



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

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

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

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

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

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

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

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

128           (i) "Less restrictive alternative" means an approach to  
129 meeting an individual's needs which restricts fewer rights of the



130 individual than would the appointment of a guardian or conservator  
131 in the discretion of the court.

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

135 (k) "Limited conservatorship" means a conservatorship  
136 that grants the conservator less than all powers available under  
137 this act, grants powers over only certain property, or otherwise  
138 restricts the powers of the conservator.

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

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

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

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

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

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



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

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

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

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

161 (t) "State" means a state of the United States, the  
162 District of Columbia, Puerto Rico, the United States Virgin  
163 Islands, or any territory or insular possession subject to the  
164 jurisdiction of the United States. The term includes a federally  
165 recognized Indian tribe.

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

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

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



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

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

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

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

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

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

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

200 (2) After appointment of a guardian or conservator, the  
201 court that made the appointment may transfer the proceeding to a



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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

275 (3) The court in its initial order of appointment or at any  
276 subsequent time may limit the powers conferred on a guardian or





277 conservator. The court shall direct the clerk to issue new  
278 letters of guardianship or conservatorship that reflect the  
279 limitation. The court shall direct the clerk to give notice of  
280 the limitation by service of a copy of the court's order on the  
281 guardian or conservator, the ward, and any other person the court  
282 determines.

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

286 **Section 109. Effect of acceptance of appointment.** By  
287 accepting appointment, a guardian or conservator submits to the  
288 personal jurisdiction of the court in this state in any proceeding  
289 relating to the guardianship or conservatorship.

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

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

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



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

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

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

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

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

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

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



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

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

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

336 **Section 114. Waiver of notice.** Except as otherwise provided  
337 in this act, a person may waive notice under this act in a record  
338 signed by the person or person's attorney and filed in the  
339 proceeding. However, a respondent or ward may not waive notice  
340 under this act.

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

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



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

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

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

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

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

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

365 (a) Is or has been a debtor in a bankruptcy,  
366 insolvency, or receivership proceeding; or

367 (b) Has been convicted of:

368 (i) A felony;

369 (ii) A crime involving dishonesty, neglect,  
370 violence, or use of physical force; or

371 (iii) Other crime relevant to the functions the  
372 person would assume as guardian or conservator.

373 **Section 118. Compensation and expenses; in general.** (1) An

374 attorney for a respondent in a proceeding under this act may be



375 awarded reasonable compensation for services and reasonable  
376 expenses in the discretion of the court.

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

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

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

387 **Section 119. Compensation of guardian or conservator. (1)**

388 Subject to court approval, a guardian may be awarded reasonable  
389 compensation for services as guardian and to reimbursement for  
390 room, board, clothing, and other appropriate expenses advanced for  
391 the benefit of the ward. If a conservator other than the guardian  
392 or a person affiliated with the guardian is appointed for the  
393 ward, reasonable compensation and reimbursement to the guardian  
394 may be approved and paid by the conservator in the discretion of  
395 the court.

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

441           (a) The person has actual knowledge or a reasonable  
442 belief that the letters of guardianship or conservatorship are  
443 invalid or the conservator or guardian is exceeding or improperly  
444 exercising authority granted by the court; or

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



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

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

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

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

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

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

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

471 (2) Except as otherwise ordered by the court, a temporary  
472 substitute guardian or temporary substitute conservator appointed  
473 under this section has the powers stated in the order of





474 appointment of the guardian or conservator. The authority of the  
475 existing guardian or conservator is suspended for as long as the  
476 temporary substitute guardian or conservator has authority.

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

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

484 **Section 124. Registration of order; effect.** (1) If a  
485 guardian has been appointed in another state for an individual,  
486 and a petition for guardianship for the individual is not pending  
487 in this state, the guardian appointed in the other state, after  
488 giving notice to the appointing court, may register the  
489 guardianship order in this state by filing certified copies of the  
490 order and letters of guardianship as a foreign judgment in a court  
491 of an appropriate county of this state.

492 (2) If a conservator has been appointed in another state for  
493 an individual, and a petition for conservatorship for the  
494 individual is not pending in this state, the conservator appointed  
495 for the individual in the other state, after giving notice to the  
496 appointing court, may register the conservatorship in this state  
497 by filing certified copies of the order of conservatorship,  
498 letters of conservatorship, and any bond or other asset-protection



499 arrangement required by the court as a foreign judgment in a court  
500 of a county in which property belonging to the individual is  
501 located.

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

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

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

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

518 (b) This chapter applies to all guardianship and  
519 conservatorship proceedings commenced before January 1, 2020,  
520 unless the court finds that application of a particular provision  
521 of this chapter would substantially interfere with the effective  
522 conduct of the proceedings or prejudice the rights of the parties,



523 in which case the particular provision of this chapter does not  
524 apply and the superseded law applies; and

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

## 527 **ARTICLE 2**

### 528 **GUARDIANSHIP OF MINOR**

#### 529 **Section 201. Basis for appointment of guardian for minor.**

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

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

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

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

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

#### 541 **Section 202. Petition for appointment of guardian for minor.**

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

544 (2) A petition under subsection (1) must comply with the  
545 requirement for an affidavit under the Uniform Child Custody  
546 Jurisdiction and Enforcement Act (Title 93, Chapter 27,  
547 Mississippi Code of 1972) and must also include:



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

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

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

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

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

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

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

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

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



573 (c) Any adult with whom the minor resides;  
574 (d) Each individual who had primary care or custody of  
575 the minor for at least sixty (60) days during the six (6) months  
576 immediately before the filing of the petition; and  
577 (e) Any other person the court determines should  
578 receive service of notice.

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

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

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

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

592 (a) Requested by the minor who is fourteen (14) years  
593 of age or older;  
594 (b) Recommended by a guardian ad litem; or  
595 (c) The court determines the minor needs  
596 representation.



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

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

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

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

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

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

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

617           **Section 206. Order on appointment; limited guardianship for**  
618 **minor.** (1) After a hearing under Section 202, the court may  
619 appoint a guardian for a minor, dismiss the proceeding, or take  
620 other appropriate action consistent with this act or law of this  
621 state other than this act.



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

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

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

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

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



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

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

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

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

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

658 (c) The court has removed the guardian.

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

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

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

668 (2) The duration of authority of an emergency guardian for a  
669 minor may not exceed sixty (60) days, and the emergency guardian  
670 may exercise only the powers specified in the order of





671 appointment. The emergency guardian's authority may be extended  
672 one (1) time for not more than sixty (60) days if the court finds  
673 that the conditions for appointment of an emergency guardian in  
674 subsection (1) continue.

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

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

681 (b) Any attorney appointed under Section 204;

682 (c) Each parent of the minor;

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

685 (e) Any other person the court determines.

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



696 within five (5) days of any objection or other contest. Not later  
697 than five (5) days after the appointment, the court must hold a  
698 hearing on the appropriateness of the appointment.

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

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

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

712 (2) A guardian for a minor must:

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

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



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

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

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

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

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

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

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

743 (a) Apply for and receive funds up to the amount set  
744 forth in Section 431 and benefits otherwise payable for the



745 support of the minor to the minor's parent, guardian, or custodian  
746 under a statutory system of benefits or insurance or any private  
747 contract, devise, trust, conservatorship, or custodianship.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

792           (5) When terminating a guardianship for a minor under this  
793 section, the court may issue an order providing for transitional



794 arrangements that will assist the minor with a transition of  
795 custody and that is in the best interest of the minor.

796 (6) A guardian for a minor who is removed must cooperate  
797 with a successor guardian to facilitate transition of the  
798 guardian's responsibilities and protect the best interest of the  
799 minor.

### 800 **ARTICLE 3**

#### 801 **GUARDIANSHIP OF ADULT**

##### 802 **Section 301. Basis for appointment of guardian for adult.**

803 (1) On petition of the chancellor or clerk of the chancery court,  
804 a relative or friend of the person, or any other interested party,  
805 and after notice and hearing, the court may appoint a guardian for  
806 an adult when the respondent lacks the ability to meet essential  
807 requirements for physical health, safety or self-care because:

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

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

815 (2) The court shall grant to a guardian appointed under  
816 subsection (1) only those powers necessitated by the limitations  
817 and demonstrated needs of the ward and must enter orders that will  
818 encourage the development of the ward's maximum self-determination



819 and independence. The court must consider any less restrictive  
820 alternative that would meet the needs of the ward.

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

822 (1) A person interested in an adult's welfare, including the  
823 adult for whom the order is sought, may petition for appointment  
824 of a guardian for the adult.

825 (2) A proceeding under this article may be instituted by the  
826 chancellor or clerk of the chancery court, any relative or friend  
827 of the adult, or any other interested party, including the adult  
828 for whom the order is sought, by filing a sworn petition in the  
829 chancery court of the county of the residence of the adult,  
830 setting forth that the adult is alleged to be in need of a  
831 guardianship.

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

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

839 **Section 303. Notice of hearing for appointment of guardian**

840 **for adult.** (1) On receipt of a petition under Section 302 for  
841 appointment of a guardian for a respondent who is an adult, the  
842 court must set a date, time and place for a hearing, and shall  
843 cause not less than seven (7) days' notice thereof to be given to



844 the adult for whom the guardian is to be appointed, except that  
845 the court may, for good cause shown, direct that a shorter notice  
846 be given.

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

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

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

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

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

864 (ii) One (1) adult relative of the person for whom  
865 the guardian is to be appointed who is not the petitioner and who  
866 resides in Mississippi if that relative is within the third degree  
867 of kinship. If no relative within the third degree of kinship to  
868 the person for whom the guardian is to be appointed is found





869 residing in the State of Mississippi, the court shall either  
870 designate some other appropriate person to receive the notice or  
871 appoint a guardian ad litem to receive notice.

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

876 (5) Notice of a hearing on a petition seeking an order under  
877 this article that is filed after the appointment of a guardian,  
878 together with a copy of the petition, must be given to the  
879 respondent, the guardian, and any other person the court  
880 determines.

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

888 **Section 305. Professional evaluation.** (1) The chancery  
889 court must conduct a hearing to determine whether a guardian is  
890 needed for the respondent. Before the hearing, the court, in its  
891 discretion, may appoint a guardian ad litem to look after the  
892 interest of the person in question; the guardian ad litem must be



893 present at the hearing and present the interests of the respondent  
894 for whose person a guardian is to be appointed.

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

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

903 (b) One (1) licensed physician and either one (1)  
904 licensed psychologist, nurse practitioner, or physician's  
905 assistant.

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

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



917 (a) Present evidence and subpoena witnesses and  
918 documents;

919 (b) Examine witnesses; and

920 (c) Otherwise participate in the hearing.

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

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

925 (4) Any person may request to participate in a hearing under  
926 Section 303. The court may grant the request, with or without a  
927 hearing, on determining that the best interest of the respondent  
928 will be served. The court may impose appropriate conditions on  
929 the person's participation.

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



941 and does not endanger the welfare or financial interests of the  
942 respondent or ward.

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

948 (a) The court;

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

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

953 (d) Unless the court orders otherwise, an agent  
954 appointed under a power of attorney for health care or power of  
955 attorney for finances in which the respondent is the principal;  
956 and

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

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

960 Appointment of a guardian for an adult will be at the discretion  
961 of the court and in the best interest of the respondent. If two  
962 (2) or more persons have requested responsibility as guardian for  
963 the adult, the court shall select as guardian the person the court  
964 considers best qualified. In determining the best qualified  
965 person, the court shall consider the person's relationship with



966 the respondent, the person's skills, the expressed wishes of the  
967 respondent, including any designation made in a will, durable  
968 power of attorney, or health-care directive, the extent to which  
969 the person and the respondent have similar values and preferences,  
970 and the likelihood the person will be able to perform the duties  
971 of a guardian successfully. The court, acting in the best  
972 interest of the respondent, may decline to appoint as guardian a  
973 person requesting such an appointment.

974 (2) If a qualified guardian under this section cannot be  
975 determined, or if other circumstances arise where the court  
976 determines that a guardian must instead be appointed, the court,  
977 at its discretion, may appoint the chancery court clerk for the  
978 county in which the proceedings were filed, to serve as the  
979 respondent's guardian. The chancery court clerk shall serve in  
980 the capacity ordered by the court unless a conflict of interest  
981 arises or the clerk presents circumstances where the court  
982 determines the clerk's recusal from appointment is permitted.

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

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



990 (b) The court finds by clear and convincing evidence  
991 that the person is the best qualified person available for  
992 appointment and the appointment is in the best interest of the  
993 respondent.

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

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

1000 (a) Include a specific finding that clear and  
1001 convincing evidence established that the identified needs of the  
1002 respondent cannot be met by a less restrictive alternative,  
1003 including use of appropriate supportive services and technological  
1004 assistance; and

1005 (b) Include a specific finding that clear and  
1006 convincing evidence established the respondent was given proper  
1007 notice of the hearing on the petition;

1008 (2) A court order establishing a full guardianship for an  
1009 adult must state the basis for granting a full guardianship and  
1010 include specific findings that support the conclusion that a  
1011 limited guardianship would not meet the functional needs of the  
1012 ward.

1013 (3) A court order establishing a limited guardianship for an  
1014 adult must state the specific powers granted to the guardian.



1015           (4) The court, as part of an order establishing a  
1016 guardianship for an adult, must identify and include the contact  
1017 information for any person that subsequently is entitled to:  
1018           (a) Notice of the rights of the adult under Section  
1019 310(b);  
1020           (b) Notice of a change in the primary dwelling of the  
1021 adult;  
1022           (c) Notice that the guardian has delegated:  
1023               (i) The power to manage the care of the adult;  
1024               (ii) The power to make decisions about where the  
1025 adult lives;  
1026               (iii) The power to make major medical decisions on  
1027 behalf of the adult;  
1028               (iv) A power that requires court approval under  
1029 Section 314; or  
1030               (v) Substantially all powers of the guardian;  
1031           (d) A copy of the guardian's plan under Section 315 and  
1032 the guardian's well-being report under Section 316;  
1033           (e) Access to court records relating to the  
1034 guardianship;  
1035           (f) Notice of the death or significant change in the  
1036 condition of the adult;  
1037           (g) Notice that the court has limited or modified the  
1038 powers of the guardian; and  
1039           (h) Notice of the removal of the guardian.



1040 (5) A spouse and adult children of a ward are entitled to  
1041 notice under Section 303(3) unless the court determines notice  
1042 would be contrary to the preferences or prior directions of the  
1043 ward or not in the best interest of the ward.

1044 (6) (a) If the chancellor finds from the evidence that the  
1045 adult is incapable of taking care of his person, the chancellor  
1046 shall appoint a guardian over the person.

1047 (b) The costs and expenses of the proceedings shall be  
1048 paid out of the estate of the person if a guardian is appointed.  
1049 If a guardian is appointed and the adult has no estate, or if no  
1050 guardian is appointed, then the costs and expenses must be paid by  
1051 the person instituting the proceedings.

1052 **Section 310. Notice of order of appointment; rights.** (1) A  
1053 guardian appointed under Section 309 must give the ward and all  
1054 other persons given notice under Section 309(4) a copy of the  
1055 order of appointment, together with notice of the right to request  
1056 termination or modification. The order and notice must be given  
1057 not later than fourteen (14) days after the appointment.

1058 (2) Not later than fourteen (14) days after appointment of a  
1059 guardian under Section 309, the guardian must request from the  
1060 court a statement of the rights of the ward and must give the  
1061 statement to the ward and any other person entitled to notice  
1062 under Section 303(3) or a court order. The statement must notify  
1063 the ward of the right to:





1064           (a) Seek termination or modification of the  
1065 guardianship, or removal of the guardian, and choose an attorney  
1066 to represent the adult in these matters;

1067           (b) Be involved in decisions affecting the adult,  
1068 including decisions about the adult's care, dwelling, activities,  
1069 or social interactions, to the extent reasonably feasible;

1070           (c) Be involved in health-care decision-making to the  
1071 extent reasonably feasible and supported in understanding the  
1072 risks and benefits of health-care options to the extent reasonably  
1073 feasible;

1074           (d) Be notified at least fourteen (14) days before a  
1075 change in the adult's primary dwelling or permanent move to a  
1076 nursing home, mental-health facility, or other facility that  
1077 places restrictions on the individual's ability to leave or have  
1078 visitors, unless the change or move is proposed in the guardian's  
1079 plan under Section 315 or authorized by the court by specific  
1080 order;

1081           (e) Object to a change or move described in paragraph  
1082 (d) and the process for objecting;

1083           (f) Communicate, visit, or interact with others,  
1084 including receiving visitors, and making or receiving telephone  
1085 calls, personal mail, or electronic communications, including  
1086 through social media, unless:



1087 (i) The guardian has been authorized by the court  
1088 by specific order to restrict communications, visits, or  
1089 interactions;

1090 (ii) A protective order is in effect that limits  
1091 contact between the adult and a person; or

1092 (iii) The guardian has good cause to believe  
1093 restriction is necessary because interaction with a specified  
1094 person poses a risk of significant physical, psychological, or  
1095 financial harm to the adult, and the restriction is:

1096 1. For a period of not more than seven (7)  
1097 business days if the person has a family or pre-existing social  
1098 relationship with the adult; or

1099 2. For a period of not more than sixty (60)  
1100 days if the person does not have a family or pre-existing social  
1101 relationship with the adult;

1102 (g) Receive a copy of the guardian's plan under Section  
1103 315 and the guardian's well-being report under Section 316; and

1104 (h) Object to the guardian's plan or report.

1105 **Section 311. Emergency guardian for adult.** (1) On a  
1106 petition by a person interested in an adult's welfare or a  
1107 petition filed under Section 302, the court may appoint an  
1108 emergency guardian for the adult if the court finds:

1109 (a) Appointment of an emergency guardian is likely to  
1110 prevent substantial harm to the adult's physical health, safety,  
1111 or welfare;



1112 (b) No other person appears to have authority and  
1113 willingness to act in the circumstances; and

1114 (c) There is reason to believe that a basis for  
1115 appointment of a guardian under Section 301 exists.

1116 (2) The duration of authority of an emergency guardian for  
1117 an adult may not exceed sixty (60) days, and the emergency  
1118 guardian may exercise only the powers specified in the order of  
1119 appointment. The emergency guardian's authority may be extended  
1120 once for not more than sixty (60) days if the court finds that the  
1121 conditions for appointment of an emergency guardian in subsection  
1122 (1) continue.

