice is required to be given in this state.

3498 (c) On the court's own motion or on request of the guardian
3499 or conservator, the incapacitated or protected person, or other

3500 person required to be notified of the proceeding, the court shall
3501 hold a hearing on a petition filed pursuant to subsection (a).

3502 (d) The court shall issue an order provisionally granting a
3503 petition filed under subsection (a) unless:

3504 (1) An objection is made and the objector establishes
3505 that transfer of the proceeding would be contrary to the interests
3506 of the incapacitated or protected person; or

3507 (2) The guardian or conservator is ineligible for
3508 appointment in this state.

3509 (e) The court shall issue a final order accepting the
3510 proceeding and appointing the guardian or conservator as guardian
3511 or conservator in this state upon its receipt from the court from
3512 which the proceeding is being transferred of a final order issued
3513 under provisions similar to Section 93-14-301 transferring the
3514 proceeding to this state.

3515 (f) Not later than ninety (90) days after issuance of a
3516 final order accepting transfer of a guardianship or
3517 conservatorship, the court shall determine whether the
3518 guardianship or conservatorship needs to be modified to conform to
3519 the law of this state.

3520 (g) In granting a petition under this section, the court
3521 shall recognize a guardianship or conservatorship order from the
3522 other state, including the determination of the incapacitated or
3523 protected person's incapacity and the appointment of the guardian
3524 or conservator.

3525 (h) The denial by a court of this state of a petition to
3526 accept a guardianship or conservatorship transferred from another
3527 state does not affect the ability of the guardian or conservator
3528 to seek appointment as guardian or conservator in this state
3529 under * * * Article 2, 3 or 4 of Section 1 of this act or under
3530 Section 35-5-1 et seq., if the court has jurisdiction to make an
3531 appointment other than by reason of the provisional order of
3532 transfer.

3533 **SECTION 11.** Sections 93-13-3, 93-13-5, 93-13-7, 93-13-9,
3534 93-13-11, 93-13-13, 93-13-15, 9-13-17, 93-13-19, 93-13-21,
3535 93-13-23, 93-13-25, 93-13-27, 93-13-29, 93-13-31, 93-13-33,
3536 93-13-35, 93-13-37, 93-13-38, 93-13-39, 93-13-41, 93-13-43,
3537 93-13-45, 93-13-47, 93-13-49, 93-13-51, 93-13-53, 93-13-55,
3538 93-13-57, 93-13-59, 93-13-61, 93-13-63, 93-13-65, 93-13-67,
3539 93-13-69, 93-13-71, 93-13-73, 93-13-75, 93-13-77 and 93-13-79,
3540 Mississippi Code of 1972, dealing with wards generally, are
3541 repealed.

3542 **SECTION 12.** Section 93-13-111, Mississippi Code of 1972,
3543 dealing with wards in need of mental treatment, is repealed.

3544 **SECTION 13.** Sections 93-13-121, 93-13-123, 93-13-125,
3545 93-13-127, 93-13-128, 93-13-129, 93-13-131, 93-13-133 and
3546 93-13-135, Mississippi Code of 1972, dealing with the appointment
3547 of guardians for incompetent adults, are repealed.

3548 **SECTION 14.** Section 93-13-151, Mississippi Code of 1972,
3549 dealing with the procedure following restoration of reason, is
3550 repealed.

3551 **SECTION 15.** Section 93-13-161, Mississippi Code of 1972,
3552 dealing with the appointment of a guardian for the estate of a
3553 person in the armed forces listed as missing, is repealed.

3554 **SECTION 16.** Sections 93-13-181, 93-13-183, 93-13-185 and
3555 93-13-187, Mississippi Code of 1972, dealing with nonresident
3556 guardians, is repealed.

3557 **SECTION 17.** Sections 93-13-211, 93-13-213, 93-13-215,
3558 93-13-217 and 93-13-219, Mississippi Code of 1972, dealing with
3559 small transactions performed without guardianship, are repealed.

3560 **SECTION 18.** Sections 93-13-251, 93-13-253, 93-13-255,
3561 93-13-257, 93-13-259, 93-13-261, 93-13-263, 93-13-265 and
3562 93-13-267, Mississippi Code of 1972, dealing with conservators,
3563 are repealed.

3564 **SECTION 19.** Section 93-13-281, Mississippi Code of 1972,
3565 dealing with the joinder of parties in suits involving wards, is
3566 repealed.

3567 **SECTION 20.** The editor is directed to retitle Title 93,
3568 Chapter 13, Mississippi Code of 1972, appropriately.

