

By: Representative Bennett

To: Judiciary A

HOUSE BILL NO. 747

1 AN ACT TO AMEND SECTION 93-20-401, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE REASONS THE COURT MAY APPOINT A CONSERVATOR; TO
 3 AMEND SECTION 93-20-402, MISSISSIPPI CODE OF 1972, TO REVISE THE
 4 LIST OF PERSONS WHO MAY FILE A PETITION FOR APPOINTMENT OF A
 5 CONSERVATOR; TO AMEND SECTION 93-20-403, MISSISSIPPI CODE OF 1972,
 6 TO REVISE THE LIST OF PERSONS TO WHOM A NOTICE OF PETITION FOR
 7 CONSERVATORSHIP IS REQUIRED; TO AMEND SECTION 93-20-408,
 8 MISSISSIPPI CODE OF 1972, TO REVISE WHO MAY PARTICIPATE IN
 9 CONSERVATORSHIP HEARINGS; TO AMEND SECTION 93-20-410, MISSISSIPPI
 10 CODE OF 1972, TO PROVIDE RESTRICTIONS FOR PERSONS WHO CAN BE
 11 APPOINTED AS A CONSERVATOR; TO AMEND SECTION 93-20-411,
 12 MISSISSIPPI CODE OF 1972, TO REVISE WHEN NOTICE OF A PETITION FOR
 13 CONSERVATORSHIP IS REQUIRED; TO AMEND SECTION 93-20-413,
 14 MISSISSIPPI CODE OF 1972, TO REVISE THE TIME FOR AN EXTENSION OF
 15 AN EMERGENCY CONSERVATORSHIP; TO AMEND SECTION 93-20-414,
 16 MISSISSIPPI CODE OF 1972, TO REVISE THE LIST POWERS OF A
 17 CONSERVATORSHIP THAT REQUIRE COURT APPROVAL; TO AMEND SECTION
 18 93-20-418, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT A CONSERVATOR
 19 SHALL NOT USE HIS OR HER POSITION FOR PERSONAL FINANCIAL GAIN; TO
 20 AMEND SECTIONS 93-20-419 AND 93-20-420, MISSISSIPPI CODE OF 1972,
 21 TO REMOVE THE WAIVER OF A CONSERVATOR'S PLAN AND INVENTORY
 22 REQUIREMENT; TO AMEND SECTION 93-20-425, MISSISSIPPI CODE OF 1972,
 23 TO REQUIRE A HEARING WHEN THERE IS A CONFLICT OF INTEREST FOR THE
 24 CONSERVATOR; AND FOR RELATED PURPOSES.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

26 **SECTION 1.** Section 93-20-401, Mississippi Code of 1972, is
 27 amended as follows:

28 93-20-401. (1) **For a minor.** The court may appoint a
 29 conservator for the property or financial affairs of a minor if



30 the court finds by clear and convincing evidence that appointment
31 of a conservator is in the minor's best interest, and:

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

35 (b) Either:

36 (i) The minor owns funds or other property
37 requiring management or protection that otherwise cannot be
38 provided;

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

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

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

48 (a) The adult is unable to manage property or financial
49 affairs because:

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



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

56 (iii) The adult has been diagnosed with a medical
57 condition that affects his or her cognitive ability;

58 (b) Appointment is necessary to:

59 (i) Avoid harm to the adult or significant
60 dissipation of the property of the adult; or

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

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

66 (3) The court shall grant a conservator only those powers
67 necessitated by demonstrated limitations and needs of the
68 respondent and issue orders that will encourage development of the
69 respondent's maximum self-determination and independence. The
70 court may not establish a full conservatorship if a limited
71 conservatorship or other less restrictive alternative would meet
72 the needs of the respondent.

73 **SECTION 2.** Section 93-20-402, Mississippi Code of 1972, is
74 amended as follows:

75 93-20-402. (1) Any relative or person interested in the
76 estate * * * or welfare of the individual, including a person that
77 would be adversely affected by lack of effective management of



78 property or financial affairs of the individual, may petition for
79 the appointment of a conservator for the individual.