1123 (3) Except as otherwise provided in subsection (4),  
1124 reasonable notice of the date, time, and place of a hearing on the  
1125 petition must be given to the respondent, the respondent's  
1126 attorney, and any other person the court determines.

1127 (4) The court may appoint an emergency guardian for an adult  
1128 without notice to the adult and any attorney for the adult only if  
1129 the court finds from an affidavit or testimony that the  
1130 respondent's physical health, safety, or welfare will be  
1131 substantially harmed before a hearing with notice on the  
1132 appointment can be held. If the court appoints an emergency  
1133 guardian without giving notice under subsection (3), the court  
1134 must give notice of the appointment not later than forty-eight  
1135 (48) hours after the appointment to:

1136 (a) The respondent;



1137 (b) The respondent's attorney;  
1138 (c) Any other person the court determines; and  
1139 (d) Hold a hearing on the appropriateness of the  
1140 appointment not later than five (5) days after the appointment.

1141 (5) Appointment of an emergency guardian under this section  
1142 is not a final determination that a basis exists for appointment  
1143 of a guardian under Section 301.

1144 (6) The court may remove an emergency guardian appointed  
1145 under this section at any time. The emergency guardian must make  
1146 any report the court requires.

1147 **Section 312. Duties of guardian for adult.** (1) A guardian  
1148 for an adult is a fiduciary. Except as otherwise limited by the  
1149 court, a guardian for an adult shall make decisions regarding the  
1150 support, care, education, health, and welfare of the ward to the  
1151 extent necessitated by the adult's limitations.

1152 (2) A guardian for an adult promotes the self-determination  
1153 of the adult and, to the extent reasonably feasible, encourages  
1154 the adult to participate in decisions, act on the adult's own  
1155 behalf, and develop or regain the capacity to manage the adult's  
1156 personal affairs. In furtherance of this duty, the guardian may:

1157 (a) Become personally acquainted with the adult and  
1158 maintain sufficient contact with the adult through regular  
1159 visitation and other means, and to know the adult's abilities,  
1160 limitations, needs, opportunities, and physical and mental health;



1161 (b) To the extent reasonably feasible, identify the  
1162 values and preferences of the adult and involve the adult in  
1163 decisions affecting the adult, including decisions about the  
1164 adult's care, dwelling, activities, or social interactions; and

1165 (c) Make reasonable efforts to identify and facilitate  
1166 supportive relationships and services for the adult.

1167 (3) A guardian for an adult at all times shall exercise  
1168 reasonable care, diligence, and prudence when acting on behalf of  
1169 or making decisions for the adult. In furtherance of this duty,  
1170 the guardian shall:

1171 (a) Take reasonable care of the personal effects, pets,  
1172 and service or support animals of the adult and bring a proceeding  
1173 for a conservatorship if necessary to protect the adult's  
1174 property;

1175 (b) Expend funds and other property of the adult  
1176 received by the guardian for the adult's current needs for  
1177 support, care, education, health, and welfare;

1178 (c) Conserve any funds and other property of the adult  
1179 not expended under paragraph (b) for the adult's future needs, but  
1180 if a conservator has been appointed for the adult, pay the funds  
1181 and other property at least quarterly to the conservator to be  
1182 conserved for the adult's future needs; and

1183 (d) Monitor the quality of services, including  
1184 long-term care services, provided to the adult.



1185           (4) In making a decision for a ward, the guardian must make  
1186 the decision the guardian reasonably believes the adult would make  
1187 if the adult were able unless doing so would unreasonably harm or  
1188 endanger the welfare or personal or financial interests of the  
1189 adult. To determine the decision the ward would make if able, the  
1190 guardian shall consider the adult's previous or current  
1191 directions, preferences, opinions, values, and actions, to the  
1192 extent actually known or reasonably ascertainable by the guardian.

1193           (5) If a guardian for an adult cannot make a decision under  
1194 subsection (4) because the guardian does not know and cannot  
1195 reasonably determine the decision the adult probably would make if  
1196 able, or the guardian reasonably believes the decision the adult  
1197 would make would unreasonably harm or endanger the welfare or  
1198 personal or financial interests of the adult, the guardian must  
1199 act in accordance with the best interest of the adult. In  
1200 determining the best interest of the adult, the guardian may  
1201 consider:

1202           (a) Information received from professionals and persons  
1203 that demonstrate sufficient interest in the welfare of the adult;

1204           (b) Other information the guardian believes the adult  
1205 would have considered if the adult were able to act; and

1206           (c) Other factors a reasonable person in the  
1207 circumstances of the adult would consider, including consequences  
1208 for others.



1209           (6) A guardian for an adult immediately must notify the  
1210 court if the condition of the adult has changed so that the adult  
1211 is capable of exercising rights previously removed.

1212           **Section 313. Powers of guardian for adult.** (1) Except as  
1213 limited by court order, a guardian for an adult may:

1214           (a) Apply for and receive funds and benefits for the  
1215 support of the adult, unless a conservator is appointed for the  
1216 adult and the application or receipt is within the powers of the  
1217 conservator;

1218           (b) Unless inconsistent with a court order, establish  
1219 the adult's place of dwelling;

1220           (c) Consent to health or other care, treatment, or  
1221 service for the adult;

1222           (d) If a conservator for the adult has not been  
1223 appointed, commence a proceeding, including an administrative  
1224 proceeding, or take other appropriate action to compel a person to  
1225 support the adult or pay funds for the adult's benefit;

1226           (e) To the extent reasonable, delegate to the adult  
1227 responsibility for a decision affecting the adult's well-being;  
1228 and

1229           (f) Receive personally identifiable health-care  
1230 information regarding the adult.

1231           (2) In exercising a guardian's power under subsection (1) (b)  
1232 to establish the adult's place of dwelling, the guardian must:



1233           (a) Select a residential setting the guardian believes  
1234 the adult would select if the adult were able, in accordance with  
1235 the decision-making standard in Section 312(4) and (5). If the  
1236 guardian does not know and cannot reasonably determine what  
1237 setting the ward likely would choose if able, or if the guardian  
1238 reasonably believes the decision the adult would make would  
1239 unreasonably harm or endanger the welfare or personal or financial  
1240 interests of the adult, the guardian must choose in accordance  
1241 with Section 312(5) a residential setting that is consistent with  
1242 the adult's best interest;

1243           (b) In selecting among residential settings, give  
1244 priority to a residential setting in a location that will allow  
1245 the adult to interact with persons important to the adult and meet  
1246 the adult's needs in the least restrictive manner reasonably  
1247 feasible unless to do so would be inconsistent with the  
1248 decision-making standard in Section 312(4) and (5);

1249           (c) Establish or move the permanent place of dwelling  
1250 of the adult to a nursing home, mental-health facility, or other  
1251 facility that places restrictions on the adult's ability to leave  
1252 or have visitors only if:

1253                   (i) The establishment or move is in the guardian's  
1254 plan under Section 315;

1255                   (ii) The court authorizes the establishment or  
1256 move; or





1257 (iii) The guardian gives notice of the  
1258 establishment or move at least fourteen (14) days before the  
1259 establishment or move to the adult and all persons entitled to  
1260 notice under Section 309(4) or court order, and no objection is  
1261 filed;

1262 (d) Establish or move the place of dwelling of the  
1263 adult outside this state only if consistent with the guardian's  
1264 plan and authorized by the court by specific order; and

1265 (e) Take action that would result in the sale of or  
1266 surrender of the lease to the primary dwelling of the adult only  
1267 if:

1268 (i) The action is specifically included in the  
1269 guardian's plan under Section 315;

1270 (ii) The court authorizes the action by specific  
1271 order; or

1272 (iii) Notice of the action was given at least  
1273 fourteen (14) days before the action to the adult and all persons  
1274 entitled to the notice under Section 309(4) or court order and no  
1275 objection has been filed;

1276 (f) Notify the court that the adult's dwelling or  
1277 permanent residence has become so damaged by fire, flood, or other  
1278 emergency circumstance that the guardian has had to temporarily or  
1279 permanently relocate the adult to another residential setting.

1280 (3) In exercising a guardian's power under subsection (1)(c)  
1281 to make health-care decisions, the guardian shall:



1282 (a) Involve the adult in decision-making to the extent  
1283 reasonably feasible, including, when practicable, by encouraging  
1284 and supporting the adult in understanding the risks and benefits  
1285 of health-care options;

1286 (b) Defer to a decision by an agent under an advanced  
1287 healthcare directive executed by the adult and cooperate to the  
1288 extent feasible with the agent making the decision; and

1289 (c) Take into account:

1290 (i) The risks and benefits of treatment options;

1291 and

1292 (ii) The current and previous wishes and values of  
1293 the adult, if known or reasonably ascertainable by the guardian.

1294 **Section 314. Special limitations on guardian's power.** (1)

1295 Unless authorized by the court by specific order, a guardian for  
1296 an adult does not have the power to revoke or amend an advanced  
1297 health-care directive or power of attorney for finances executed  
1298 by the adult. If an advanced health-care directive is in effect,  
1299 unless there is a court order to the contrary, a health-care  
1300 decision of an agent takes precedence over that of the guardian  
1301 and the guardian must cooperate with the agent to the extent  
1302 feasible. If a power of attorney for finances is in effect,  
1303 unless there is a court order to the contrary, a decision by the  
1304 agent which the agent is authorized to make under the power of  
1305 attorney for finances takes precedence over that of the guardian



1306 and the guardian must cooperate with the agent to the extent  
1307 feasible.

1308 (2) A guardian for an adult may not initiate the commitment  
1309 of the adult to a mental health facility except in accordance with  
1310 the state's procedure for involuntary civil commitment.

1311 (3) A guardian for an adult may not restrict the ability of  
1312 the adult to communicate, visit, or interact with others,  
1313 including receiving visitors and making or receiving telephone  
1314 calls, personal mail, or electronic communications, including  
1315 through social media, or participating in social activities,  
1316 unless:

1317 (a) Authorized by the court by specific order;

1318 (b) A protective order is in effect that limits contact  
1319 between the adult and a person; or

1320 (c) The guardian has good cause to believe restriction  
1321 is necessary because interaction with a specified person poses a  
1322 risk of significant physical, psychological, or financial harm to  
1323 the adult and the restriction is:

1324 (i) For a period of not more than seven (7)  
1325 business days if the person has a family or pre-existing social  
1326 relationship with the adult; or

1327 (ii) For a period of not more than sixty (60) days  
1328 if the person does not have a family or pre-existing social  
1329 relationship with the adult.



1330           **Section 315. Guardian's plan.** (1) If required by the  
1331 court, a guardian must file with the court a plan for the care of  
1332 the adult no later than ninety (90) days after the court's order  
1333 of appointment or order to file a plan. If a plan is required and  
1334 there is a significant change in circumstances, or if the guardian  
1335 seeks to deviate significantly from the guardian's plan, a  
1336 guardian must file with the court a revised plan no later than  
1337 ninety (90) days after the change in circumstances or decision to  
1338 deviate from the plan. Every plan must be based on the needs of  
1339 the adult and take into account the best interest of the adult as  
1340 well as the adult's preferences, values, and prior directions, to  
1341 the extent known to or reasonably ascertainable by the guardian.  
1342 Along with other items determined necessary by the court, the  
1343 guardian's plan must include:

1344           (a) The living arrangement, services, and supports the  
1345 guardian expects to arrange, facilitate, or continue for the  
1346 adult;

1347           (b) Social and educational activities the guardian  
1348 expects to facilitate on behalf of the adult;

1349           (c) Any person with whom the adult has a close personal  
1350 relationship or relationship involving regular visitation and any  
1351 plan the guardian has for facilitating visits with the person;

1352           (d) The anticipated nature and frequency of the  
1353 guardian's visits and communication with the adult;



1354 (e) Goals for the adult, including any goal related to  
1355 the restoration of the adult's rights, and how the guardian  
1356 anticipates achieving the goals;

1357 (f) Whether the adult has an existing plan and, if so,  
1358 whether the guardian's plan is consistent with the adult's plan;  
1359 and

1360 (g) A statement or list of the amount the guardian  
1361 proposes to charge for each service the guardian anticipates  
1362 providing to the adult.

1363 (2) A guardian must give reasonable notice of the filing of  
1364 the guardian's plan under subsection (1), and a copy of the plan,  
1365 to the adult ward, the adult ward's spouse, parents, children, and  
1366 any other person the court determines. The notice must include a  
1367 statement of the right to object to the plan and be given not  
1368 later than fourteen (14) days after the filing.

1369 (3) After the guardian's plan filed under this section is  
1370 approved by the court, the guardian must provide a copy of the  
1371 plan to the adult ward, the adult ward's spouse, parents,  
1372 children, and any other person the court determines.

1373 **Section 316. Guardian's well-being report; monitoring of**  
1374 **guardianship.** (1) If there is a significant change in  
1375 circumstances, or if the guardian seeks to deviate significantly  
1376 from the guardian's plan, a guardian must file with the court a  
1377 report in a record regarding the condition of the adult and  
1378 accounting for funds and other property in the guardian's



1379 possession or subject to the guardian's control within ninety (90)  
1380 days after being so ordered by the court.

1381 (2) A report under subsection (1) must state:

1382 (a) The mental, physical, and social condition of the  
1383 adult;

1384 (b) The living arrangements of the adult during the  
1385 reporting period;

1386 (c) A summary of any technological assistance, medical  
1387 services, educational and vocational services, and other supports  
1388 and services provided to the adult and the guardian's opinion as  
1389 to the adequacy of the adult's care;

1390 (d) A summary of the guardian's visits with the adult,  
1391 including the dates of the visits;

1392 (e) Action taken on behalf of the adult;

1393 (f) The extent to which the adult has participated in  
1394 decision-making;

1395 (g) If the adult is living in a mental health facility  
1396 or living in a facility that provides the adult with health-care  
1397 or other personal services, whether the guardian considers the  
1398 facility's current plan for support, care, treatment, or  
1399 habilitation consistent with the adult's preferences, values,  
1400 prior directions, and best interest;

1401 (h) Any business relation the guardian has with a  
1402 person the guardian has paid or that has benefited from the  
1403 property of the adult;



1404 (i) A copy of the guardian's most recently approved  
1405 plan under Section 315 and a statement whether the guardian has  
1406 deviated from the plan and, if so, how the guardian has deviated  
1407 and why;

1408 (j) Plans for future care and support of the adult;

1409 (k) A recommendation as to the need for continued  
1410 guardianship and any recommended change in the scope of the  
1411 guardianship, when determined applicable by the court;

1412 (l) Whether any co-guardian or successor guardian  
1413 appointed to serve when a designated event occurs is alive and  
1414 able to serve;

1415 (m) Photographs of the adult ward and the adult ward's  
1416 living conditions, as required by the court at its discretion; and

1417 (n) Any amounts requested for reimbursement by the  
1418 guardian of fees related to the administration of the guardianship  
1419 or legal fees incurred for matters related to the guardianship.

1420 (3) The court may appoint a guardian ad litem to review a  
1421 report submitted under this section or any guardian's plan  
1422 submitted under Section 315, interview the guardian or ward, or  
1423 investigate any other matter involving the guardianship.

1424 (4) Notice of the filing under this section of a guardian's  
1425 well-being report, together with a copy of the report, must be  
1426 given to the adult ward, the adult ward's spouse, parents,  
1427 children, and any other person the court determines. The notice



1428 and report must be delivered not later than fourteen (14) days  
1429 after the filing.

1430 (5) The court must establish procedures for monitoring a  
1431 report submitted under this section and review each report at  
1432 least annually to determine whether:

1433 (a) The report provides sufficient information to  
1434 establish if the guardian has complied with the guardian's duties;

1435 (b) The guardianship should continue; and

1436 (c) The guardian's requested fees, if any, should be  
1437 approved.

1438 (6) If the court determines there is reason to believe a  
1439 guardian for an adult has not complied with the guardian's duties  
1440 or the guardianship should be modified or terminated, the court:

1441 (a) Shall notify the adult ward, the adult ward's  
1442 spouse, parents, children, and persons entitled to notice under  
1443 Section 309(4) or a court order;

1444 (b) May appoint a guardian ad litem to interview the  
1445 adult or guardian or investigate any matter involving the  
1446 guardianship; and

1447 (c) May hold a hearing to consider removal of the  
1448 guardian, termination of the guardianship, or a change in the  
1449 powers granted to the guardian or terms of the guardianship.

1450 (7) A guardian for an adult may petition the court for  
1451 approval of a report filed under this section. The court after  
1452 review may approve the report. If the court approves the report,





1453 there is a rebuttable presumption the report is accurate as to a  
1454 matter adequately disclosed in the report.

1455 **Section 317. Removal of guardian for adult; appointment of**  
1456 **successor.** (1) Upon petition and for good cause shown, the court  
1457 may hold a hearing to consider whether to remove a guardian for an  
1458 adult for failure to perform the guardian's duties and appoint a  
1459 successor guardian to assume the duties of guardian.

1460 (2) Notice of a petition under this section must be given to  
1461 the ward, the guardian, and any other person the court determines.

1462 (3) A ward who seeks to remove the guardian and have a  
1463 successor guardian appointed has the right to choose an attorney  
1464 for representation in this matter. The court shall award  
1465 reasonable attorney's fees to the attorney for the adult as  
1466 provided in Section 118.

1467 (4) Not later than ten (10) days after appointing a  
1468 successor guardian, the court shall give notice of the appointment  
1469 to the adult ward, the adult ward's spouse, parents, children, and  
1470 any person entitled to notice under a court order.

1471 **Section 318. Termination or modification of guardianship for**  
1472 **adult.** (1) Upon petition and for good cause shown, the court may  
1473 hold a hearing to consider whether termination of the guardianship  
1474 exists on the ground that a basis for appointment under Section  
1475 301 does not exist or termination would be in the best interest of  
1476 the adult or for other good cause; or modification of the



1477 guardianship exists on the ground that the extent of protection or  
1478 assistance granted is not appropriate or for other good cause.

1479 (2) Notice of a petition under this section must be given to  
1480 the ward, the guardian, and any other person the court determines.

1481 (3) On presentation of prima facie evidence for termination  
1482 of a guardianship for an adult, the court shall order termination  
1483 unless it is proven that a basis for appointment of a guardian  
1484 under Section 301 exists.