3569 **SECTION 21.** This act shall take effect and be in force from
3570 and after January 1, 2020.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE MISSISSIPPI GUARDIANSHIP AND
2 CONSERVATORSHIP ACT; TO ENACT A SHORT TITLE; TO PROVIDE
3 DEFINITIONS; TO PROVIDE THAT THE PRINCIPLES OF LAW AND EQUITY ARE
4 SUPPLEMENTAL TO THE ACT; TO PROVIDE SUBJECT-MATTER JURISDICTION;
5 TO PROVIDE FOR TRANSFER OF PROCEEDINGS; TO ESTABLISH VENUE; TO
6 CLARIFY APPLICATION OF THE RULES OF EVIDENCE, RULES OF CIVIL

7 PROCEDURE AND RULES OF APPELLATE PROCEDURE; TO PROVIDE FOR
8 ISSUANCE OF LETTERS OF GUARDIANSHIP OR CONSERVATORSHIP; TO PROVIDE
9 THE EFFECT OF ACCEPTANCE OF APPOINTMENT AS A GUARDIAN OR
10 CONSERVATOR; TO AUTHORIZE CO-GUARDIANS AND CO-CONSERVATORS; TO
11 AUTHORIZE JUDICIAL APPOINTMENT OF SUCCESSORS; TO PROVIDE FOR THE
12 EFFECT OF DEATH, REMOVAL OR RESIGNATION OF A GUARDIAN OR
13 CONSERVATOR; TO REQUIRE NOTICE OF HEARINGS; TO ALLOW WAIVER OF
14 NOTICE; TO AUTHORIZE APPOINTMENT OF A GUARDIAN AD LITEM; TO
15 AUTHORIZE A PERSON TO REQUEST NOTICE; TO REQUIRE DISCLOSURE OF
16 BANKRUPTCY OR CRIMINAL HISTORY; TO AUTHORIZE COMPENSATION AND
17 REIMBURSEMENT OF EXPENSES; TO IMMUNIZE THOSE SERVING FROM
18 LIABILITY FOR AN ACT OF THE WARD; TO AUTHORIZE ONE APPOINTED TO
19 PETITION THE COURT FOR INSTRUCTION OR RATIFICATION; TO PROVIDE
20 WHEN A THIRD PARTY NEED NOT ACCEPT THE AUTHORITY OF THE APPOINTEE;
21 TO AUTHORIZE A TEMPORARY SUBSTITUTE GUARDIAN OR CONSERVATOR; TO
22 AUTHORIZE REGISTRATION OF AN OUT-OF-STATE GUARDIAN OR CONSERVATOR;
23 TO ENACT TRANSITION PROVISIONS; TO AUTHORIZE GUARDIANSHIP OF A
24 MINOR; TO REQUIRE A PETITION FOR APPOINTMENT; TO REQUIRE NOTICE OF
25 HEARING; TO AUTHORIZE APPOINTMENT OF AN ATTORNEY FOR THE MINOR; TO
26 AUTHORIZE THE MINOR'S ATTENDANCE AT A HEARING; TO SPECIFY THE
27 RIGHTS OF THE MINOR; TO AUTHORIZE A LIMITED GUARDIANSHIP; TO
28 AUTHORIZE AN EMERGENCY GUARDIAN; TO PROVIDE THE DUTIES AND POWERS
29 OF A GUARDIAN; TO PROVIDE FOR THE REMOVAL OF A GUARDIAN AND
30 TERMINATION OF A GUARDIANSHIP; TO PROVIDE FOR THE GUARDIANSHIP OF
31 AN ADULT; TO REQUIRE A PETITION FOR APPOINTMENT OF A GUARDIAN; TO
32 REQUIRE NOTICE OF A HEARING; TO AUTHORIZE APPOINTMENT OF A
33 GUARDIAN AD LITEM; TO REQUIRE PROFESSIONAL EVALUATION; TO SPECIFY
34 THE RIGHTS OF THE ADULT AT A HEARING; TO PROVIDE FOR
35 CONFIDENTIALITY OF RECORDS; TO SPECIFY WHO MAY BE A GUARDIAN; TO
36 PROVIDE STANDARDS FOR AN ORDER APPOINTING A GUARDIAN FOR AN ADULT;
37 TO REQUIRE NOTICE OF AN ORDER OF APPOINTMENT; TO AUTHORIZE AN
38 EMERGENCY GUARDIAN FOR AN ADULT; TO SET FORTH THE DUTIES AND
39 POWERS OF A GUARDIAN OF AN ADULT; TO AUTHORIZE LIMITATIONS ON THE
40 GUARDIAN'S POWER; TO REQUIRE A GUARDIAN'S PLAN AND AUTHORIZE
41 AMENDMENT THEREOF; TO REQUIRE WELL-BEING REPORTS AND MONITORING OF
42 THE GUARDIANSHIP; TO AUTHORIZE REMOVAL OF A GUARDIAN AND
43 APPOINTMENT OF A SUCCESSOR; TO PROVIDE FOR TERMINATION OR
44 MODIFICATION; TO AUTHORIZE CONSERVATORSHIP OF THE ESTATE OF A
45 WARD, WHETHER A MINOR OR AN ADULT; TO REQUIRE PETITION FOR
46 APPOINTMENT OF A CONSERVATOR; TO PROVIDE FOR NOTICE AND HEARING;
47 TO AUTHORIZE THE COURT TO ORDER PRESERVATION AND APPLICATION OF
48 THE ESTATE DURING THE PENDENCY OF THE PROCEEDING; TO AUTHORIZE
49 APPOINTMENT OF A GUARDIAN AD LITEM; TO AUTHORIZE APPOINTMENT OF AN
50 ATTORNEY FOR THE RESPONDENT; TO REQUIRE PROFESSIONAL EVALUATION;
51 TO SPECIFY THE RESPONDENT'S RIGHTS; TO PROVIDE FOR
52 CONFIDENTIALITY; TO PROVIDE WHO MAY SERVE AS CONSERVATOR; TO
53 REQUIRE AN ORDER APPOINTING A CONSERVATOR; TO REQUIRE NOTICE OF
54 THE APPOINTMENT OF A CONSERVATOR; TO AUTHORIZE APPOINTMENT OF AN
55 EMERGENCY CONSERVATOR; TO LIMIT THE POWERS OF A CONSERVATOR; TO
56 PROVIDE FOR PETITION FOR CERTAIN RELIEF AFTER THE APPOINTMENT OF A
57 CONSERVATOR; TO REQUIRE BOND, OATH AND ASSET-PROTECTION
58 ARRANGEMENTS; TO REQUIRE CERTAIN TERMS FOR THE BOND; TO PROVIDE