80 (2) The proceeding may be instituted by the chancellor or
81 clerk of the chancery court, any relative * * * by filing a sworn
82 petition in the chancery court of the residence of the individual
83 setting forth that the individual is alleged to be in need of a
84 conservatorship.

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

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

93 **SECTION 3.** Section 93-20-403, Mississippi Code of 1972, is
94 amended as follows:

95 93-20-403. **Notice and hearing for appointment of**
96 **conservator; notice of hearing after appointment of conservator.**

97 (1) On receipt of a petition under Section 93-20-402 for
98 appointment of a conservator for a respondent, the court must set
99 a date, time, and place for a hearing on the petition, and unless
100 the court finds that the respondent for whom the conservator is to
101 be appointed is competent and joins in the petition, the
102 petitioner must cause summons to be served not less than seven (7)



103 days before the hearing, together with a copy of the petition, on
104 the person for whom the conservator is to be appointed and at
105 least one (1) adult relative of the respondent who resides in
106 Mississippi from the following group in the listed order of
107 preference: spouse, children, parents, siblings; but if none of
108 those can be found:

109 (1) To one (1) adult relative of the respondent
110 and who is not the petitioner and who resides in Mississippi if
111 that relative is within the third degree of kinship.

112 (2) If no relative within the third degree of
113 kinship to the respondent is found residing in the State of
114 Mississippi, the court must either designate some other
115 appropriate person to receive the summons or appoint a guardian ad
116 litem to receive the summons.

117 * * *

118 (2) Unless the court finds that the respondent for whom the
119 conservator is to be appointed is competent and joins in the
120 petition, the summons must also issue to:

121 (a) Any guardian appointed to the respondent; and

122 (b) At least one (1) adult relative of the respondent
123 who resides in Mississippi from the following group in the listed
124 order of preference: spouse, children, parents, siblings; but if
125 none of those can be found:



126 (i) To one (1) adult relative of the respondent
127 and who is not the petitioner and who resides in Mississippi if
128 that relative is within the third degree of kinship.

129 (ii) If no relative within the third degree of
130 kinship to the respondent is found residing in the State of
131 Mississippi, the court must either designate some other
132 appropriate person to receive the summons or appoint a guardian ad
133 litem to receive the summons.

134 (3) In a proceeding under this article, notice of the
135 hearing also must be given to any other person interested in the
136 respondent's welfare that the court determines is entitled to
137 notice. Failure to give notice under this subsection * * *
138 precludes the court from appointing a guardian.

139 (4) If the person for whom the conservator is to be
140 appointed is entitled to any benefit, estate or income paid or
141 payable by or through the Veterans' Administration of the United
142 States government, such administration shall also be given
143 summons.

144 * * *

145 **SECTION 4.** Section 93-20-408, Mississippi Code of 1972, is
146 amended as follows:

147 93-20-408. (1) At a hearing under this article, the
148 respondent may:

149 (a) Present evidence and subpoena witnesses and
150 documents;



151 (b) Examine witnesses; and

152 (c) Otherwise participate in the hearing.

153 (2) Unless excused by the court for good cause, a proposed
154 conservator must attend a hearing under this article.

155 (3) A hearing under this article must be closed on request
156 of the respondent and a showing of good cause.

157 (4) Any person may request to participate in a hearing under
158 this article. The court may grant the request, with or without a
159 hearing, * * * if the court determines that the best interest of
160 the respondent will be served. The court may impose appropriate
161 conditions on the person's participation.

162 **SECTION 5.** Section 93-20-410, Mississippi Code of 1972, is
163 amended as follows:

164 93-20-410. (1) Appointment of a conservator is at the
165 discretion of the court, and in the best interest of the
166 respondent. If two (2) or more persons have requested
167 responsibility as conservator, the court shall select as
168 conservator the person the court considers best qualified. In
169 determining the best qualified person, the court shall consider
170 the person's relationship with the respondent, the person's
171 skills, the expressed wishes of the respondent including any
172 designation made in a will, durable power of attorney, or
173 health-care directive, the extent to which the person and the
174 respondent have similar values and preferences, and the likelihood
175 the person will be able to perform the duties of a conservator



176 successfully. The court, acting in the best interest of the
177 respondent, may decline to appoint as conservator a person
178 requesting the appointment.