1485 (4) The court shall modify the powers granted to a guardian  
1486 for an adult if the powers are excessive or inadequate due to a  
1487 change in the abilities or limitations of the adult, the adult's  
1488 supports, or other circumstances.

1489 (5) Unless the court otherwise orders for good cause shown,  
1490 before terminating or modifying a guardianship for an adult, the  
1491 court shall follow the same procedures to safeguard the rights of  
1492 the adult which apply to a petition for guardianship.

1493 (6) A ward who seeks to terminate or modify the terms of the  
1494 guardianship has the right to choose an attorney for  
1495 representation in the matter. The court shall award reasonable  
1496 attorney's fees to the attorney for the adult as provided in  
1497 Section 118.

1498 **ARTICLE 4**

1499 **CONSERVATORSHIP**

1500 **Section 401. Basis for appointment of conservator. (1) For**  
1501 **a minor.** On petition of the chancellor or clerk of the chancery



1502 court, a relative or any other interested party, and after notice  
1503 and hearing, the court may appoint a conservator for the property  
1504 or financial affairs of a minor if the court finds by clear and  
1505 convincing evidence that appointment of a conservator is in the  
1506 minor's best interest, and:

1507           (a) If the minor has a parent, the court gives weight  
1508 to any recommendation of the parent whether an appointment is in  
1509 the minor's best interest; and

1510           (b) Either:

1511                 (i) The minor owns funds or other property  
1512 requiring management or protection that otherwise cannot be  
1513 provided;

1514                 (ii) The minor has or may have financial affairs  
1515 that may be put at unreasonable risk or hindered because of the  
1516 minor's age; or

1517                 (iii) Appointment is necessary or desirable to  
1518 obtain or provide funds or other property needed for the support,  
1519 care, education, health, or welfare of the minor.

1520           (2) **For an adult.** On petition and after notice and hearing,  
1521 the court may appoint a conservator for the property or financial  
1522 affairs of an adult if the court finds by clear and convincing  
1523 evidence that:

1524                 (a) The adult is unable to manage property or financial  
1525 affairs because:



1526 (i) Of a limitation in the adult's ability to  
1527 receive and evaluate information or make or communicate decisions,  
1528 even with the use of appropriate supportive services or  
1529 technological assistance;

1530 (ii) The adult is missing, detained, incarcerated,  
1531 or unable to return to the United States;

1532 (b) Appointment is necessary to:

1533 (i) Avoid harm to the adult or significant  
1534 dissipation of the property of the adult; or

1535 (ii) Obtain or provide funds or other property  
1536 needed for the support, care, education, health, or welfare of the  
1537 adult or of an individual entitled to the adult's support; and

1538 (c) The respondent's identified needs cannot be met by  
1539 a less restrictive alternative.

1540 (3) The court shall grant a conservator only those powers  
1541 necessitated by demonstrated limitations and needs of the  
1542 respondent and issue orders that will encourage development of the  
1543 respondent's maximum self-determination and independence. The  
1544 court may not establish a full conservatorship if a limited  
1545 conservatorship or other less restrictive alternative would meet  
1546 the needs of the respondent.

1547 **Section 402. Petition for appointment of conservator;**

1548 **notice.** (1) A person interested in the estate, financial  
1549 affairs, or welfare of the individual, including a person that  
1550 would be adversely affected by lack of effective management of



1551 property or financial affairs of the individual, may petition for  
1552 the appointment of a conservator for the individual.

1553 (2) The proceeding may be instituted by the chancellor or  
1554 clerk of the chancery court, any relative or friend of the  
1555 individual, or any other interested party, including the  
1556 individual for whom the order is sought, by filing a sworn  
1557 petition in the chancery court of the residence of the individual  
1558 setting forth that the individual is alleged to be in need of a  
1559 conservatorship.

1560 (3) The petition must state the name and address of an  
1561 attorney representing the petitioner, if any, and must set forth  
1562 under the style of the case and before the body of the petition  
1563 the following language in bold or highlighted type:

1564 **"THE RELIEF SOUGHT IN THIS PETITION MAY AFFECT YOUR LEGAL**  
1565 **RIGHTS. YOU HAVE A RIGHT TO NOTICE OF ANY HEARING ON THIS**  
1566 **PETITION, TO ATTEND ANY HEARING, AND TO BE REPRESENTED BY AN**  
1567 **ATTORNEY."**

1568 **Section 403. Notice and hearing for appointment of**  
1569 **conservator.** (1) On receipt of a petition under Section 402 for  
1570 appointment of a conservator for a respondent, the court must set  
1571 a date, time, and place for a hearing on the petition and shall  
1572 cause not less than seven (7) days' notice thereof to be given to  
1573 the person for whom the conservator is to be appointed, except  
1574 that the court may, for good cause shown, direct that a shorter  
1575 notice be given.



1576           (2) In a proceeding on a petition under Section 402, notice  
1577 of the hearing also must be given to any of the persons required  
1578 to be listed in the petition under Section 403(3) and any other  
1579 person interested in the respondent's welfare the court  
1580 determines. Failure to give notice under this subsection does not  
1581 preclude the court from appointing a conservator.

1582           (3) Unless the court finds that the respondent for whom the  
1583 conservator is to be appointed is competent and joins in the  
1584 petition, the notice shall also be given to the following persons,  
1585 listed in order of preference, so that personal service is had on  
1586 the person for whom the conservator is to be appointed and on at  
1587 least one (1) relative who resides in Mississippi, other than the  
1588 petitioner:

1589                   (i) Each of the spouse, children, parents and  
1590 siblings of the respondent for whom the conservator is to be  
1591 appointed, but if none of those can be found, then to:

1592                   (ii) One (1) adult relative of the person for whom  
1593 the conservator is to be appointed who is not the petitioner and  
1594 who resides in Mississippi if that relative is within the third  
1595 degree of kinship. If no relative within the third degree of  
1596 kinship to the person for whom the conservator is to be appointed  
1597 is found residing in the State of Mississippi, the court must  
1598 either designate some other appropriate person to receive the  
1599 notice or appoint a guardian ad litem to receive notice.



1600 (4) If the person for whom the conservator is to be  
1601 appointed is entitled to any benefit, estate or income paid or  
1602 payable by or through the Veterans' Administration of the United  
1603 States government, such administration shall also be given notice.

1604 (5) Notice of a hearing on a petition seeking an order under  
1605 this article that is filed after the appointment of a conservator,  
1606 together with a copy of the petition, must be given to the  
1607 respondent, the conservator, and any other person the court  
1608 determines.

1609 **Section 404. Order to preserve or apply property while**  
1610 **proceeding pending.** While a petition under Section 402 is  
1611 pending, after preliminary hearing and without notice to others,  
1612 the court may issue an order to preserve and apply property of the  
1613 respondent as required for the support of the respondent or an  
1614 individual who is in fact dependent on the respondent.

1615 **Section 405. Appointment and role of guardian ad litem.** The  
1616 court may appoint a guardian ad litem to any respondent and allow  
1617 suitable compensation payable out of the estate of the respondent,  
1618 but the appointment shall not be made unless the court considers  
1619 it necessary for the protection of the interest of the respondent;  
1620 a judgment of any court is not void or erroneous because of the  
1621 failure to have a guardian ad litem.

1622 **Section 406. Appointment of attorney.** If the respondent in  
1623 a proceeding for appointment of a conservator is not represented



1624 by an attorney, the court, in its discretion, may appoint an  
1625 attorney to represent the respondent.

1626           **Section 407. Professional evaluation.** (1) The chancery  
1627 court must conduct a hearing to determine whether a conservator is  
1628 needed for the respondent. Before the hearing, the court, in its  
1629 discretion, may appoint a guardian ad litem to look after the  
1630 interest of the person in question, and the guardian ad litem must  
1631 be present at the hearing and present the interests of the  
1632 respondent.

1633           (2) The chancery judge shall be the judge of the number and  
1634 character of the witnesses and proof to be presented, except that  
1635 the proof must include certificates made after a personal  
1636 examination of the respondent by the following professionals, each  
1637 of whom must make in writing a certificate of the result of that  
1638 examination to be filed with the clerk of the court and become a  
1639 part of the record of the case

1640                   (a) Two (2) licensed physicians; or

1641                   (b) One (1) licensed physician and either one (1)  
1642 licensed psychologist, nurse practitioner, or physician's  
1643 assistant.

1644           (3) The personal examination may occur face-to-face or via  
1645 telemedicine, but any telemedicine examination must be made using  
1646 an audiovisual connection by a physician licensed in this state  
1647 and as defined in Section 83-9-351. A nurse practitioner or  
1648 physician assistant conducting an examination shall not also be in





1649 a collaborative or supervisory relationship, as the law may  
1650 otherwise require, with the physician conducting the examination.  
1651 A professional conducting an examination under this section may  
1652 also be called to testify at the hearing.

1653 (4) The personal examination requirement in subsections (2)  
1654 and (3) shall not apply if the respondent is missing, detained or  
1655 unable to return to the United States.

1656 **Section 408. Rights at hearing.** (1) At a hearing under  
1657 Section 403, the respondent may:

1658 (a) Present evidence and subpoena witnesses and  
1659 documents;

1660 (b) Examine witnesses; and

1661 (c) Otherwise participate in the hearing.

1662 (2) Unless excused by the court for good cause, a proposed  
1663 conservator must attend a hearing under Section 403.

1664 (3) A hearing under Section 403 must be closed on request of  
1665 the respondent and a showing of good cause.

1666 (4) Any person may request to participate in a hearing under  
1667 Section 403. The court may grant the request, with or without a  
1668 hearing, on determining that the best interest of the respondent  
1669 will be served. The court may impose appropriate conditions on  
1670 the person's participation.

1671 **Section 409. Confidentiality of records.** (1) An individual  
1672 subject to a proceeding for a conservatorship, an attorney  
1673 designated by the respondent or ward, and a person entitled to



1674 notice either under Section 411(5) or court order may access court  
1675 records of the proceeding and resulting conservatorship, including  
1676 the conservator's plan under Section 419 and the conservator's  
1677 report under Section 423. A person not otherwise entitled to  
1678 access to court records under this section for good cause may  
1679 petition the court for access to court records of the  
1680 conservatorship, including the conservator's plan and report. The  
1681 court must grant access if access is in the best interest of the  
1682 respondent or ward or furthers the public interest and does not  
1683 endanger the welfare or financial interests of the respondent or  
1684 individual.

1685 (2) A report under Section 405 of a guardian ad litem or  
1686 professional evaluation under Section 407 may be confidential and  
1687 may be sealed on filing when determined necessary by the court.  
1688 If the court finds the file should be sealed, the file shall  
1689 remain available to:

1690 (a) The court;

1691 (b) The individual who is the subject of the report or  
1692 evaluation, without limitation as to use;

1693 (c) The petitioner, guardian ad litem and petitioner's  
1694 and respondent's attorneys, for purposes of the proceeding;

1695 (d) Unless the court directs otherwise, a person  
1696 appointed under a power of attorney for finances in which the  
1697 respondent is identified as the principal; and



1698 (e) Any other person if it is in the public interest or  
1699 for a purpose the court orders for good cause.

1700 **Section 410. Who may be conservator.** (1) Appointment of a  
1701 conservator is at the discretion of the court, and in the best  
1702 interest of the respondent. If two (2) or more persons have  
1703 requested responsibility as conservator, the court shall select as  
1704 conservator the person the court considers best qualified. In  
1705 determining the best qualified person, the court shall consider  
1706 the person's relationship with the respondent, the person's  
1707 skills, the expressed wishes of the respondent including any  
1708 designation made in a will, durable power of attorney, or  
1709 health-care directive, the extent to which the person and the  
1710 respondent have similar values and preferences, and the likelihood  
1711 the person will be able to perform the duties of a conservator  
1712 successfully. The court, acting in the best interest of the  
1713 respondent, may decline to appoint as conservator a person  
1714 requesting the appointment.

1715 (2) If a qualified conservator cannot be determined, the  
1716 court, in its discretion, may appoint the chancery court clerk or  
1717 probate administrator for the county in which the proceedings were  
1718 filed to serve as the respondent's conservator. The chancery  
1719 court clerk or the probate administrator shall serve in the  
1720 capacity ordered by the court unless a conflict of interest arises  
1721 or the clerk or the probate administrator presents circumstances



1722 where the court determines the clerk's recusal from appointment is  
1723 permitted.

1724 (3) A person that provides paid services to the respondent,  
1725 or an individual who is employed by a person that provides paid  
1726 services to the respondent or is the spouse, parent, or child of  
1727 an individual who provides or is employed to provide paid services  
1728 to the respondent, may not be appointed as conservator unless:

1729 (a) The individual is related to the respondent by  
1730 blood, marriage, or adoption; or

1731 (b) The court finds by clear and convincing evidence  
1732 that the person is the best qualified person available for  
1733 appointment and the appointment is in the best interest of the  
1734 respondent.

1735 (4) An owner, operator, or employee of a long-term-care  
1736 institution at which the respondent is receiving care may not be  
1737 appointed as conservator unless the owner, operator, or employee  
1738 is related to the respondent by blood, marriage, or adoption.

1739 **Section 411. Order on appointment of conservator.** (1) A  
1740 court order appointing a conservator for a minor must include  
1741 findings to support appointment of a conservator and, if a full  
1742 conservatorship is granted, the reason a limited conservatorship  
1743 would not meet the identified needs of the minor.

1744 (2) A court order appointing a conservator for an adult  
1745 must:



1746 (a) Include a specific finding that clear and  
1747 convincing evidence has established that the identified needs of  
1748 the respondent cannot be met by a less restrictive alternative,  
1749 including use of appropriate supportive services or technological  
1750 assistance; and

1751 (b) Include a specific finding that clear and  
1752 convincing evidence established that the respondent was given  
1753 proper notice of the hearing on the petition.

1754 (3) A court order establishing a full conservatorship for an  
1755 adult must state the basis for granting a full conservatorship and  
1756 include specific findings to support the conclusion that a limited  
1757 conservatorship would not meet the functional needs of the adult.

1758 (4) A court order establishing a limited conservatorship  
1759 must state the specific property placed under the control of the  
1760 conservator and the powers granted to the conservator.

1761 (5) The court, as part of an order establishing a  
1762 conservatorship, must identify and include the contact information  
1763 for any person that subsequently is entitled to:

1764 (a) Notice of the rights of the ward under Section  
1765 412(2);

1766 (b) Notice of a sale of or surrender of a lease to the  
1767 primary dwelling of the individual;

1768 (c) Notice that the conservator has delegated a power  
1769 that requires court approval under Section 414 or substantially  
1770 all powers of the conservator;



1771 (d) Notice that the conservator will be unavailable to  
1772 perform the conservator's duties for more than one (1) month;

1773 (e) A copy of the conservator's plan under Section 419  
1774 and the conservator's report under Section 423;

1775 (f) Access to court records relating to the  
1776 conservatorship;

1777 (g) Notice of a transaction involving a substantial  
1778 conflict between the conservator's fiduciary duties and personal  
1779 interests;

1780 (h) Notice of the death or significant change in the  
1781 condition of the individual;

1782 (i) Notice that the court has limited or modified the  
1783 powers of the conservator; and

1784 (j) Notice of the removal of the conservator.

1785 (6) If a ward is an adult, the spouse and adult children of  
1786 the ward are entitled under subsection (5) to notice unless the  
1787 court determines notice would be contrary to the preferences or  
1788 prior directions of the ward or are not in the best interest of  
1789 the ward.

1790 (7) If a ward is a minor, each parent and adult sibling of  
1791 the minor is entitled to notice under subsection (5) unless the  
1792 court determines notice would not be in the best interest of the  
1793 minor.



1794 (8) (a) If the chancellor finds from the evidence that the  
1795 person is in need of a conservatorship, the chancellor must  
1796 appoint a conservator over the person.

1797 (b) The costs and expenses of the proceedings shall be  
1798 paid out of the estate of the respondent if a conservator is  
1799 appointed. If a conservator is not appointed, the costs and  
1800 expenses shall be paid by the person instituting the proceedings.

1801 **Section 412. Notice of order of appointment; rights.** (1) A  
1802 conservator appointed under Section 411 must give to the ward and  
1803 to all other persons given notice under Section 403 a copy of the  
1804 order of appointment. The order and notice must be given not  
1805 later than fourteen (14) days after the appointment.

1806 (2) Not later than fourteen (14) days after appointment of a  
1807 conservator under Section 411, the court must give to the ward,  
1808 the conservator, and any other person entitled to notice under  
1809 Section 411(5), a statement of the rights of the ward and  
1810 procedures to seek relief if the ward is denied those rights. The  
1811 statement must be in plain language, in at least sixteen-point  
1812 font, and to the extent feasible, in a language in which the ward  
1813 is proficient. The statement must notify the ward of the right  
1814 to:

1815 (a) Seek termination or modification of the  
1816 conservatorship, or removal of the conservator, and choose an  
1817 attorney to represent the individual in these matters;



1818 (b) Participate in decision-making to the extent  
1819 reasonably feasible;

1820 (c) Receive a copy of the conservator's plan under  
1821 Section 419, the conservator's inventory under Section 420, and  
1822 the conservator's report under Section 423; and

1823 (d) Object to the conservator's inventory, plan, or  
1824 report.

1825 (3) If a conservator is appointed for the reasons stated in  
1826 Section 401(2)(a)(ii) and the ward is missing, notice under this  
1827 section to the individual is not required.

1828 **Section 413. Emergency conservator.** (1) Upon a petition by  
1829 a person interested in an individual's welfare or a petition filed  
1830 under Section 402, the court may appoint an emergency conservator  
1831 for the individual if the court finds:

1832 (a) Appointment of an emergency conservator is likely  
1833 to prevent substantial and irreparable harm to the individual's  
1834 property or financial interests;

1835 (b) No other person appears to have authority and  
1836 willingness to act in the circumstances; and

1837 (c) There is reason to believe that a basis for  
1838 appointment of a conservator under Section 401 exists.

1839 (2) The duration of authority of an emergency conservator  
1840 may not exceed sixty (60) days and the emergency conservator may  
1841 exercise only the powers specified in the order of appointment.  
1842 The emergency conservator's authority may be extended once for not





1843 more than sixty (60) days if the court finds that the conditions  
1844 for appointment of an emergency conservator under subsection (1)  
1845 continue.