59 FOR THE DUTIES AND POWERS OF A CONSERVATOR; TO REQUIRE A
60 CONSERVATOR'S PLAN AND AUTHORIZE AMENDMENT THEREOF; TO REQUIRE
61 INVENTORY AND RECORD KEEPING; TO AUTHORIZE ADMINISTRATIVE POWERS
62 OF A CONSERVATOR NOT REQUIRING COURT APPROVAL; TO AUTHORIZE
63 DISTRIBUTION FROM THE CONSERVATORSHIP ESTATE; TO REQUIRE
64 REPORTING, ACCOUNTING AND MONITORING; TO BAR ATTEMPTED TRANSFER OF
65 PROPERTY BY THE WARD; TO AUTHORIZE VOIDING OF A TRANSACTION THAT
66 CONSTITUTES A CONFLICT OF INTEREST; TO PROTECT PERSONS DEALING
67 WITH A CONSERVATOR IN GOOD FAITH; TO AUTHORIZE PRESENTATION AND
68 ALLOWANCE OF CLAIMS AGAINST THE ESTATE; TO PROVIDE FOR THE
69 PERSONAL LIABILITY OF A CONSERVATOR; TO AUTHORIZE REMOVAL OF A
70 CONSERVATOR AND APPOINTMENT OF A SUCCESSOR; TO AUTHORIZE
71 TERMINATION OR MODIFICATION OF A CONSERVATORSHIP; TO AUTHORIZE
72 CERTAIN TRANSFERS WITHOUT APPOINTMENT OF A CONSERVATOR IF IN THE
73 BEST INTEREST OF A MINOR; TO AMEND SECTION 9-1-49, MISSISSIPPI
74 CODE OF 1972, TO CONFORM A COURT CLERK'S RESPONSIBILITY TO SUBMIT
75 CERTAIN INFORMATION TO THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND
76 SECTION 43-47-29, MISSISSIPPI CODE OF 1972, TO CONFORM THE
77 AUTHORITY OF THE DEPARTMENT OF HUMAN SERVICES TO SEEK APPOINTMENT
78 OF A CONSERVATOR FOR A VULNERABLE PERSON; TO AMEND SECTION
79 45-9-103, MISSISSIPPI CODE OF 1972, TO CONFORM PROVISIONS
80 CONCERNING TRANSMISSION OF FEDERAL PROHIBITED PERSON INFORMATION
81 TO THE FBI; TO AMEND SECTIONS 81-5-62, 81-12-145 AND 81-14-363,
82 MISSISSIPPI CODE OF 1972, TO CONFORM PROVISIONS CONCERNING
83 ACCOUNTS PAYABLE UPON DEATH; TO AMEND SECTION 91-8-103,
84 MISSISSIPPI CODE OF 1972, TO CONFORM DEFINITIONS WITH REGARD TO
85 TRUSTS; TO AMEND SECTIONS 93-14-102 AND 93-14-302, MISSISSIPPI
86 CODE OF 1972, TO CONFORM PROVISIONS AFFECTING JURISDICTION OF
87 ADULT GUARDIANSHIP AND PROTECTION PROCEEDINGS AND CONFORM AGE OF
88 MAJORITY; TO REPEAL SECTIONS 93-13-3 THROUGH 93-13-79, 93-13-111,
89 93-13-121 THROUGH 93-13-135, 93-13-151, 93-13-161, 93-13-181
90 THROUGH 93-13-187, 93-13-211 THROUGH 93-13-219, 93-13-251 THROUGH
91 93-13-267 AND 93-13-281, MISSISSIPPI CODE OF 1972, WHICH DEAL WITH
92 GUARDIANSHIPS AND CONSERVATORSHIPS; TO DIRECT THAT TITLE 93,
93 CHAPTER 13, MISSISSIPPI CODE OF 1972, BE RETITLED; AND FOR RELATED
94 PURPOSES.

HR26\SB2828PH.J

Andrew Ketchings
Clerk of the House of Representatives