179 (2) If a qualified conservator cannot be determined, the
180 court, in its discretion, may appoint the chancery court clerk or
181 probate administrator for the county in which the proceedings were
182 filed to serve as the respondent's conservator. The chancery
183 court clerk or the probate administrator shall serve in the
184 capacity ordered by the court unless a conflict of interest arises
185 or the clerk or the probate administrator presents circumstances
186 where the court determines the clerk's recusal from appointment is
187 permitted.

188 (3) A person that provides paid services to the respondent,
189 or an individual who is employed by a person that provides paid
190 services to the respondent or is the spouse, parent, or child of
191 an individual who provides or is employed to provide paid services
192 to the respondent, may not be appointed as conservator unless:

193 (a) The individual is related to the respondent by
194 blood, marriage, or adoption * * *.

195 * * *

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



200 **SECTION 6.** Section 93-20-411, Mississippi Code of 1972, is
201 amended as follows:

202 93-20-411. (1) A court order appointing a conservator for a
203 minor must include findings to support appointment of a
204 conservator and, if a full conservatorship is granted, the reason
205 a limited conservatorship would not meet the identified needs of
206 the minor.

207 (2) A court order appointing a conservator for an adult
208 must:

209 (a) Include a specific finding that clear and
210 convincing evidence has established that the identified needs of
211 the respondent cannot be met by a less restrictive alternative,
212 including use of appropriate supportive services or technological
213 assistance; and

214 (b) Include a specific finding that clear and
215 convincing evidence established that the respondent was given
216 proper summons notifying the respondent of the hearing on the
217 petition.

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

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



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

228 (a) Notice of the rights of the ward under Section
229 93-20-412(2);

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

232 (c) Notice that the conservator has delegated a power
233 that requires court approval under Section 93-20-414 or
234 substantially all powers of the conservator;

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

237 (e) A copy of the conservator's plan under Section
238 93-20-419 and the conservator's report under Section 93-20-423;

239 (f) Access to court records relating to the
240 conservatorship;

241 (g) Notice of a transaction involving a substantial
242 conflict between the conservator's fiduciary duties and personal
243 interests;

244 (h) Notice of the death or significant change in the
245 condition of the individual;

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

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



249 (6) If a ward is an adult, the spouse and adult children of
250 the ward are entitled under subsection (5) to notice unless the
251 court determines notice would * * * not be in the best interest of
252 the ward.

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

257 (8) (a) If the chancellor finds from the evidence that the
258 person is in need of a conservatorship, the chancellor must
259 appoint a conservator over the estate of the person.

260 (b) The costs and expenses of the proceedings shall be
261 paid out of the estate of the respondent if a conservator is
262 appointed. If a conservator is not appointed, the costs and
263 expenses shall be paid by the person instituting the proceedings
264 unless the proceedings were instituted by the court or the
265 chancery clerk.

266 **SECTION 7.** Section 93-20-413, Mississippi Code of 1972, is
267 amended as follows:

268 93-20-413. (1) Upon a petition by a person interested in an
269 individual's welfare or a petition filed under Section 93-20-402,
270 the court may appoint an emergency conservator for the individual
271 if the court finds:



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

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

277 (c) There is reason to believe that a basis for
278 appointment of a conservator under Section 93-20-401 exists.

279 (2) The duration of authority of an emergency conservator
280 may not exceed sixty (60) days and the emergency conservator may
281 exercise only the powers specified in the order of appointment.
282 The emergency conservator's authority may be extended once for not
283 more than * * * thirty (30) days if the court finds that the
284 conditions for appointment of an emergency conservator under
285 subsection (1) continue. Summons must be issued on continuation
286 of the guardianship as required in subsection (4).