1846 (3) Except as otherwise provided in subsection (4),  
1847 reasonable notice of the date, time, and place of a hearing on the  
1848 petition must be given to the respondent, the respondent's  
1849 attorney, and any other person the court determines.

1850 (4) The court may appoint an emergency conservator without  
1851 notice to the respondent and any attorney for the respondent only  
1852 if the court finds from an affidavit or testimony that the  
1853 respondent's property or financial interests will be substantially  
1854 and irreparably harmed before a hearing with notice on the  
1855 appointment can be held. If the court appoints an emergency  
1856 conservator without giving notice under subsection (3), the court  
1857 must give notice of the appointment not later than forty-eight  
1858 (48) hours after the appointment to:

- 1859 (a) The respondent;
- 1860 (b) The respondent's attorney;
- 1861 (c) Any other person the court determines; and
- 1862 (d) Hold a hearing on the appropriateness of the  
1863 appointment not later than five (5) days after the appointment.

1864 (5) Appointment of an emergency conservator under this  
1865 section is not a determination that a basis exists for appointment  
1866 of a conservator under Section 401.



1867           (6) The court may remove an emergency conservator appointed  
1868 under this section at any time. The emergency conservator shall  
1869 make any report the court requires.

1870           **Section 414. Powers of conservator requiring court approval.**

1871           (1) Except as otherwise ordered by the court, a conservator must  
1872 give notice to persons entitled to notice under Section 411(5) and  
1873 receive specific authorization by the court before the conservator  
1874 may exercise with respect to the conservatorship the power to:

1875                   (a) Make a gift;

1876                   (b) Sell, encumber an interest in, or surrender a lease  
1877 to the primary dwelling of the ward;

1878                   (c) Convey, release, or disclaim a contingent or  
1879 expectant interest in property, including marital property and any  
1880 right of survivorship incident to joint tenancy or tenancy by the  
1881 entireties;

1882                   (d) Exercise or release a power of appointment;

1883                   (e) Create a revocable or irrevocable trust of property  
1884 of the conservatorship estate, whether or not the trust extends  
1885 beyond the duration of the conservatorship, or revoke or amend a  
1886 trust revocable by the ward;

1887                   (f) Exercise a right to elect an option or change a  
1888 beneficiary under an insurance policy or annuity or surrender the  
1889 policy or annuity for its cash value;



1890 (g) Exercise a right to an elective share in the estate  
1891 of a deceased spouse of the ward or renounce or disclaim a  
1892 property interest;

1893 (h) Grant a creditor priority for payment over  
1894 creditors of the same or higher class if the creditor is providing  
1895 property or services used to meet the basic living and care needs  
1896 of the ward and preferential treatment otherwise would be  
1897 impermissible under Section 427(6);

1898 (i) Make, modify, amend, or revoke the will of the ward  
1899 in compliance with Section 91-5-1 et seq.;

1900 (j) Pay premiums on any insurance policy issued on the  
1901 life of the ward if the individual is a minor, the policy was  
1902 issued during the lifetime of the individual's deceased parent,  
1903 and the court finds the policy's continuance is warranted;

1904 (k) Acquire or dispose of real property, including real  
1905 property in another state, for cash or on credit, at public or  
1906 private sale, and manage, develop, improve, exchange, partition,  
1907 change the character of, or abandon property;

1908 (l) Make repairs or alterations in a building or other  
1909 structure, demolish any improvement, or raze an existing or erect  
1910 a new wall or building if costs exceed Two Thousand Five Hundred  
1911 Dollars (\$2,500.00);

1912 (m) Subdivide or develop land, dedicate land to public  
1913 use, make or obtain the vacation of a plat and adjust a boundary,  
1914 adjust a difference in valuation of land, exchange or partition



1915 land by giving or receiving consideration, and dedicate an  
1916 easement to public use without consideration;

1917 (n) Enter for any purpose into a lease of property as  
1918 lessor or lessee, with or without an option to purchase or renew,  
1919 for a term within or extending beyond the term of the  
1920 conservatorship;

1921 (o) Enter into a lease or arrangement for exploration  
1922 and removal of minerals or other natural resources or a pooling or  
1923 unitization agreement;

1924 (p) Borrow funds, with or without security, to be  
1925 repaid from the conservatorship estate or otherwise;

1926 (q) Pay or contest a claim, settle a claim by or  
1927 against the conservatorship estate or the ward by compromise,  
1928 arbitration, or otherwise, or release, in whole or in part, a  
1929 claim belonging to the conservatorship estate to the extent the  
1930 claim is uncollectible; or

1931 (r) Bring an action, claim, or proceeding in any  
1932 jurisdiction for the protection of the conservatorship estate or  
1933 the conservator in the performance of the conservator's duties;

1934 (2) In approving a conservator's exercise of a power listed  
1935 in subsection (1), the court must consider the wards' prior or  
1936 current directions, preferences, opinions, values, and actions, to  
1937 the extent actually known or reasonably ascertainable by the  
1938 conservator. The court also must consider:



1939           (a) The financial needs of the ward and individuals who  
1940 are in fact dependent on the ward for support, and the interests  
1941 of creditors of the individual;

1942           (b) Possible reduction of income, estate, inheritance,  
1943 or other tax liabilities;

1944           (c) Eligibility for governmental assistance;

1945           (d) The previous pattern of giving or level of support  
1946 provided by the individual;

1947           (e) Any existing estate plan or lack of estate plan of  
1948 the individual;

1949           (f) The life expectancy of the individual and the  
1950 probability the conservatorship will terminate before the ward's  
1951 death; and

1952           (g) Any other relevant factor.

1953           (3) A conservator may not revoke or amend a power of  
1954 attorney for finances executed by the ward. If a power of  
1955 attorney for finances is in effect, a decision of the conservator  
1956 takes precedence over that of the attorney-in-fact only to the  
1957 extent of the authorization granted to the conservator by court  
1958 order.

1959           **Section 415. Petition for order after appointment.** A ward  
1960 or a person interested in the welfare of the individual may  
1961 petition for an order:



- 1962                   (a) Requiring the conservator to furnish a bond or  
1963 collateral or additional bond or collateral or allowing a  
1964 reduction in a bond or collateral previously furnished;
- 1965                   (b) Requiring an accounting for the administration of  
1966 the conservatorship estate;
- 1967                   (c) Directing distribution;
- 1968                   (d) Removing the conservator and appointing a temporary  
1969 or successor conservator;
- 1970                   (e) Modifying the type of appointment or powers granted  
1971 to the conservator, if the extent of protection or management  
1972 previously granted is excessive or insufficient to meet the  
1973 individual's needs, including because the individual's abilities  
1974 or supports have changed;
- 1975                   (f) Rejecting or modifying the conservator's plan under  
1976 Section 419, the conservator's inventory under Section 420, or the  
1977 conservator's report under Section 423; or
- 1978                   (g) Granting other appropriate relief.

1979                   **Section 416. Bond; oath; waiver; financial institutions;**  
1980 **alternative asset-protection arrangement.** (1) Except as  
1981 otherwise provided in subsection (3), the court shall require a  
1982 conservator to furnish a bond with a surety the court specifies,  
1983 or require an alternative asset-protection arrangement,  
1984 conditioned on faithful discharge of all duties of the  
1985 conservator. The court may waive or partially waive the  
1986 requirement if:



1987                   (a) The respondent is a minor and the minor's parent  
1988 has waived the requirement in a valid holographic will or another  
1989 instrument to take effect at the parent's death that is signed by  
1990 the parent and attested by two (2) or more credible witnesses, not  
1991 including the person nominated as conservator; or

1992                   (b) Part of the assets of the ward's estate are  
1993 deposited in one or more banking corporations, building and loan  
1994 associations or savings and loan associations ("financial  
1995 institutions") in this state if the deposits are fully insured by  
1996 the Federal Deposit Insurance Corporation (FDIC) and will remain  
1997 on deposit in that institution until further order of the court, a  
1998 certified copy or MEC-filed copy of the order for deposit having  
1999 been furnished to the depository or depositories and its receipt  
2000 acknowledged in a form that substantially complies with subsection  
2001 (7); or

2002                   (c) The court finds that a bond or other  
2003 asset-protection arrangement is not necessary to protect the  
2004 interests of the individual subject to conservatorship. Except as  
2005 otherwise provided in subsection (3), the court may not waive the  
2006 requirement of bond or other asset-protection arrangement if the  
2007 conservator is in the business of serving as a conservator and is  
2008 being paid for the conservator's service.

2009                   (2) Unless the court directs otherwise, the bond required  
2010 under this section must be in the amount of the aggregate capital  
2011 value of the conservatorship estate, plus one (1) year's estimated



2012 income, less the value of property deposited under an arrangement  
2013 requiring a court order for its removal and real property the  
2014 conservator lacks power to sell or convey without specific court  
2015 authorization. The court, in place of surety on a bond, may  
2016 accept collateral for the performance of the bond, including a  
2017 pledge of securities or a mortgage of real property.

2018 (3) A banking institution insured by the FDIC qualified to  
2019 do trust business in this state is not required to give a bond  
2020 under this section.

2021 (4) Every bond must be filed in the records of the chancery  
2022 court and may be put in suit for any breach of the condition,  
2023 whether the appointment be legal or not; and the condition shall  
2024 be as follows:

2025 "The condition of the above obligation is that if the above  
2026 bound, as conservator of \_\_\_\_\_ in \_\_\_\_\_ County  
2027 shall faithfully discharge all the duties required of him by law,  
2028 then the above obligation shall cease."

2029 The conservator must also take and subscribe on oath, at or  
2030 before the conservator's appointment, faithfully to discharge the  
2031 duties of conservator of the ward according to law.

2032 (5) A financial institution that substantially complies with  
2033 the provisions of this article when acting as a depository of  
2034 conservatorship funds is not liable to any person for so acting  
2035 except for willful default, gross negligence or malfeasance.





2036 (6) A financial institution that acts as a depository of the  
2037 funds may charge a fee for servicing the account.

2038 (7) ACKNOWLEDGMENT OF RECEIPT OF ORDER FOR DEPOSIT  
2039 AND RECEIPT OF CASH FUNDS

2040 The Chancery Court of \_\_\_\_\_ County, Mississippi,  
2041 having rendered its order in the above-entitled and numbered cause  
2042 on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, designating a  
2043 banking institution insured by the Federal Deposit Insurance  
2044 Corporation as the depository of the funds of  
2045 \_\_\_\_\_, by and through  
2046 \_\_\_\_\_, as conservator, and the  
2047 conservator, having elected to use  
2048 \_\_\_\_\_ (Name of Financial  
2049 Institution) as the aforesaid depository, I, acting pursuant to my  
2050 authority in and for said bank, do hereby acknowledge that I have  
2051 received a copy of the order of the chancery court, duly certified  
2052 as true and correct by the chancery clerk of \_\_\_\_\_  
2053 County, Mississippi, or a MEC filed copy of the order of the  
2054 chancery court. I further note that said order provides that all  
2055 funds so deposited to the account shall remain on deposit until  
2056 further order of the court.

2057 Receipt is also hereby acknowledged of the funds in the  
2058 amount of \$ \_\_\_\_\_ in this matter.



2059 \_\_\_\_\_ (Name of Financial Institution)  
2060 hereby acknowledges that the funds, described above, shall not be  
2061 disbursed without further order of this court.

2062 This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

2063 STATE OF MISSISSIPPI

2064 COUNTY OF \_\_\_\_\_

2065 Personally came and appeared before me, the undersigned  
2066 authority in and for the jurisdiction aforesaid, the within named  
2067 \_\_\_\_\_ (Name of Bank Officer), who is  
2068 \_\_\_\_\_ (Job Title) of  
2069 \_\_\_\_\_ (Name of Financial Institution) and  
2070 who acknowledged to me that he/she signed and delivered the above  
2071 and foregoing Acknowledgment of Receipt of Order for Deposit and  
2072 Receipt of Cash Funds as the act and deed of said bank, he/she  
2073 being first duly authorized so to do.

2074 Given under my hand and official seal, this the  
2075 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

2076 \_\_\_\_\_

2077 Notary Public My commission expires

2078 **Section 417. Terms and requirements of bond.** (1) The  
2079 following rules apply to the bond required under Section 416:

2080 (a) Except as otherwise provided by the bond, the  
2081 surety and the conservator are jointly and severally liable.

2082 (b) By executing a bond provided by a conservator, the  
2083 surety submits to the personal jurisdiction of the court that



2084 issued letters of office to the conservator in a proceeding  
2085 relating to the duties of the conservator in which the surety is  
2086 named as a party. Notice of the proceeding must be given to the  
2087 surety at the address shown in the records of the court in which  
2088 the bond is filed and any other address of the surety then known  
2089 to the person required to provide the notice.

2090 (c) On petition of a successor conservator or person  
2091 affected by a breach of the obligation of the bond, a proceeding  
2092 may be brought against the surety for breach of the obligation of  
2093 the bond.

2094 (d) A proceeding against the bond may be brought until  
2095 liability under the bond is exhausted.

2096 (2) A proceeding may not be brought under this section  
2097 against a surety of a bond on a matter as to which a proceeding  
2098 against the conservator is barred.

2099 (3) If a bond under Section 416 is not renewed by the  
2100 conservator, the surety or sureties immediately must give notice  
2101 to the court and the attorney for the conservatorship.

2102 **Section 418. Duties of conservator.** (1) A conservator is a  
2103 fiduciary and has duties of prudence and loyalty to the ward.

2104 (2) A conservator must promote the self-determination of the  
2105 ward and, to the extent feasible, encourage the ward to  
2106 participate in decisions, act on the ward's own behalf, and  
2107 develop or regain the capacity to manage the ward's personal  
2108 affairs.



2109           (3) In making a decision for a ward, the conservator must  
2110 make the decision the conservator reasonably believes the ward  
2111 would make if able, unless doing so would fail to preserve the  
2112 resources needed to maintain the ward's well-being and lifestyle  
2113 or otherwise unreasonably harm or endanger the welfare or personal  
2114 or financial interests of the ward. To determine the decision the  
2115 ward would make if able, the conservator must consider the ward's  
2116 prior or current directions, preferences, opinions, values, and  
2117 actions, to the extent actually known or reasonably ascertainable  
2118 by the conservator.

2119           (4) If a conservator cannot make a decision under subsection  
2120 (3) because the conservator does not know and cannot reasonably  
2121 determine the decision the ward probably would make if able, or  
2122 the conservator reasonably believes the decision the individual  
2123 would make would fail to preserve resources needed to maintain the  
2124 ward's well-being and lifestyle or otherwise unreasonably harm or  
2125 endanger the welfare or personal or financial interests of the  
2126 ward, the conservator shall act in accordance with the best  
2127 interest of the ward. In determining the best interest of the  
2128 ward, the conservator shall consider:

2129                   (a) Information received from professionals and persons  
2130 who demonstrate sufficient interest in the welfare of the ward;

2131                   (b) Other information the conservator believes the ward  
2132 would have considered if the ward were able to act; and



2133 (c) Other factors a reasonable person in the  
2134 circumstances of the ward would consider, including consequences  
2135 for others.

2136 (5) Except when inconsistent with the conservator's duties  
2137 under subsections (1) through (4), and where investments other  
2138 than in FDIC-insured investments are permitted in the court's  
2139 order approving the conservator's plan, a conservator must invest  
2140 and manage the conservatorship estate as a prudent investor would,  
2141 by considering:

2142 (a) The circumstances of the ward and the  
2143 conservatorship estate;

2144 (b) General economic conditions;

2145 (c) The possible effect of inflation or deflation;

2146 (d) The expected tax consequences of an investment  
2147 decision or strategy;

2148 (e) The role of each investment or course of action in  
2149 relation to the conservatorship estate as a whole;

2150 (f) The expected total return from income and  
2151 appreciation of capital;

2152 (g) The need for liquidity, regularity of income, and  
2153 preservation or appreciation of capital; and

2154 (h) The special relationship or value, if any, of  
2155 specific property to the ward.

2156 (6) The propriety of a conservator's investment and  
2157 management of the conservatorship estate is determined in light of



2158 the facts and circumstances existing when the conservator decides  
2159 or acts and not by hindsight.

2160 (7) A conservator must make a reasonable effort to verify  
2161 facts relevant to the investment and management of the  
2162 conservatorship estate.

2163 (8) A conservator that has special skills or expertise, or  
2164 is named conservator in reliance on the conservator's  
2165 representation of special skills or expertise, has a duty to use  
2166 the special skills or expertise in carrying out the conservator's  
2167 duties.

2168 (9) In investing, selecting specific property for  
2169 distribution, and invoking a power of revocation or withdrawal for  
2170 the use or benefit of the ward, a conservator must consider any  
2171 estate plan of the ward known or reasonably ascertainable to the  
2172 conservator and may examine the will or other donative,  
2173 nominative, or appointive instrument of the individual.

2174 (10) A conservator must maintain insurance on the insurable  
2175 real and personal property of the ward, unless the conservatorship  
2176 estate lacks sufficient funds to pay for insurance or the court  
2177 finds:

2178 (a) The property lacks sufficient equity; or

2179 (b) Insuring the property would unreasonably dissipate  
2180 the conservatorship estate or otherwise not be in the best  
2181 interest of the ward.



2182           (11) A conservator has access to and authority over a  
2183 digital asset of the ward to the extent provided by the Revised  
2184 Uniform Fiduciary Access to Digital Assets Act (Title 21, Chapter  
2185 23, Mississippi Code of 1972).

2186           (12) A conservator for an adult must notify the court if the  
2187 condition of the adult has changed so that the adult has become  
2188 capable of autonomy in exercising rights previously delegated to  
2189 the conservator. The notice must be given immediately on learning  
2190 of the change.

2191           **Section 419. Conservator's plan.** (1) If required by the  
2192 court, a conservator must file with the court a plan for  
2193 investing, protecting, managing, expending, and distributing the  
2194 assets of the conservatorship estate no later than ninety (90)  
2195 days after the court's order of appointment or order to file a  
2196 plan. If a plan is required and there is a significant change in  
2197 circumstances, or if the conservator seeks to deviate  
2198 significantly from the conservator's plan, a conservator must file  
2199 with the court a revised plan no later than ninety (90) days after  
2200 the change in circumstances or decision to deviate from the plan.  
2201 Every plan must be based on the needs of the ward and take into  
2202 account the best interest of the ward as well as the ward's  
2203 preferences, values, and prior directions, to the extent known to  
2204 or reasonably ascertainable by the conservator. Along with other  
2205 items determined necessary by the court, the conservator's plan  
2206 must include:



2207           (a) A budget containing projected expenses and  
2208 resources, including an estimate of the total amount of fees the  
2209 conservator anticipates charging per year and a statement or list  
2210 of the amount the conservator proposes to charge for each service  
2211 the conservator anticipates providing to the individual;

2212           (b) How the conservator will involve the individual in  
2213 decisions about management of the conservatorship estate;

2214           (c) Any step the conservator plans to take to develop  
2215 or restore the ability of the ward to manage the conservatorship  
2216 estate; and

2217           (d) An estimate of the duration of the conservatorship.

2218           (2) A conservator must give reasonable notice of the filing  
2219 of the conservator's plan under subsection (1), together with a  
2220 copy of the plan, to the ward, a person entitled to notice under  
2221 Section 411(5) or a court order, and any other person the court  
2222 determines. The notice must include a statement of the right to  
2223 object to the plan and be given not later than fourteen (14) days  
2224 after the filing.

2225           (3) A ward and any person entitled under subsection (2) to  
2226 receive notice and a copy of the conservator's plan may object to  
2227 the plan.

2228           (4) The court must review the conservator's plan filed under  
2229 subsection (1) and determine whether to approve the plan or  
2230 require a new plan. In deciding whether to approve the plan, the  
2231 court shall consider objections made under subsection (3) and





2232 whether the plan is consistent with the conservator's duties and  
2233 powers. The court may not approve the plan until thirty (30) days  
2234 after its filing.

2235 (5) After a conservator's plan under this section is  
2236 approved by the court, the conservator must provide a copy of the  
2237 plan to the ward, a person entitled to notice under Section 411(5)  
2238 or a court order, and any other person the court determines.

2239 **Section 420. Inventory; records.** (1) Unless the inventory  
2240 requirement has been waived, not later than ninety (90) days after  
2241 appointment, a conservator must prepare and file with the  
2242 appointing court a detailed inventory of the conservatorship  
2243 estate, together with an oath or affirmation that the inventory is  
2244 believed to be complete and accurate as far as information  
2245 permits.

2246 (2) A conservator must give reasonable notice of the filing  
2247 of an inventory to the ward, a person entitled to notice under  
2248 Section 411(5) or a court order, and any other person the court  
2249 determines. The notice must be given not later than fourteen (14)  
2250 days after the filing.

2251 (3) A conservator must keep records of the administration of  
2252 the conservatorship estate and make them available for examination  
2253 on reasonable request of the ward, a guardian for the ward, or any  
2254 other person the conservator or the court determines.

2255 **Section 421. Administrative powers of conservator not**  
2256 **requiring court approval.** (1) Except as otherwise provided in



2257 Section 414 or qualified or limited in the court's order of  
2258 appointment and stated in the letters of conservatorship, a  
2259 conservator has all powers granted in this section and any  
2260 additional power granted to a trustee by law of this state other  
2261 than this act.

2262 (2) The court may authorize the conservator in a court order  
2263 to execute powers not listed in Section 414 without prior specific  
2264 court authorization or confirmation, including by way of  
2265 illustration, but not limited to, the following:

2266 (a) To collect, hold, and retain property, including  
2267 property in which the conservator has a personal interest and real  
2268 property in another state, until the conservator determines  
2269 disposition of the property should be made;

2270 (b) To receive additions to the conservatorship estate;

2271 (c) To continue or participate in the operation of a  
2272 business or other enterprise;

2273 (d) To acquire an undivided interest in property in  
2274 which the conservator, in a fiduciary capacity, holds an undivided  
2275 interest;

2276 (e) To acquire or dispose of personal property;

2277 (f) To continue to invest assets;

2278 (g) To deposit funds or other property in a financial  
2279 institution, including one operated by the conservator;



2280 (h) To grant an option involving disposition of  
2281 property or accept or exercise an option for the acquisition of  
2282 property;

2283 (i) To vote a security, in person or by general or  
2284 limited proxy;

2285 (j) To pay a call, assessment, or other sum chargeable  
2286 or accruing against or on account of a security;

2287 (k) To sell or exercise a stock subscription or  
2288 conversion right;

2289 (l) To consent, directly or through a committee or  
2290 agent, to the reorganization, consolidation, merger, dissolution,  
2291 or liquidation of a corporation or other business enterprise;

2292 (m) To hold a security in the name of a nominee or in  
2293 other form without disclosure of the conservatorship so that title  
2294 to the security may pass by delivery;

2295 (n) To insure:

2296 (i) The conservatorship estate, in whole or in  
2297 part, against damage or loss in accordance with Section 418(10);  
2298 and

2299 (ii) The conservator against liability with  
2300 respect to a third person;

2301 (o) Advance funds for the protection of the  
2302 conservatorship estate or the ward and all expenses, losses, and  
2303 liability sustained in the administration of the conservatorship



2304 estate or because of holding any property for which the  
2305 conservator has a lien on the conservatorship estate;

2306 (p) Pay a tax, assessment, compensation of the  
2307 conservator or any guardian, and other expense incurred in the  
2308 collection, care, administration, and protection of the  
2309 conservatorship estate;

2310 (q) Pay a sum distributable to the ward or an  
2311 individual who is in fact dependent on the ward by paying the sum  
2312 to the distributee or for the use of the distributee:

2313 (i) To the guardian for the distributee;

2314 (ii) To the custodian of the distributee under the  
2315 Uniform Transfers to Minors Act, Section 91-20-1 et seq.; or

2316 (iii) If there is no guardian, custodian, or  
2317 custodial trustee, to a relative or other person having physical  
2318 custody of the distributee;

2319 (r) Defend an action, claim, or proceeding in any  
2320 jurisdiction for the protection of the conservatorship estate or  
2321 the conservator in the performance of the conservator's duties;

2322 (s) Structure the finances of the ward to establish  
2323 eligibility for a public benefit, including by making gifts  
2324 consistent with the ward's preferences, values, and prior  
2325 directions, if the conservator's action does not jeopardize the  
2326 ward's welfare and otherwise is consistent with the conservator's  
2327 duties; and



2328 (t) Execute and deliver any instrument that will  
2329 accomplish or facilitate the exercise of a power of the  
2330 conservator.

2331 **Section 422. Distribution from conservatorship estate.**

2332 Except as otherwise provided in Section 414 or qualified or  
2333 limited in the court's order of appointment and stated in the  
2334 letters of conservatorship, and unless contrary to a conservator's  
2335 plan under Section 419, the conservator may expend or distribute  
2336 income or principal of the conservatorship estate for the support,  
2337 care, education, health, or welfare of the ward or an individual  
2338 who is in fact dependent on the ward, including the payment of  
2339 child or spousal support, without specific court authorization or  
2340 confirmation in accordance with the following rules:

2341 (a) The conservator shall consider a recommendation  
2342 relating to the appropriate standard of support, care, education,  
2343 health, or welfare for the ward or individual who is dependent on  
2344 the ward, made by a guardian for the ward, if any, and, if the  
2345 ward is a minor, a recommendation made by a parent of the minor.  
2346 If the minor has a father or mother, the court shall determine  
2347 whether the expense of maintaining and educating the minor shall  
2348 be borne by the ward's estate.

2349 (b) The conservator acting in compliance with the  
2350 conservator's duties under Section 418 is not liable for an  
2351 expenditure or distribution made based on a recommendation under



2352 paragraph (a) unless the conservator knows the expenditure or  
2353 distribution is not in the best interest of the ward.

2354 (c) In making an expenditure or distribution under this  
2355 section, the conservator must consider:

2356 (i) The size of the conservatorship estate, the  
2357 estimated duration of the conservatorship, and the likelihood the  
2358 ward, at some future time, may be fully self-sufficient and able  
2359 to manage the individual's financial affairs and the  
2360 conservatorship estate;

2361 (ii) The accustomed standard of living of the ward  
2362 and individual who is dependent on the ward;

2363 (iii) Other funds or sources used for the support  
2364 of the ward; and

2365 (iv) The preferences, values, and prior directions  
2366 of the ward.

2367 (d) Funds expended or distributed under this section  
2368 may be paid by the conservator to any person, including the ward,  
2369 as reimbursement for expenditures the conservator might have made,  
2370 or in advance for services to be provided to the ward or  
2371 individual who is dependent on the ward if it is reasonable to  
2372 expect the services will be performed and advance payment is  
2373 customary or reasonably necessary under the circumstances.

2374 **Section 423. Conservator's report and accounting;**

2375 **monitoring.** (1) Except as otherwise provided under subsection  
2376 (11), a conservator must file a report in a record regarding the



2377 administration of the conservatorship estate with the court  
2378 annually unless the court otherwise directs, if provided by will,  
2379 or made necessary by resignation or removal, or termination of the  
2380 conservatorship. A conservator must petition the court for  
2381 approval of a report filed under this section. The court, after  
2382 review, may approve the report.

2383 (2) A report under subsection (1) must state or contain:

2384 (a) An accounting that lists property included in the  
2385 conservatorship estate and the receipts, disbursements,  
2386 liabilities, and distributions during the period for which the  
2387 report is made;

2388 (b) A list of the services provided to the ward;

2389 (c) A statement whether the conservator has deviated  
2390 from the plan and, if so, how the conservator has deviated and  
2391 why;

2392 (d) A recommendation as to the need for continued  
2393 conservatorship and any recommended change in the scope of the  
2394 conservatorship;

2395 (e) Anything of more than de minimis value which the  
2396 conservator, any individual who resides with the conservator, or  
2397 the spouse, parent, child, or sibling of the conservator has  
2398 received from a person providing goods or services to the ward;  
2399 and



2400 (f) Any business relationship the conservator has with  
2401 a person the conservator has paid or that has benefited from the  
2402 property of the ward.

2403 (3) The court, in its discretion, may request a copy of the  
2404 most recent reasonably available financial statements evidencing  
2405 the status of bank accounts, investment accounts, and mortgages or  
2406 other debts of the ward with all but the last four (4) digits of  
2407 the account numbers and social security number redacted;

2408 (4) The court may appoint a guardian ad litem to review a  
2409 report under this section or a conservator's plan under Section  
2410 419, to interview the ward or conservator, or to investigate any  
2411 other matter involving the conservatorship. In connection with  
2412 the report, the court may order the conservator to submit the  
2413 conservatorship estate to appropriate examination in a manner the  
2414 court directs.

2415 (5) Reasonable notice of the filing under this section of a  
2416 conservator's report, together with a copy of the report, must be  
2417 provided to the ward, a person entitled to notice under Section  
2418 411(5) or a court order, and other persons the court determines.  
2419 The notice and report must be given not later than fourteen (14)  
2420 days after filing.

2421 (6) The court may establish procedures for monitoring a  
2422 report submitted under this section and review each report at  
2423 least annually unless otherwise directed by the court. The court  
2424 must consider whether:





2425           (a) The reports provide sufficient information to  
2426 establish that the conservator has complied with the conservator's  
2427 duties;

2428           (b) The conservatorship should continue; and

2429           (c) The conservator's requested fees, if any, should be  
2430 approved.

2431           (7) If the court determines there is reason to believe a  
2432 conservator has not complied with the conservator's duties or the  
2433 conservatorship should not continue, the court:

2434           (a) Shall notify the ward, the conservator, and any  
2435 other person entitled to notice under Section 411(5) or a court  
2436 order;

2437           (b) May require additional information from the  
2438 conservator;

2439           (c) May appoint a guardian ad litem to interview the  
2440 ward or conservator or investigate any matter involving the  
2441 conservatorship; and

2442           (d) Consistent with Sections 430 and 431, may hold a  
2443 hearing to consider removal of the conservator, termination of the  
2444 conservatorship, or a change in the powers granted to the  
2445 conservator or terms of the conservatorship.

2446           (8) If the court has reason to believe fees requested by a  
2447 conservator are not reasonable, the court shall hold a hearing to  
2448 determine whether to adjust the requested fees.



2449 (9) An order may be entered, after notice and consideration  
2450 by the court, approving a report of a conservator filed under this  
2451 section.

2452 (10) A conservator may seek an order, after notice and  
2453 hearing, approving a report filed under this section that  
2454 discharges the conservator from all liabilities, claims, and  
2455 causes of action by a person given notice of the report and the  
2456 hearing as to a matter adequately disclosed in the report.

2457 (11) When the funds and personal property of the ward do not  
2458 exceed the sum or value of Ten Thousand Dollars (\$10,000.00) and  
2459 there is no foreseeable prospect of further receipt to come into  
2460 the hands of the conservator other than interest thereon, or in  
2461 conservatorships in which the only funds on hand or to be received  
2462 by the guardian are funds paid or to be paid by a government  
2463 agency providing protective services to adults or children for the  
2464 benefit of the ward, the chancery court or chancellor in vacation,  
2465 for good cause shown, in the chancellor's discretion and upon  
2466 being satisfied it is to the best interest and welfare of the  
2467 ward, may authorize the guardian to dispense with further annual  
2468 accounts, except for a final account.

2469 **Section 424. Attempted transfer of property by the ward.**

2470 (1) The interest of a ward in property included in the  
2471 conservatorship estate is not transferrable or assignable by the  
2472 ward and is not subject to levy, garnishment, or similar process  
2473 for claims against the ward unless allowed under Section 427.



2474 (2) If a ward enters into a contract after the right to  
2475 enter the contract has been delegated to another by the court, the  
2476 contract is void against the ward and the ward's property but is  
2477 enforceable against the person that contracted with the ward.

2478 (3) A person other than the conservator that deals with a  
2479 ward with respect to property included in the conservatorship  
2480 estate is entitled to protection provided by law of this state  
2481 other than this act.

2482 **Section 425. Transaction involving conflict of interest.** A  
2483 transaction involving a conservatorship estate which is affected  
2484 by a substantial conflict between the conservator's fiduciary  
2485 duties and personal interests is voidable unless the transaction  
2486 is authorized by court order after notice to persons entitled to  
2487 notice under Section 411(5) or a court order. A transaction  
2488 affected by a substantial conflict includes a sale, encumbrance,  
2489 or other transaction involving the conservatorship estate entered  
2490 into by the conservator, an individual with whom the conservator  
2491 resides, the spouse, descendant, sibling, or attorney of the  
2492 conservator, or a corporation or other enterprise in which the  
2493 conservator has a substantial beneficial interest.

2494 **Section 426. Protection of person dealing with conservator.**

2495 (1) A person that assists or deals with a conservator in good  
2496 faith and for value in any transaction, other than a transaction  
2497 requiring a court order under Section 414, is protected as though  
2498 the conservator properly exercised any power in question. Mere



2499 knowledge by a person that the person is dealing with a  
2500 conservator does not require the person to inquire into the  
2501 existence of authority of the conservator or the propriety of the  
2502 conservator's exercise of authority, but restrictions on authority  
2503 stated in letters of conservatorship, or otherwise provided by  
2504 law, are effective as to the person. A person that pays or  
2505 delivers property to a conservator is not responsible for proper  
2506 application of the property.

2507 (2) Protection under subsection (1) extends to a procedural  
2508 irregularity or jurisdictional defect in the proceeding leading to  
2509 the issuance of letters of conservatorship and does not substitute  
2510 for protection for a person that assists or deals with a  
2511 conservator provided by comparable provisions in law of this state  
2512 other than this act relating to a commercial transaction or  
2513 simplifying a transfer of securities by a fiduciary.

2514 **Section 427. Presentation and allowance of claim.** (1) A  
2515 conservator may pay, or secure by encumbering property included in  
2516 the conservatorship estate, a claim against the conservatorship  
2517 estate or the ward arising before or during the conservatorship,  
2518 on presentation and allowance in accordance with the priorities  
2519 under subsection (6). A claimant may present a claim by filing  
2520 the claim with the court, in a form acceptable to the court, and  
2521 sending or delivering a copy of the claim to the conservator.

2522 (2) A presented claim is allowed if it is not disallowed in  
2523 whole or in part by the conservator in a record sent or delivered



2524 to the claimant not later than ninety (90) days after its  
2525 presentation. Before payment, the conservator may change an  
2526 allowance of the claim to a disallowance in whole or in part, but  
2527 not after allowance under a court order or order directing payment  
2528 of the claim. Presentation of a claim tolls the running of a  
2529 statute of limitations that has not expired relating to the claim  
2530 until thirty (30) days after disallowance of the claim.

2531 (3) A claimant whose claim has not been paid may petition  
2532 the court to determine the claim at any time before it is barred  
2533 by a statute of limitations, and the court may order its  
2534 allowance, payment, or security by encumbering property included  
2535 in the conservatorship estate. If a proceeding is pending against  
2536 the ward at the time of appointment of the conservator or is  
2537 initiated after the appointment, the moving party must give the  
2538 conservator notice of the proceeding if it could result in  
2539 creating a claim against the conservatorship estate.

2540 (4) If a conservatorship estate is likely to be exhausted  
2541 before all existing claims are paid, the provisions of the law on  
2542 proceedings to insolvency and distribution of assets of insolvent  
2543 estates shall, as far as applicable and not otherwise provided, be  
2544 observed and enforced.

2545 (5) When the claims are established and the amount of assets  
2546 ascertained, the court shall adjudge the pro rata share of each  
2547 claimant, deducting first the preference claims in the following  
2548 order:



- 2549 (a) Costs and expenses of administration;
- 2550 (b) A claim of the federal or state government having
- 2551 priority under law other than this article;
- 2552 (c) A claim incurred by the conservator for support,
- 2553 care, education, health, or welfare previously provided to the
- 2554 ward or an individual who is in fact dependent on the ward;
- 2555 (d) A claim arising before the conservatorship; and
- 2556 (e) All other claims.

2557 (6) Preference may not be given in the payment of a claim

2558 under subsection (5) over another claim of the same class. A

2559 claim due and payable may not be preferred over a claim not due

2560 unless:

2561 (a) Doing so would leave the conservatorship estate

2562 without sufficient funds to pay the basic living and health-care

2563 expenses of the ward; and

2564 (b) The court authorizes the preference under Section

2565 414(1)(h).