287 (3) Except as otherwise provided in subsection (4), summons
288 giving reasonable notice of the date, time, and place of a hearing
289 on the petition must be given to the respondent, the respondent's
290 attorney, and any other person the court determines.

291 (4) The court may appoint an emergency conservator without
292 notice to the respondent and any attorney for the respondent only
293 if the court finds from an affidavit or testimony that the
294 respondent's property or financial interests will be substantially
295 and irreparably harmed before a hearing with notice on the
296 appointment can be held. If the court appoints an emergency



297 conservator without giving notice under subsection (3), the court
298 must give notice of the appointment not later than forty-eight
299 (48) hours after the appointment to:

- 300 (a) The respondent;
- 301 (b) The respondent's attorney;
- 302 (c) Any other person the court determines; and
- 303 (d) Hold a hearing on the appropriateness of the
304 appointment not later than five (5) days after the appointment.

305 (5) Appointment of an emergency conservator under this
306 section is not a determination that a basis exists for appointment
307 of a conservator under Section 93-20-401.

308 (6) The court may remove an emergency conservator appointed
309 under this section at any time. The emergency conservator shall
310 make any report the court requires.

311 **SECTION 8.** Section 93-20-414, Mississippi Code of 1972, is
312 amended as follows:

313 93-20-414. (1) Except as otherwise ordered by the court, a
314 conservator must give notice to persons entitled to notice under
315 Section 93-20-411(5) and receive specific authorization by the
316 court before the conservator may exercise with respect to the
317 conservatorship the power to:

- 318 (a) Make a gift;
- 319 (b) Sell, encumber an interest in, or surrender a lease
320 to the primary dwelling of the ward;



321 (c) Convey, release, or disclaim a contingent or
322 expectant interest in property, including marital property and any
323 right of survivorship incident to joint tenancy or tenancy by the
324 entireties;

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

326 (e) Create a revocable or irrevocable trust of property
327 of the conservatorship estate, whether or not the trust extends
328 beyond the duration of the conservatorship, or revoke or amend a
329 trust revocable by the ward;

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

333 (g) Exercise a right to an elective share in the estate
334 of a deceased spouse of the ward or renounce or disclaim a
335 property interest;

336 (h) Grant a creditor priority for payment over
337 creditors of the same or higher class if the creditor is providing
338 property or services used to meet the basic living and care needs
339 of the ward and preferential treatment otherwise would be
340 impermissible under Section 93-20-427(6);

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

343 (j) Pay premiums on any insurance policy issued on the
344 life of the ward if the individual is a minor, the policy was



345 issued during the lifetime of the individual's deceased parent,
346 and the court finds the policy's continuance is warranted;

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

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

355 (m) Subdivide or develop land, dedicate land to public
356 use, make or obtain the vacation of a plat and adjust a boundary,
357 adjust a difference in valuation of land, exchange or partition
358 land by giving or receiving consideration, and dedicate an
359 easement to public use without consideration;

360 (n) Enter for any purpose into a lease of property as
361 lessor or lessee, with or without an option to purchase or renew,
362 for a term within or extending beyond the term of the
363 conservatorship;

364 (o) Enter into a lease or arrangement for exploration
365 and removal of minerals or other natural resources or a pooling or
366 unitization agreement;

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



369 (q) Pay or contest a claim, settle a claim by or
370 against the conservatorship estate or the ward by compromise,
371 arbitration, or otherwise, or release, in whole or in part, a
372 claim belonging to the conservatorship estate to the extent the
373 claim is uncollectible; or

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

377 (2) In approving a conservator's exercise of a power listed
378 in subsection (1), the court must consider the ward's prior or
379 current directions, preferences, opinions, values, and actions, to
380 the extent actually known or reasonably ascertainable by the
381 conservator. The court also must consider:

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

385 (b) Possible reduction of income, estate, inheritance,
386 or other tax liabilities;

387 (c) Eligibility for governmental assistance;

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

390 (e) Any existing estate plan or lack of estate plan of
391 the individual;



392 (f) The life expectancy of the individual and the
393 probability the conservatorship will terminate before the ward's
394 death; * * *

395 (g) Any medical diagnosis that affects cognitive
396 decision making; and

397 (* * *h) Any other relevant factor.