2566 (7) If assets of a conservatorship estate are adequate to

2567 meet all existing claims, the court, acting in the best interest

2568 of the ward, may order the conservator to grant a security

2569 interest in the conservatorship estate for payment of a claim at a

2570 future date.

2571 **Section 428. Personal liability of conservator.** (1) Except

2572 as otherwise agreed by a conservator, the conservator is not

2573 personally liable on a contract properly entered into in a



2574 fiduciary capacity in the course of administration of the  
2575 conservatorship estate unless the conservator fails to reveal the  
2576 conservator's representative capacity in the contract or before  
2577 entering into the contract.

2578 (2) A conservator may be personally liable for an obligation  
2579 arising from control of property of the conservatorship estate or  
2580 an act or omission occurring in the course of administration of  
2581 the conservatorship estate only if the conservator is personally  
2582 grossly negligent or in breach of fiduciary duty.

2583 (3) A claim based on a contract entered into by a  
2584 conservator in a fiduciary capacity, an obligation arising from  
2585 control of property included in the conservatorship estate, or a  
2586 tort committed in the course of administration of the  
2587 conservatorship estate may be asserted against the conservatorship  
2588 estate in a proceeding against the conservator in a fiduciary  
2589 capacity, whether or not the conservator is personally liable for  
2590 the claim.

2591 (4) A question of liability between a conservatorship estate  
2592 and the conservator personally may be determined in a proceeding  
2593 for accounting, surcharge, or indemnification or another  
2594 appropriate proceeding or action.

2595 **Section 429. Removal of conservator; appointment of**  
2596 **successor.** (1) The court may remove a conservator for failure to  
2597 perform the conservator's duties or other good cause and appoint a  
2598 successor conservator to assume the duties of the conservator.



2599           (2) The court must hold a hearing to determine whether to  
2600 remove a conservator and appoint a successor on:

2601                 (a) A petition of the ward, conservator, or person  
2602 interested in the welfare of the ward that contains allegations  
2603 which, if true, would support a reasonable belief that removal of  
2604 the conservator and appointment of a successor may be appropriate,  
2605 but the court may decline to hold a hearing if a petition based on  
2606 the same or substantially similar facts was filed during the  
2607 preceding six (6) months;

2608                 (b) Communication from the ward, conservator, or person  
2609 interested in the welfare of the ward which supports a reasonable  
2610 belief that removal of the conservator and appointment of a  
2611 successor may be appropriate; or

2612                 (c) Determination by the court that a hearing would be  
2613 in the best interest of the ward.

2614           (3) Notice of a petition under subsection (2)(a) must be  
2615 given to the ward, the conservator, and any other person the court  
2616 determines.

2617           (4) A ward who seeks to remove the conservator and have a  
2618 successor appointed has the right to choose an attorney to  
2619 represent the ward in this matter. If the ward is not represented  
2620 by an attorney, the court may appoint an attorney under the same  
2621 conditions as in Section 406. The court may award reasonable  
2622 attorney's fees to the attorney as provided in Section 118.





2623 (5) In selecting a successor conservator, the court must  
2624 follow the priorities under Section 410.

2625 **Section 430. Termination or modification of conservatorship.**

2626 (1) A conservatorship must be terminated when the minor becomes  
2627 an adult, becomes emancipated, or dies; the termination must  
2628 comply with Section 423, but a conservatorship may continue into  
2629 adulthood when the court finds the ward qualifies for  
2630 conservatorship as an adult under the provisions of subsections  
2631 (5) and (6).

2632 (2) A ward, the conservator, or a person interested in the  
2633 welfare of the individual may petition for:

2634 (a) Termination of the conservatorship on the ground  
2635 that a basis for appointment under Section 401 does not exist or  
2636 termination would be in the best interest of the ward or for other  
2637 good cause; or

2638 (b) Modification of the conservatorship on the ground  
2639 that the extent of protection or assistance granted is not  
2640 appropriate or for other good cause shown.

2641 (3) The court must hold a hearing to determine whether  
2642 termination or modification of a conservatorship is appropriate  
2643 on:

2644 (a) A petition that contains allegations which, if  
2645 true, would support a reasonable belief that termination or  
2646 modification of the conservatorship may be appropriate, but the  
2647 court may decline to hold a hearing if a petition based on the



2648 same or substantially similar facts was filed within the preceding  
2649 six (6) months;

2650 (b) A communication from the ward, conservator, or  
2651 person interested in the welfare of the ward which supports a  
2652 reasonable belief that termination or modification of the  
2653 conservatorship may be appropriate, including because the  
2654 functional needs of the ward or supports or services available to  
2655 the ward have changed;

2656 (c) A report from a guardian or conservator which  
2657 indicates that termination or modification may be appropriate  
2658 because the functional needs or supports or services available to  
2659 the ward have changed or other less restrictive alternative is  
2660 available; or

2661 (d) A determination by the court that a hearing would  
2662 be in the best interest of the ward.

2663 (4) Notice of a petition under this section must be given to  
2664 the ward, the conservator, and any other person the court  
2665 determines.

2666 (5) On presentation of prima facie evidence for termination  
2667 of a conservatorship, the court must order termination unless it  
2668 is proven that a basis for appointment of a conservator under  
2669 Section 401 exists.

2670 (6) The court must modify the powers granted to a  
2671 conservator if the powers are excessive or inadequate due to a



2672 change in the abilities or limitations of the ward, the ward's  
2673 supports, or other circumstances.

2674 (7) Unless the court otherwise orders for good cause, before  
2675 terminating a conservatorship, the court shall follow the same  
2676 procedures to safeguard the rights of the ward which apply to a  
2677 petition for conservatorship.

2678 (8) A ward who seeks to terminate or modify the terms of the  
2679 conservatorship has the right to choose an attorney to represent  
2680 the ward in this matter. If the ward is not represented by an  
2681 attorney, the court may appoint an attorney under the same  
2682 conditions as in Section 406. The court may award reasonable  
2683 attorney's fees to the attorney as provided in Section 119.

2684 (9) On termination of a conservatorship other than by reason  
2685 of the death of the ward, property of the conservatorship estate  
2686 passes to the ward. The order of termination must direct the  
2687 conservator to file a final report and petition for discharge on  
2688 approval by the court of the final report.

2689 (10) If a ward dies testate, the conservator must deliver  
2690 the will to the named representative and certify that delivery to  
2691 the court. If the ward dies intestate, Section 91-7-68 governs.

2692 **Section 431. Transfer for benefit of minor without**  
2693 **appointment of conservator.** (1) Unless a person required to  
2694 transfer funds or other property to a minor knows that a  
2695 conservator for the minor has been appointed or a proceeding is  
2696 pending for conservatorship, the person may transfer an amount or



2697 value not exceeding Twenty-five Thousand Dollars (\$25,000.00) in a  
2698 twelve-month period to:

2699 (a) A person who has care or custody of the minor and  
2700 with whom the minor resides;

2701 (b) A guardian for the minor;

2702 (c) A custodian under the Uniform Transfers to Minors  
2703 Act, Section 91-20-1 et seq.; or

2704 (d) A financial institution as a deposit in an account  
2705 or certificate solely in the name of the minor; notice of the  
2706 deposit must be given to the minor; or

2707 (e) An Achieving a Better Life Experience (ABLE)  
2708 account.

2709 (2) A person that transfers funds or other property under  
2710 this section is not responsible for its proper application.

2711 (3) A person that receives funds or other property for a  
2712 minor under subsection (1)(a) or (b) may apply it only to the  
2713 support, care, education, health, or welfare of the minor, and may  
2714 not derive a personal financial benefit from it, except for  
2715 reimbursement for necessary expenses. Funds not applied for these  
2716 purposes must be preserved for the future support, care,  
2717 education, health, or welfare of the minor, and the balance, if  
2718 any, transferred to the minor when the minor becomes an adult or  
2719 otherwise is emancipated.

2720 (4) Contributions to an ABLE account, and the provisions for  
2721 permissible disbursements from such account, are governed by 26



2722 U.S.C. Section 529A and the terms of the applicable ABLE plan.  
2723 The amount of annual contributions is subject to 26 U.S.C. Section  
2724 2503(b).

2725 **SECTION 2.** Section 9-1-49, Mississippi Code of 1972, is  
2726 amended as follows:

2727 9-1-49. (1) The clerk of the court shall prepare and  
2728 forward to the Department of Public Safety the information  
2729 described by subsection (2) of this section not later than the  
2730 thirtieth day after the date the court:

2731 (a) Judicially determines that a person is a person  
2732 with mental illness or person with an intellectual disability  
2733 under Title 41, Chapter 21, Mississippi Code of 1972, whether  
2734 ordered for inpatient treatment, outpatient treatment, day  
2735 treatment, night treatment or home health services treatment;

2736 (b) Acquits a person in a criminal case by reason of  
2737 insanity or on a ground of intellectual disability, without regard  
2738 to whether the person is ordered by a court to receive inpatient  
2739 treatment or residential care under Section 99-13-7;

2740 (c) Appoints a guardian or conservator under \* \* \*  
2741 Article 2, 3 or 4 of Section 1 of this act, based on the  
2742 determination that the person is incapable of managing his own  
2743 person or estate \* \* \*;

2744 (d) Determines that a person is incompetent to stand  
2745 trial pursuant to Rule 9.06 of the Mississippi Rules of Circuit  
2746 and County Court Practice;



2747 (e) Finds under Section \* \* \* 318 or 430 of Section 1  
2748 of this act that a person has been restored to reason; or

2749 (f) Enters an order of relief from a firearms  
2750 disability under Section 97-37-5(4).

2751 (2) The clerk of the court shall prepare and forward the  
2752 following information:

2753 (a) The complete name, race, and sex of the person;

2754 (b) Any known identifying number of the person,  
2755 including social security number, driver's license number, or  
2756 state identification card number;

2757 (c) The person's date of birth; and

2758 (d) The federal prohibited-person information that is  
2759 the basis of the report required by this section.

2760 (3) If practicable, the clerk of the court shall forward to  
2761 the Department of Public Safety the information described by  
2762 subsection (2) of this section in an electronic format prescribed  
2763 by the department.

2764 (4) If an order previously reported to the department under  
2765 subsection (1) of this section is reversed by order of any court,  
2766 the clerk shall notify the department of the reversal not later  
2767 than thirty (30) days after the clerk receives the court order or  
2768 the mandate from the appellate court.

2769 (5) The duty of a clerk to prepare and forward information  
2770 under this section is not affected by:

2771 (a) Any subsequent appeal of the court order;



- 2772 (b) Any subsequent modification of the court order; or  
2773 (c) The expiration of the court order.

2774 **SECTION 3.** Section 43-47-29, Mississippi Code of 1972, is  
2775 amended as follows:

2776 43-47-29. In addition to the powers granted under the  
2777 provisions of this chapter, the department is authorized to  
2778 petition the court under the provisions of Section \* \* \* 401 or  
2779 402 of Section 1 of this act for appointment of a conservator for  
2780 any vulnerable person.

2781 **SECTION 4.** Section 45-9-103, Mississippi Code of 1972, is  
2782 amended as follows:

2783 45-9-103. (1) In this section, "federal prohibited-person  
2784 information" means information that identifies an individual as:

2785 (a) A person who has been judicially determined by a  
2786 court as a person with mental illness or person with an  
2787 intellectual disability under Title 41, Chapter 21, Mississippi  
2788 Code of 1972, whether ordered for inpatient treatment, outpatient  
2789 treatment, day treatment, night treatment or home health services  
2790 treatment;

2791 (b) A person acquitted in a criminal case by reason of  
2792 insanity or on a ground of intellectual disability, without regard  
2793 to whether the person is ordered by a court to receive inpatient  
2794 treatment or residential care under Section 99-13-7;

2795 (c) An adult individual for whom a court has appointed  
2796 a guardian or conservator under \* \* \* Article 2, 3 or 4 of Section



2797 1 of this act based on the determination that the person is  
2798 incapable of managing his own person or estate \* \* \*; or

2799 (d) A person determined to be incompetent to stand  
2800 trial by a court pursuant to Rule 9.06 of the Mississippi Rules of  
2801 Circuit and County Court Practice.

2802 (2) The Department of Public Safety by rule shall establish  
2803 a procedure to provide federal prohibited-person information to  
2804 the Federal Bureau of Investigation for use with the National  
2805 Instant Criminal Background Check System. Except as otherwise  
2806 provided by state law, the department may disseminate federal  
2807 prohibited-person information under this subsection only to the  
2808 extent necessary to allow the Federal Bureau of Investigation to  
2809 collect and maintain a list of persons who are prohibited under  
2810 federal law from engaging in certain activities with respect to a  
2811 firearm.

2812 (3) The department shall grant access to a person's own  
2813 federal prohibited-person information to the person who is the  
2814 subject of the information.

2815 (4) Federal prohibited-person information maintained by the  
2816 department is confidential information for the use of the  
2817 department and, except as otherwise provided by this section and  
2818 other state law, is not a public record and may not be  
2819 disseminated by the department.





2820 (5) The department by rule shall establish a procedure to  
2821 correct department records and transmit those corrected records to  
2822 the Federal Bureau of Investigation when a person provides:

2823 (a) A copy of a judicial order or finding under  
2824 Section \* \* \* 318 or 430 of Section 1 of this act that a person  
2825 has been restored to reason;

2826 (b) Proof that the person has obtained notice of relief  
2827 from disabilities under 18 USC, Section 925; or

2828 (c) A copy of a judicial order of relief from a  
2829 firearms disability under Section 97-37-5(4).

2830 **SECTION 5.** Section 81-5-62, Mississippi Code of 1972, is  
2831 amended as follows:

2832 81-5-62. Accounts payable at death may be established under  
2833 the following conditions:

2834 (a) An account in a bank, including a national bank,  
2835 may be opened by any person or persons with directions to make  
2836 such an account payable on the death of the person or persons  
2837 opening such an account to the named beneficiary or beneficiaries.  
2838 When an account is so opened, the bank shall pay any monies to the  
2839 credit of the account from time to time to, or pursuant to the  
2840 order of, the person or persons opening such an account during his  
2841 or their lifetime in the same manner as if the account were in the  
2842 sole name or names of such person or persons. The term "accounts"  
2843 or "account" as used in this section shall include, but not be  
2844 limited to, any form of deposit or account, such as a savings



2845 account, checking account, time deposit, demand deposit or  
2846 certificate of deposit, whether negotiable, nonnegotiable or  
2847 otherwise.

2848 (b) If the named beneficiary or one (1) of the  
2849 beneficiaries so named is an individual beneficiary and the  
2850 individual beneficiary or beneficiaries survive the death of the  
2851 person opening such an account, and the individual beneficiary or  
2852 all of the individual beneficiaries so named are sixteen (16)  
2853 years of age or over at the death of the person opening such an  
2854 account, the bank shall pay the monies to the credit of the  
2855 account, less all setoffs and charges, to the named individual  
2856 beneficiary or beneficiaries or upon his or their order, as  
2857 hereinafter provided, and such payment by the bank shall be valid,  
2858 notwithstanding any lack of legal age of the named beneficiary or  
2859 beneficiaries; provided, however, where such an account is opened  
2860 or subsequently held by more than one (1) person, the death of one  
2861 (1) of such persons shall not terminate the account and the  
2862 account shall continue as to the surviving person or persons and  
2863 the named beneficiary or beneficiaries subject to the provisions  
2864 of paragraphs (c) through (j) of this section. For purposes of  
2865 this section, the term "individual beneficiary" shall refer to a  
2866 living person who is the named beneficiary of a payable on death  
2867 account.

2868 (c) If the named individual beneficiary or all of the  
2869 individual beneficiaries so named survive the death of the person



2870 or persons opening such an account and are under sixteen (16)  
2871 years of age at such time, the bank shall pay the monies to the  
2872 credit of the account, less all setoffs and charges:

2873 (i) When or after the named individual beneficiary  
2874 becomes sixteen (16) years of age, to the named beneficiary or  
2875 upon his order; or

2876 (ii) When more than one (1) individual beneficiary  
2877 is named, the bank shall pay to each individual beneficiary so  
2878 named his proportionate interest in such account as each severally  
2879 becomes sixteen (16) years of age; or

2880 (iii) To the legal guardian of the named  
2881 individual beneficiary, wherever appointed and qualified, or where  
2882 more than one (1) beneficiary is named, the bank shall pay such  
2883 individual beneficiary's proportionate interest in such account to  
2884 his legal guardian wherever and whenever appointed and qualified;  
2885 or

2886 (iv) \* \* \* If no guardian is appointed and  
2887 qualified, payment may be made in accordance with the provisions  
2888 of Section \* \* \* 209 or 431 of Section 1 of this act in situations  
2889 to which such section or sections are applicable.

2890 (d) Where the death of the person or persons opening  
2891 such an account terminates the account under the provisions of  
2892 paragraphs (b) and (c) of this section, and where one or more of  
2893 the named individual beneficiaries are under sixteen (16) years of  
2894 age and the remainder of the named individual beneficiaries are



2895 sixteen (16) years of age or over, the bank shall pay the monies,  
2896 less all setoffs and charges, to:

2897 (i) The named individual beneficiaries sixteen  
2898 (16) years of age or over at the time of termination of such  
2899 account pursuant to paragraph (b) of this section; and

2900 (ii) The named individual beneficiaries under  
2901 sixteen (16) years of age at the time of termination of such  
2902 account pursuant to paragraph (c) of this section.

2903 (e) If the named beneficiary or one (1) of the  
2904 beneficiaries so named is a revocable trust, evidenced by a  
2905 written trust agreement, which trust is still in existence at the  
2906 death of the person opening such an account, the bank shall pay  
2907 the monies to the credit of the account, less all setoffs and  
2908 charges, to the trustee of the named revocable trust or upon his  
2909 or their order, as hereinafter provided, upon being presented an  
2910 affidavit by the trustee stating that the name of the trust, the  
2911 names of the current trustees, and that the trust is still in  
2912 existence at the time of presentment of the affidavit. Such  
2913 payment by the bank shall be valid, notwithstanding any lack of  
2914 actual authority by the trustee, and the bank shall be discharged  
2915 and released to the same extent as if the bank had dealt with the  
2916 personal representative of the decedent. Such bank shall not be  
2917 required to see to the proper application of the monies or  
2918 evidence thereof or to inquire into the truth of any statement  
2919 presented in the affidavit by the trustee.



2920 (f) Where such account is opened or subsequently held  
2921 by more than one (1) person, the bank, in the absence of any  
2922 written instructions to the contrary which are consented to by the  
2923 bank, shall accept payments made to such account and may pay any  
2924 monies to the credit of such account from time to time to, or  
2925 pursuant to the order of, either or any of such persons during  
2926 their life or lives in the same manner as if the account were in  
2927 the sole name of either or any of such persons.

2928 (g) When a person or persons open an account in a bank  
2929 in the form set forth in paragraph (a) of this section, and makes  
2930 a payment or payments to such account or causes a payment or  
2931 payments to be made to such account, it shall be conclusively  
2932 presumed that such person or persons intend to vest in the named  
2933 beneficiary or beneficiaries a present beneficial interest in such  
2934 payment so made and in the monies to the credit of the account  
2935 from time to time, to the end that, if the named beneficiary or  
2936 beneficiaries survive the person or persons opening such an  
2937 account, all the right and title of the person or persons opening  
2938 such an account in and to the monies to the credit of the account  
2939 at the death of such person or persons, less all setoffs and  
2940 charges, shall, at such death, vest solely and indefeasibly in the  
2941 named beneficiary or beneficiaries subject to the conditions and  
2942 limitations of paragraphs (b) through (j) of this section.

2943 (h) If the named individual beneficiary predeceases the  
2944 person opening such an account, or if the named beneficiary is a



2945 revocable trust that is terminated, the present beneficial  
2946 interest presumed to be vested in the named beneficiary pursuant  
2947 to paragraph (g) of this section shall terminate at the death of  
2948 the named individual beneficiary or upon the termination of the  
2949 revocable trust named as a beneficiary. In such case, the  
2950 personal representatives of the named individual beneficiary, the  
2951 beneficiaries of the revocable trust, and all others claiming  
2952 through or under the named beneficiary, shall have no right in or  
2953 title to the monies to the credit of the account, and the bank  
2954 shall pay such monies, less all setoffs and charges, to the person  
2955 opening such an account or pursuant to his order in the same  
2956 manner as if the account were in the sole name of the person  
2957 opening such an account; provided, however, where such an account  
2958 names more than one (1) beneficiary, the death of one (1) of the  
2959 individual beneficiaries or the termination of a revocable trust  
2960 beneficiary so named shall not terminate the account and the  
2961 account shall continue as to the surviving beneficiary or  
2962 beneficiaries subject to the provisions of paragraphs (b) through  
2963 (j) of this section.

2964 (i) A bank which makes any payment pursuant to  
2965 paragraphs (b) through (h) of this section, prior to service upon  
2966 the bank of an order of court restraining such payment, shall, to  
2967 the extent of each payment so made, be released from all claims of  
2968 the person or persons opening such an account, the named



2969 beneficiary or beneficiaries, their legal representatives, and all  
2970 others claiming through or under them.

2971           (j) When an account is opened in a form described in  
2972 paragraph (a) of this section, the right of the named beneficiary  
2973 or beneficiaries to be vested with sole and indefeasible title to  
2974 the monies to the credit of the account on the death of the person  
2975 or persons opening such an account shall not be denied, abridged  
2976 or in anyway affected because such right has not been created by a  
2977 writing executed in accordance with the law of this state  
2978 prescribing the requirements to effect a valid testamentary  
2979 disposition of property.

2980           **SECTION 6.** Section 81-12-145, Mississippi Code of 1972, is  
2981 amended as follows:

2982           81-12-145. Accounts payable at death may be established  
2983 under the following conditions:

2984           (a) An account in an association may be opened by any  
2985 person or persons with directions to make such an account payable  
2986 on the death of the person or persons opening such an account to  
2987 the named beneficiary or beneficiaries. When an account is so  
2988 opened, the association shall pay any monies to the credit of the  
2989 account from time to time to, or pursuant to the order of the  
2990 person or persons opening such an account during his or their  
2991 lifetime in the same manner as if the account were in the sole  
2992 name or names of such person or persons.



2993           (b) If the named beneficiary or one (1) of the  
2994 beneficiaries so named survive the death of the person opening  
2995 such an account and the beneficiary or all of the beneficiaries so  
2996 named are sixteen (16) years of age or over at the death of the  
2997 person opening such an account, the association shall pay the  
2998 monies to the credit of the account, less all proper setoffs and  
2999 charges, to the named beneficiary or beneficiaries or upon his or  
3000 their order, as hereinafter provided, and such payment by the  
3001 association shall be valid, notwithstanding any lack of legal age  
3002 of the named beneficiary or beneficiaries; provided, however,  
3003 where such an account is opened or subsequently held by more than  
3004 one (1) person, the death of one (1) of such persons shall not  
3005 terminate the account and the account shall continue as to the  
3006 surviving person or persons and the named beneficiary or  
3007 beneficiaries subject to the provisions of subsections (c) through  
3008 (i) of this section.

3009           (c) If the named beneficiary or all of the  
3010 beneficiaries so named survive the death of the person or persons  
3011 opening such an account and are under sixteen (16) years of age at  
3012 such time, the association shall pay the monies to the credit of  
3013 the account, less all proper setoffs and charges:

3014           (i) When or after the named beneficiary becomes  
3015 sixteen (16) years of age, to the named beneficiary or upon his  
3016 order; or





3017                   (ii) When more than one (1) beneficiary is named,  
3018 the association shall pay to each beneficiary so named his  
3019 proportionate interest in such account as each severally becomes  
3020 sixteen (16) years of age; or

3021                   (iii) To the legal guardian of the named  
3022 beneficiary, wherever appointed and qualified, or where more than  
3023 one (1) beneficiary is named, the association shall pay such  
3024 beneficiary's proportionate interest in such account to his legal  
3025 guardian wherever and whenever appointed and qualified; or

3026                   (iv) \* \* \* If no guardian is appointed and  
3027 qualified, payment may be made in accordance with the provisions  
3028 of Section \* \* \* 209 or 431 of Section 1 of this act in situations  
3029 to which such section or sections are applicable.

3030                   (d) Where the death of the person or persons opening  
3031 such an account terminates the account under the provisions  
3032 of \* \* \* paragraphs (b) and (c) of this section and where one or  
3033 more of the named beneficiaries are under sixteen (16) years of  
3034 age and the remainder of the named beneficiaries are sixteen (16)  
3035 years of age or over, the association shall pay the monies to the  
3036 credit of the trust, less all proper setoffs and charges, to:

3037                   (i) The named beneficiaries sixteen (16) years of  
3038 age or over at the time of termination of said account pursuant  
3039 to \* \* \* paragraph (b) of this section, and



3040 (ii) The named beneficiaries under sixteen (16)  
3041 years of age at the time of termination of said account pursuant  
3042 to \* \* \* paragraph (c) of this section.

3043 (e) Where such account is opened or subsequently held  
3044 by more than one (1) person, the association, in the absence of  
3045 any written instructions to the contrary, consented to by the  
3046 association, shall accept payments made to such account and may  
3047 pay any monies to the credit of such account from time to time to,  
3048 or pursuant to the order of, either or any of said persons during  
3049 their life or lives in the same manner as if the account were in  
3050 the sole name of either or any of such persons.

3051 (f) When a person or persons opens an account in an  
3052 association, in the form set forth in \* \* \* paragraph (a) of this  
3053 section, and makes a payment or payments to such account, or  
3054 causes a payment or payments to be made to such account, such  
3055 person or persons shall be conclusively presumed to intend to vest  
3056 in the named beneficiary or beneficiaries a present beneficial  
3057 interest in such payment so made, and in the monies to the credit  
3058 of the account from time to time, to the end that, if the named  
3059 beneficiary or beneficiaries survive the person or persons opening  
3060 such an account, all the right and title of the person or persons  
3061 opening such an account in and to the monies to the credit of the  
3062 account at the death of such person or persons, less all proper  
3063 setoffs and charges, shall, at such death, vest solely and  
3064 indefeasibly in the named beneficiary or beneficiaries subject to



3065 the conditions and limitations of \* \* \* paragraphs (c) through (i)  
3066 of this section.

3067 (g) If the named beneficiary predeceases the person  
3068 opening such an account, the present beneficial interest presumed  
3069 to be vested in the named beneficiary pursuant to \* \* \* paragraph  
3070 (f) of this section shall terminate at the death of the named  
3071 beneficiary. In such case, the personal representatives of the  
3072 named beneficiary, and all others claiming through or under the  
3073 named beneficiary, shall have no right in or title to the monies  
3074 to the credit of the account, and the association shall pay such  
3075 monies, less all proper setoffs and charges, to the person opening  
3076 such an account, or pursuant to his order, in the same manner as  
3077 if the account were in the sole name of the person opening such an  
3078 account; provided, however, where such an account names more than  
3079 one (1) beneficiary, the death of one (1) of the beneficiaries so  
3080 named shall not terminate the account and the account shall  
3081 continue as to the surviving beneficiary or beneficiaries subject  
3082 to the provisions of \* \* \* paragraphs (c) through (i) of this  
3083 section.

3084 (h) An association which makes any payment pursuant  
3085 to \* \* \* paragraphs (c) through (g) of this section, prior to  
3086 service upon the association or an order of court restraining such  
3087 payment, shall, to the extent of each payment so made, be released  
3088 from all claims of the person or persons opening such an account,



3089 the named beneficiary or beneficiaries, their legal  
3090 representatives, and all others claiming through or under them.

3091 (i) When an account is opened in a form described  
3092 in \* \* \* paragraph (a) of this section, the right of the named  
3093 beneficiary or beneficiaries to be vested with sole and  
3094 indefeasible title to the monies to the credit of the account on  
3095 the death of the person or persons opening such an account shall  
3096 not be denied, abridged or in anywise affected because such right  
3097 has not been created by a writing executed in accordance with the  
3098 law of this state prescribing the requirements to effect a valid  
3099 testamentary disposition of property.

3100 **SECTION 7.** Section 81-14-363, Mississippi Code of 1972, is  
3101 amended as follows:

3102 81-14-363. (1) An account in a savings bank may be opened  
3103 by any person or persons with directions to make such account  
3104 payable upon his or their death to the named beneficiary or  
3105 beneficiaries. When an account is so opened, the savings bank  
3106 shall pay any money to the person or persons opening such account  
3107 during his or their lifetime in the same manner as if the account  
3108 were in the sole name or names of such person or persons.

3109 (2) If the named beneficiary or one (1) of the named  
3110 beneficiaries survive the death of the person opening such an  
3111 account and the beneficiary or all of the beneficiaries so named  
3112 are sixteen (16) years of age or over at the death of such person,  
3113 the savings bank shall pay the money to the credit of the account,



3114 less all proper setoffs and charges, to the named beneficiary or  
3115 beneficiaries or upon his or their order, as hereinafter provided.  
3116 Such payment by the savings bank shall be valid, notwithstanding  
3117 any lack of legal age of the named beneficiary or beneficiaries.  
3118 However, where such an account is opened or subsequently held by  
3119 more than one (1) person, the death of one (1) of such persons  
3120 shall not terminate the account and the account shall continue as  
3121 to the surviving person or persons and the named beneficiary or  
3122 beneficiaries subject to the provisions of subsection (3).

3123 (3) If the named beneficiary or all of the named  
3124 beneficiaries survive the death of the person or persons opening  
3125 such an account and are under sixteen (16) years of age at such  
3126 time, the savings bank shall pay the money to the credit of the  
3127 account, less all proper setoffs and charges:

3128 (a) When or after the named beneficiary becomes sixteen  
3129 (16) years of age, to the named beneficiary or upon his order; or

3130 (b) When more than one (1) beneficiary is named, the  
3131 savings bank shall pay to each beneficiary so named his  
3132 proportionate interest in such account as each severally becomes  
3133 sixteen (16) years of age; or

3134 (c) To the legal guardian of the named beneficiary,  
3135 wherever appointed and qualified, or where more than one (1)  
3136 beneficiary is named, the savings bank shall pay such  
3137 beneficiary's proportionate interest in such account to his legal  
3138 guardian wherever and whenever appointed and qualified; or



3139 (d) \* \* \* If no guardian is appointed and qualified,  
3140 payment may be made in accordance with the provisions of  
3141 Section \* \* \* 209 or 431 of Section 1 of this act in situations to  
3142 which such sections are applicable.

3143 (4) Where the death of the person or persons opening such an  
3144 account terminates the account under the provisions of subsections  
3145 (2) and (3) of this section and where one or more of the named  
3146 beneficiaries are under sixteen (16) years of age and the  
3147 remainder of the named beneficiaries are sixteen (16) years of age  
3148 or over, the savings bank shall pay the money to the credit of the  
3149 trust, less all proper setoffs and charges, to:

3150 (a) The named beneficiaries sixteen (16) years of age  
3151 or over at the time of termination of said account pursuant to  
3152 subsection (2) of this section; and

3153 (b) The named beneficiaries under sixteen (16) years of  
3154 age at the time of termination of said account pursuant to  
3155 subsection (3) of this section.

3156 (5) Where such account is opened or subsequently held by  
3157 more than one (1) person, the savings bank in the absence of any  
3158 written instructions to the contrary, consented to by the savings  
3159 bank, shall accept payments made to such account and may pay any  
3160 money to the credit of such account from time to time to, or  
3161 pursuant to the order of, either or any of such persons during  
3162 their life or lives in the same manner as if the account were in  
3163 the sole name of either of such persons.



3164           (6) When a person or persons opens an account in a savings  
3165 bank in the form set forth in subsection (1) of this section, and  
3166 makes a payment or payments to such account, or causes a payment  
3167 or payments to be made to such account, such person or persons  
3168 shall be conclusively presumed to intend to vest in the named  
3169 beneficiary or beneficiaries a present beneficial interest in such  
3170 payments made, and in the money to the credit of the account from  
3171 time to time, to the end that, if the named beneficiary or  
3172 beneficiaries survive the person or persons opening such an  
3173 account, all the right and title of the person or persons opening  
3174 such an account in and to the money to the credit of the account  
3175 at the death of such person or persons, less all proper setoffs  
3176 and charges, shall at such death, vest solely and indefeasibly in  
3177 the named beneficiary or beneficiaries subject to the conditions  
3178 and limitations of subsection (3).

3179           (7) If the named beneficiary predeceases the person opening  
3180 such an account, the present beneficial interest presumed to be  
3181 vested in the named beneficiary pursuant to subsection (6) of this  
3182 section shall terminate at the death of the named beneficiary. In  
3183 such case, the personal representatives of the named beneficiary,  
3184 and all others claiming through or under the named beneficiary,  
3185 shall have no right in or title to the money to the credit of the  
3186 account, and the savings bank shall pay such money, less all  
3187 proper setoffs and charges, to the person opening such an account,  
3188 or pursuant to his order, in the same manner as if the account



3189 were in the sole name of the person opening such an account;  
3190 provided, however, where such an account names more than one (1)  
3191 beneficiary, the death of one (1) of the beneficiaries so named  
3192 shall not terminate the account and the account shall continue as  
3193 to the surviving beneficiary or beneficiaries subject to the  
3194 provisions of subsection (3) of this section.

3195 (8) A savings bank which makes any payment pursuant to  
3196 subsection (3) of this section, prior to service upon the savings  
3197 bank of an order of court restraining such payment shall, to the  
3198 extent of each payment so made, be released from all claims of the  
3199 person or persons opening such an account, the named beneficiary  
3200 or beneficiaries, their legal representatives, and all others  
3201 claiming through or under them.

3202 (9) When an account is opened in a form described in  
3203 subsection (1) of this section, the right of the named beneficiary  
3204 or beneficiaries to be vested with sole and indefeasible title to  
3205 the money to the credit of the account on the death of the person  
3206 or persons opening such an account shall not be denied, abridged  
3207 or in anyway affected because such right has not been created by a  
3208 writing executed in accordance with the law of this state  
3209 prescribing the requirements to effect a valid testamentary  
3210 disposition of property.

3211 **SECTION 8.** Section 91-8-103, Mississippi Code of 1972, is  
3212 amended as follows:

3213 91-8-103. In this chapter:





3214 (1) "Action," with respect to an act of a trustee,  
3215 includes a failure to act.

3216 (2) "Ascertainable standard" means a standard relating  
3217 to an individual's health, education, support, or maintenance  
3218 within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the  
3219 Internal Revenue Code of 1986, as in effect on July 1, 2014, or as  
3220 later amended.

3221 (3) "Beneficial interest" means a distribution interest  
3222 or a remainder interest; provided, however, a beneficial interest  
3223 specifically excludes a power of appointment or a power reserved  
3224 by a settlor.

3225 (4) "Beneficiary" means a person that:

3226 (A) Has a present or future beneficial interest in  
3227 a trust, vested or contingent; or

3228 (B) In a capacity other than that of trustee,  
3229 holds a power of appointment over trust property.

3230 (5) "Beneficiary surrogate" means a person, including a  
3231 trust protector or trust advisor, other than a trustee, designated  
3232 by the settlor in the trust instrument or in a writing delivered  
3233 to the trustee, or designated in a writing delivered to the  
3234 trustee by a trust protector or trust advisor with power under the  
3235 terms of the trust instrument to receive notices, information, and  
3236 reports otherwise required to be provided to a beneficiary under  
3237 Section 91-8-813(a) and (b), or to represent a beneficiary under  
3238 Section 91-8-303(8).



3239           (6) "Charitable trust" means a trust, or portion of a  
3240 trust, created for a charitable purpose described in Section  
3241 91-8-405(a).

3242           (7) "Conservator" means a person appointed by the court  
3243 to administer the estate of a minor or adult individual \* \* \* as  
3244 defined in Section \* \* \* 102 of Section 1 of this act.

3245           (8) "Directed trust" means a trust where through the  
3246 terms of the trust, one or more persons are given the authority to  
3247 direct or consent to a fiduciary's actual or proposed investment  
3248 decision, distribution decision, or any other decision of the  
3249 fiduciary.