398 (3) A conservator may not revoke or amend a power of
399 attorney for finances executed by the ward. If a power of
400 attorney for finances is in effect, a decision of the conservator
401 takes precedence over that of the attorney-in-fact only to the
402 extent of the authorization granted to the conservator by court
403 order.

404 **SECTION 9.** Section 93-20-418, Mississippi Code of 1972, is
405 amended as follows:

406 93-20-418. (1) A conservator is a fiduciary and has duties
407 of prudence and loyalty to the ward. A conservator has a duty to
408 not use his or her position for financial gain against the ward's
409 estate.

410 (2) A conservator must promote the self-determination of the
411 ward and, to the extent feasible, encourage the ward to
412 participate in decisions, act on the ward's own behalf, and
413 develop or regain the capacity to manage the ward's personal
414 affairs.

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



417 would make if able, unless doing so would fail to preserve the
418 resources needed to maintain the ward's well-being and lifestyle
419 or otherwise unreasonably harm or endanger the welfare or personal
420 or financial interests of the ward. To determine the decision the
421 ward would make if able, the conservator must consider the ward's
422 prior or current directions, preferences, opinions, values, and
423 actions, to the extent actually known or reasonably ascertainable
424 by the conservator.

425 (4) If a conservator cannot make a decision under subsection
426 (3) because the conservator does not know and cannot reasonably
427 determine the decision the ward probably would make if able, or
428 the conservator reasonably believes the decision the individual
429 would make would fail to preserve resources needed to maintain the
430 ward's well-being and lifestyle or otherwise unreasonably harm or
431 endanger the welfare or personal or financial interests of the
432 ward, the conservator shall act in accordance with the best
433 interest of the ward. In determining the best interest of the
434 ward, the conservator shall consider:

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

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

439 (c) Other factors a reasonable person in the
440 circumstances of the ward would consider, including consequences
441 for others.



442 (5) Except when inconsistent with the conservator's duties
443 under subsections (1) through (4), and where investments other
444 than in FDIC-insured investments are permitted in the court's
445 order approving the conservator's plan, a conservator must invest
446 and manage the conservatorship estate as a prudent investor would,
447 by considering:

448 (a) The circumstances of the ward and the
449 conservatorship estate;

450 (b) General economic conditions;

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

452 (d) The expected tax consequences of an investment
453 decision or strategy;

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

456 (f) The expected total return from income and
457 appreciation of capital;

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

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

462 (6) The propriety of a conservator's investment and
463 management of the conservatorship estate is determined in light of
464 the facts and circumstances existing when the conservator decides
465 or acts and not by hindsight.



466 (7) A conservator must make a reasonable effort to verify
467 facts relevant to the investment and management of the
468 conservatorship estate.

469 (8) A conservator that has special skills or expertise, or
470 is named conservator in reliance on the conservator's
471 representation of special skills or expertise, has a duty to use
472 the special skills or expertise in carrying out the conservator's
473 duties.

474 (9) In investing, selecting specific property for
475 distribution, and invoking a power of revocation or withdrawal for
476 the use or benefit of the ward, a conservator must consider any
477 estate plan of the ward known or reasonably ascertainable to the
478 conservator and may examine the will or other donative,
479 nominative, or appointive instrument of the individual.

480 (10) A conservator must maintain insurance on the insurable
481 real and personal property of the ward, unless the conservatorship
482 estate lacks sufficient funds to pay for insurance or the court
483 finds:

484 (a) The property lacks sufficient equity; or

485 (b) Insuring the property would unreasonably dissipate
486 the conservatorship estate or otherwise not be in the best
487 interest of the ward.