3250           (9) "Distribution interest" means:

3251                   (A) An interest, other than a remainder interest,  
3252 held by an eligible distributee or permissible distributee under a  
3253 trust and may be a current distribution interest or a future  
3254 distribution interest;

3255                   (B) A distribution interest is classified as  
3256 either a mandatory interest, a support interest or a discretionary  
3257 interest; and although not the exclusive means to create each such  
3258 respective distribution interest, absent clear and convincing  
3259 evidence to the contrary, use of the example language accompanying  
3260 the following definitions of each such respective distribution  
3261 interest results in the indicated classification of distribution  
3262 interest:



3263 (i) A mandatory interest means a distribution  
3264 interest in which the timing of any distribution must occur within  
3265 one (1) year from the date the right to the distribution arises  
3266 and the trustee has no discretion in determining whether a  
3267 distribution shall be made or the amount of such distribution;  
3268 example distribution language indicating a mandatory interest  
3269 includes, but is not limited to:

3270 a. All income shall be distributed to a  
3271 named beneficiary; or

3272 b. One Hundred Thousand Dollars  
3273 (\$100,000.00) a year shall be distributed to a named beneficiary;

3274 (ii) A support interest means a distribution  
3275 interest that is not a mandatory interest but still contains  
3276 mandatory language such as "shall make distributions" and is  
3277 coupled with a standard capable of judicial interpretation;  
3278 example distribution language indicating a support interest  
3279 includes, but is not limited to:

3280 a. The trustee shall make distributions  
3281 for health, education, maintenance, and support;

3282 b. Notwithstanding the distribution  
3283 language used, if a trust instrument containing such distribution  
3284 language specifically provides that the trustee exercise  
3285 discretion in a reasonable manner with regard to a discretionary  
3286 interest, then notwithstanding any other provision of this



3287 subparagraph defining distribution interests, the distribution  
3288 interest shall be classified as a support interest;

3289 (iii) A discretionary interest means any  
3290 interest that is not a mandatory or a support interest and is any  
3291 distribution interest where a trustee has any discretion to make  
3292 or withhold a distribution; example distribution language  
3293 indicating a discretionary interest includes, but is not limited  
3294 to:

3295 a. The trustee may, in the trustee's  
3296 sole and absolute discretion, make distributions for health,  
3297 education, maintenance, and support;

3298 b. The trustee, in the trustee's sole  
3299 and absolute discretion, shall make distributions for health,  
3300 education, maintenance, and support;

3301 c. The trustee may make distributions  
3302 for health, education, maintenance, and support;

3303 d. The trustee shall make distributions  
3304 for health, education, maintenance, and support; however, the  
3305 trustee may exclude any of the beneficiaries or may make unequal  
3306 distributions among them; or

3307 e. The trustee may make distributions  
3308 for health, education, maintenance, support, comfort, and general  
3309 welfare;

3310 f. A discretionary interest may also be  
3311 evidenced by:



3312 1. Permissive distribution language  
3313 such as "may make distributions";

3314 2. Mandatory distribution language  
3315 that is negated by the discretionary distribution language  
3316 contained in the trust such as "the trustee shall make  
3317 distributions in the trustee's sole and absolute discretion";

3318 g. An interest that includes mandatory  
3319 distribution language such as "shall" but is subsequently  
3320 qualified by discretionary distribution language shall be  
3321 classified as a discretionary interest and not as a support or a  
3322 mandatory interest;

3323 (C) (i) To the extent a trust contains  
3324 distribution language indicating the existence of any combination  
3325 of a mandatory, support and discretionary interest, that combined  
3326 interest of the trust shall be divided and treated separately as  
3327 follows:

3328 a. The trust shall be a mandatory  
3329 interest only to the extent of the mandatory distribution  
3330 language;

3331 b. The trust shall be a support interest  
3332 only to the extent of such support distribution language; and

3333 c. The remaining trust property shall be  
3334 held as a discretionary interest;

3335 (ii) For purposes of this subparagraph (C), a  
3336 support interest that includes mandatory distribution language



3337 such as "shall" but is subsequently qualified by discretionary  
3338 distribution language, shall be classified as a discretionary  
3339 interest and not as a support interest.

3340 (10) "Environmental law" means a federal, state, or  
3341 local law, rule, regulation, or ordinance relating to protection  
3342 of the environment.

3343 (11) "Excluded fiduciary" means any trustee, trust  
3344 advisor, or trust protector to the extent that, under the terms of  
3345 a trust:

3346 (A) The trustee, trust advisor, or trust protector  
3347 is excluded from exercising a power, or is relieved of a duty; and

3348 (B) The power or duty is granted or reserved to  
3349 another person.

3350 (12) "Fiduciary" means:

3351 (A) A trustee, conservator, guardian, agent under  
3352 any agency agreement or other instrument, an executor, personal  
3353 representative or administrator of a decedent's estate, or any  
3354 other party, including a trust advisor or a trust protector, who  
3355 is acting in a fiduciary capacity for any person, trust, or  
3356 estate;

3357 (B) For purposes of subparagraph (A), an agency  
3358 agreement includes, but is not limited to, any agreement under  
3359 which any delegation is made, either pursuant to Section 91-8-807  
3360 or by anyone holding a power or duty pursuant to Article 12;



3361 (C) For purposes of the definition of fiduciary in  
3362 Section 91-8-103, fiduciary does not mean any person who is an  
3363 excluded fiduciary as such is defined in Section 91-8-103.

3364 (13) "Guardian" means a person appointed by the  
3365 court \* \* \* to make decisions regarding the support, care,  
3366 education, health, and welfare of a minor or adult individual as  
3367 defined in Section 102 of Section 1 of this act. The term does  
3368 not include a guardian ad litem.

3369 (14) "Interests of the beneficiaries" means the  
3370 beneficial interests provided in the terms of the trust.

3371 (15) "Internal Revenue Code" means the Internal Revenue  
3372 Code of 1986, as in effect on July 1, 2014, or as later amended.

3373 (16) "Jurisdiction," with respect to a geographic area,  
3374 includes a state or country.

3375 (17) "Person" means an individual, corporation,  
3376 business trust, estate, trust, partnership, limited liability  
3377 company, association, joint venture, government; governmental  
3378 subdivision, agency, or instrumentality; public corporation, or  
3379 any other legal or commercial entity.

3380 (18) "Power of appointment" means:

3381 (A) An inter vivos or testamentary power to direct  
3382 the disposition of trust property, other than a distribution  
3383 decision made by a trustee or other fiduciary to a beneficiary;



3384                   (B) Powers of appointment are held by the person  
3385 to whom such power has been given, and not by a settlor in that  
3386 person's capacity as settlor.

3387                   (19) "Power of withdrawal" means a presently  
3388 exercisable general power of appointment other than a power: (A)  
3389 exercisable by a trustee and limited by an ascertainable standard;  
3390 or (B) exercisable by another person only upon consent of the  
3391 trustee or a person holding an adverse interest.

3392                   (20) "Property" means anything that may be the subject  
3393 of ownership, whether real or personal, legal or equitable, or any  
3394 interest therein.

3395                   (21) "Qualified beneficiary" means a beneficiary who,  
3396 on the date the beneficiary's qualification is determined:

3397                   (A) Is a distributee or permissible distributee of  
3398 trust income or principal;

3399                   (B) Would be a distributee or permissible  
3400 distributee of trust income or principal if the interests of the  
3401 distributees described in subparagraph (A) terminated on that date  
3402 without causing the trust to terminate; or

3403                   (C) Would be a distributee or permissible  
3404 distributee of trust income or principal if the trust terminated  
3405 on that date.

3406                   (22) "Remainder interest" means an interest under which  
3407 a trust beneficiary will receive property held by a trust outright  
3408 at some time during the future.





3409 (23) "Reserved power" means a power held by a settlor.

3410 (24) "Revocable," as applied to a trust, means  
3411 revocable by the settlor without the consent of the trustee or a  
3412 person holding an adverse interest.

3413 (25) "Settlor" means a person, including a testator,  
3414 who creates, or contributes property to, a trust. If more than  
3415 one (1) person creates or contributes property to a trust, each  
3416 person is a settlor of the portion of the trust property  
3417 attributable to that person's contribution except to the extent  
3418 another person has the power to revoke or withdraw that portion.

3419 (26) "Spendthrift provision" means a term of a trust  
3420 which restrains both voluntary and involuntary transfer of a  
3421 beneficiary's interest.

3422 (27) "State" means a state of the United States, the  
3423 District of Columbia, Puerto Rico, the United States Virgin  
3424 Islands, or any territory or insular possession subject to the  
3425 jurisdiction of the United States. The term includes an Indian  
3426 tribe or band recognized by federal law or formally acknowledged  
3427 by a state.

3428 (28) "Successors in interest" means the beneficiaries  
3429 under the settlor's will, if the settlor has a will, or in the  
3430 absence of an effective will provision, the settlor's heirs at  
3431 law.

3432 (29) "Terms of a trust" means the manifestation of the  
3433 settlor's intent regarding a trust's provisions as expressed in



3434 the trust instrument or as may be established by other evidence  
3435 that would be admissible in a judicial proceeding.

3436 (30) "Trust advisor" means any person described in  
3437 Section 91-8-1201(a).

3438 (31) "Trust instrument" means an instrument executed by  
3439 the settlor that contains terms of the trust, including any  
3440 amendments thereto.

3441 (32) "Trustee" includes an original, additional, and  
3442 successor trustee, and a cotrustee.

3443 (33) "Trust protector" means any person described in  
3444 Section 91-8-1201(a).

3445 **SECTION 9.** Section 93-14-102, Mississippi Code of 1972, is  
3446 amended as follows:

3447 93-14-102. In this chapter:

3448 (1) "Adult" means an individual who has attained \* \* \*  
3449 twenty-one (21) years of age.

3450 (2) "Conservator" means a person appointed by the court  
3451 to administer the property of an adult, including a person  
3452 appointed under \* \* \* Article 4 of Section 1 of this act.

3453 (3) "Guardian" means a person appointed by the court to  
3454 make decisions regarding the person of an adult, including a  
3455 person appointed under \* \* \* Article 2 or 3 of Section 1 of this  
3456 act.

3457 (4) "Guardianship order" means an order appointing a  
3458 guardian.



3459           (5) "Guardianship proceeding" means a judicial  
3460 proceeding in which an order for the appointment of a guardian is  
3461 sought or has been issued.

3462           (6) "Incapacitated person" means an adult for whom a  
3463 guardian has been appointed.

3464           (7) "Party" means the respondent, petitioner, guardian,  
3465 conservator, or any other person allowed by the court to  
3466 participate in a guardianship or protective proceeding.

3467           (8) "Person," except in the term incapacitated person  
3468 or protected person, means an individual, corporation, business  
3469 trust, estate, trust, partnership, limited liability company,  
3470 association, joint venture, public corporation, government or  
3471 governmental subdivision, agency, or instrumentality, or any other  
3472 legal or commercial entity.

3473           (9) "Protected person" means an adult for whom a  
3474 protective order has been issued.

3475           (10) "Protective order" means an order appointing a  
3476 conservator or other order related to management of an adult's  
3477 property.

3478           (11) "Protective proceeding" means a judicial  
3479 proceeding in which a protective order is sought or has been  
3480 issued.

3481           (12) "Record" means information that is inscribed on a  
3482 tangible medium or that is stored in an electronic or other medium  
3483 and is retrievable in perceivable form.



3484           (13) "Respondent" means an adult for whom a protective  
3485 order or the appointment of a guardian is sought.

3486           (14) "State" means a state of the United States, the  
3487 District of Columbia, Puerto Rico, the United States Virgin  
3488 Islands, a federally recognized Indian tribe, or any territory or  
3489 insular possession subject to the jurisdiction of the United  
3490 States.

3491           **SECTION 10.** Section 93-14-302, Mississippi Code of 1972, is  
3492 amended as follows:

3493           93-14-302. (a) To confirm transfer of a guardianship or  
3494 conservatorship transferred to this state under provisions similar  
3495 to Section 93-14-301, the guardian or conservator must petition  
3496 the court in this state to accept the guardianship or  
3497 conservatorship. The petition must include a certified copy of  
3498 the other state's provisional order of transfer.

3499           (b) Notice of a petition under subsection (a) must be given  
3500 to those persons that would be entitled to notice if the petition  
3501 were a petition for the appointment of a guardian or conservator  
3502 or issuance of a protective order in both the transferring state  
3503 and this state. The notice must be given in the same manner as  
3504 notice is required to be given in this state.

3505           (c) On the court's own motion or on request of the guardian  
3506 or conservator, the incapacitated or protected person, or other  
3507 person required to be notified of the proceeding, the court shall  
3508 hold a hearing on a petition filed pursuant to subsection (a).



3509 (d) The court shall issue an order provisionally granting a  
3510 petition filed under subsection (a) unless:

3511 (1) An objection is made and the objector establishes  
3512 that transfer of the proceeding would be contrary to the interests  
3513 of the incapacitated or protected person; or

3514 (2) The guardian or conservator is ineligible for  
3515 appointment in this state.

3516 (e) The court shall issue a final order accepting the  
3517 proceeding and appointing the guardian or conservator as guardian  
3518 or conservator in this state upon its receipt from the court from  
3519 which the proceeding is being transferred of a final order issued  
3520 under provisions similar to Section 93-14-301 transferring the  
3521 proceeding to this state.

3522 (f) Not later than ninety (90) days after issuance of a  
3523 final order accepting transfer of a guardianship or  
3524 conservatorship, the court shall determine whether the  
3525 guardianship or conservatorship needs to be modified to conform to  
3526 the law of this state.

3527 (g) In granting a petition under this section, the court  
3528 shall recognize a guardianship or conservatorship order from the  
3529 other state, including the determination of the incapacitated or  
3530 protected person's incapacity and the appointment of the guardian  
3531 or conservator.

3532 (h) The denial by a court of this state of a petition to  
3533 accept a guardianship or conservatorship transferred from another



3534 state does not affect the ability of the guardian or conservator  
3535 to seek appointment as guardian or conservator in this state  
3536 under \* \* \* Article 2, 3 or 4 of Section 1 of this act or under  
3537 Section 35-5-1 et seq., if the court has jurisdiction to make an  
3538 appointment other than by reason of the provisional order of  
3539 transfer.

3540       **SECTION 11.** Sections 93-13-3, 93-13-5, 93-13-7, 93-13-9,  
3541 93-13-11, 93-13-13, 93-13-15, 9-13-17, 93-13-19, 93-13-21,  
3542 93-13-23, 93-13-25, 93-13-27, 93-13-29, 93-13-31, 93-13-33,  
3543 93-13-35, 93-13-37, 93-13-38, 93-13-39, 93-13-41, 93-13-43,  
3544 93-13-45, 93-13-47, 93-13-49, 93-13-51, 93-13-53, 93-13-55,  
3545 93-13-57, 93-13-59, 93-13-61, 93-13-63, 93-13-65, 93-13-67,  
3546 93-13-69, 93-13-71, 93-13-73, 93-13-75, 93-13-77 and 93-13-79,  
3547 Mississippi Code of 1972, dealing with wards generally, are  
3548 repealed.

3549       **SECTION 12.** Section 93-13-111, Mississippi Code of 1972,  
3550 dealing with wards in need of mental treatment, is repealed.

3551       **SECTION 13.** Sections 93-13-121, 93-13-123, 93-13-125,  
3552 93-13-127, 93-13-128, 93-13-129, 93-13-131, 93-13-133 and  
3553 93-13-135, Mississippi Code of 1972, dealing with the appointment  
3554 of guardians for incompetent adults, are repealed.

3555       **SECTION 14.** Section 93-13-151, Mississippi Code of 1972,  
3556 dealing with the procedure following restoration of reason, is  
3557 repealed.



3558           **SECTION 15.** Section 93-13-161, Mississippi Code of 1972,  
3559 dealing with the appointment of a guardian for the estate of a  
3560 person in the armed forces listed as missing, is repealed.

3561           **SECTION 16.** Sections 93-13-181, 93-13-183, 93-13-185 and  
3562 93-13-187, Mississippi Code of 1972, dealing with nonresident  
3563 guardians, is repealed.

3564           **SECTION 17.** Sections 93-13-211, 93-13-213, 93-13-215,  
3565 93-13-217 and 93-13-219, Mississippi Code of 1972, dealing with  
3566 small transactions performed without guardianship, are repealed.

3567           **SECTION 18.** Sections 93-13-251, 93-13-253, 93-13-255,  
3568 93-13-257, 93-13-259, 93-13-261, 93-13-263, 93-13-265 and  
3569 93-13-267, Mississippi Code of 1972, dealing with conservators,  
3570 are repealed.

3571           **SECTION 19.** Section 93-13-281, Mississippi Code of 1972,  
3572 dealing with the joinder of parties in suits involving wards, is  
3573 repealed.

3574           **SECTION 20.** The editor is directed to retitle Title 93,  
3575 Chapter 13, Mississippi Code of 1972, appropriately.

3576           **SECTION 21.** This act shall take effect and be in force from  
3577 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 45 9  
79 103, MISSISSIPPI CODE OF 1972, TO CONFORM PROVISIONS CONCERNING  
80 TRANSMISSION OF FEDERAL PROHIBITED PERSON INFORMATION TO THE FBI;  
81 TO AMEND SECTIONS 81 5 62, 81 12 145 AND 81 14 363, MISSISSIPPI  
82 CODE OF 1972, TO CONFORM PROVISIONS CONCERNING ACCOUNTS PAYABLE  
83 UPON DEATH; TO AMEND SECTION 91 8 103, MISSISSIPPI CODE OF 1972,  
84 TO CONFORM DEFINITIONS WITH REGARD TO TRUSTS; TO AMEND SECTIONS 93  
85 14 102 AND 93 14 302, MISSISSIPPI CODE OF 1972, TO CONFORM  
86 PROVISIONS AFFECTING JURISDICTION OF ADULT GUARDIANSHIP AND  
87 PROTECTION PROCEEDINGS AND CONFORM AGE OF MAJORITY; TO REPEAL  
88 SECTIONS 93 13 3 THROUGH 93 13 79, 93 13 111, 93 13 121 THROUGH 93  
89 13 135, 93 13 151, 93 13 161, 93 13 181 THROUGH 93 13 187, 93 13  
90 211 THROUGH 93 13 219, 93 13 251 THROUGH 93 13 267 AND 93 13 281,  
91 MISSISSIPPI CODE OF 1972, WHICH DEAL WITH GUARDIANSHIPS AND  
92 CONSERVATORSHIPS; TO DIRECT THAT TITLE 93, CHAPTER 13, MISSISSIPPI  
93 CODE OF 1972, BE RETITLED; AND FOR RELATED PURPOSES.