488 (11) A conservator has access to and authority over a
489 digital asset of the ward to the extent provided by the Revised



490 Uniform Fiduciary Access to Digital Assets Act (Title 91, Chapter
491 23, Mississippi Code of 1972).

492 (12) A conservator for an adult must notify the court if the
493 condition of the adult has changed so that the adult has become
494 capable of autonomy in exercising rights previously delegated to
495 the conservator. The notice must be given immediately on learning
496 of the change.

497 **SECTION 10.** Section 93-20-419, Mississippi Code of 1972, is
498 amended as follows:

499 93-20-419. (1) * * * A conservator must file with the court
500 a plan for investing, protecting, managing, expending, and
501 distributing the assets of the conservatorship estate no later
502 than ninety (90) days after the court's order of appointment or
503 order to file a plan. If * * * there is a significant change in
504 circumstances, or if the conservator seeks to deviate
505 significantly from the conservator's plan, a conservator must file
506 with the court a revised plan no later than ninety (90) days after
507 the change in circumstances or decision to deviate from the plan.
508 Every plan must be based on the needs of the ward and take into
509 account the best interest of the ward as well as the ward's
510 preferences, values, and prior directions, to the extent known to
511 or reasonably ascertainable by the conservator. Along with other
512 items determined necessary by the court, the conservator's plan
513 must include:



514 (a) A budget containing projected expenses and
515 resources, including an estimate of the total amount of fees the
516 conservator anticipates charging per year and a statement or list
517 of the amount the conservator proposes to charge for each service
518 the conservator anticipates providing to the individual;

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

521 (c) Any step the conservator plans to take to develop
522 or restore the ability of the ward to manage the conservatorship
523 estate; and

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

525 (2) A conservator must give reasonable notice of the filing
526 of the conservator's plan under subsection (1), together with a
527 copy of the plan, to the ward, a person entitled to notice under
528 Section 93-20-411(5) or a court order, and any other person the
529 court determines. The notice must include a statement of the
530 right to object to the plan and be given not later than fourteen
531 (14) days after the filing.

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

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



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

542 (5) After a conservator's plan under this section is
543 approved by the court, the conservator must provide a copy of the
544 plan to the ward, a person entitled to notice under Section
545 93-20-411(5) or a court order, and any other person the court
546 determines.

547 **SECTION 11.** Section 93-20-420, Mississippi Code of 1972, is
548 amended as follows:

549 93-20-420. (1) * * * Not later than ninety (90) days after
550 appointment, a conservator must prepare and file with the
551 appointing court a detailed inventory of the conservatorship
552 estate, together with an oath or affirmation that the inventory is
553 believed to be complete and accurate as far as information
554 permits.

555 (2) A conservator must give reasonable notice of the filing
556 of an inventory to the ward, a person entitled to notice under
557 Section 93-20-411(5) or a court order, and any other person the
558 court determines. The notice must be given not later than
559 fourteen (14) days after the filing.

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



564 **SECTION 12.** Section 93-20-425, Mississippi Code of 1972, is
565 amended as follows:

566 93-20-425. A transaction involving a conservatorship estate
567 which is affected by a substantial conflict between the
568 conservator's fiduciary duties and personal interests is voidable
569 unless the transaction is authorized by court order after notice
570 to persons entitled to notice under Section 93-20-411(5) or a
571 court order and a hearing on the record about the transaction. A
572 court shall hold a hearing after proper notice has been provided
573 to persons entitled to notice under Section 93-20-411(5). If the
574 court authorizes the transaction, the court shall place the
575 reasons for the authorization in the record. A transaction
576 affected by a substantial conflict includes a sale, encumbrance,
577 or other transaction involving the conservatorship estate entered
578 into by the conservator, an individual with whom the conservator
579 resides, the spouse, descendant, sibling, or attorney of the
580 conservator, or a corporation or other enterprise in which the
581 conservator has a substantial beneficial interest.

582 **SECTION 13.** This act shall take effect and be in force from
583 and after July 1, 2024.

