

By: Representative Hood

To: Judiciary A

HOUSE BILL NO. 1317

1 AN ACT TO BRING FORWARD SECTIONS 93-20-101 THROUGH 93-20-431,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI GUARDIANSHIP
3 AND CONSERVATORSHIP ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; AND
4 FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 93-20-101, Mississippi Code of 1972, is
7 brought forward as follows:

8 93-20-101. This chapter may be cited as the Mississippi
9 Guardianship and Conservatorship Act.

10 **SECTION 2.** Section 93-20-102, Mississippi Code of 1972, is
11 brought forward as follows:

12 93-20-102. In this chapter:

13 (a) "Adult" means an individual at least twenty-one
14 (21) years of age or an emancipated individual under twenty-one
15 (21) years of age.

16 (b) "Claim" includes a claim against an individual or
17 conservatorship estate, whether arising in contract, tort, or
18 otherwise.



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

22 (d) "Conservatorship estate" means the property subject
23 to conservatorship under this chapter.

24 (e) "Full conservatorship" means a conservatorship that
25 grants the conservator all powers available under this chapter.

26 (f) "Full guardianship" means a guardianship that
27 grants the guardian all powers available under this chapter.

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

32 (h) "Guardian ad litem" means a qualified person
33 appointed by the court to inform the court about the ward, to
34 protect the best interests of the ward, and to make
35 recommendations to the court in the best interests of the ward.

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

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



43 (k) "Limited conservatorship" means a conservatorship
44 that grants the conservator less than all powers available under
45 this chapter, grants powers over only certain property, or
46 otherwise restricts the powers of the conservator.

47 (l) "Limited guardianship" means a guardianship that
48 grants the guardian less than all powers available under this
49 chapter or otherwise restricts the powers of the guardian.

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

52 (n) "Notice" means any notice as provided by Rule 5 of
53 the Mississippi Rules of Civil Procedure.

54 (o) "Parent" does not include an individual whose
55 parental rights have been terminated.

56 (p) "Person" means an individual, estate, business or
57 nonprofit entity, public corporation, government or governmental
58 subdivision, agency, or instrumentality, or other legal entity.

59 (q) "Property" includes tangible and intangible
60 property.

61 (r) "Record," used as a noun, means information that is
62 inscribed on a tangible medium or that is stored in an electronic
63 or other medium and is retrievable in perceivable form.

64 (s) "Respondent" means an individual for whom
65 appointment of a guardian or conservator is sought.

66 (t) "Sign" means, with present intent to authenticate
67 or adopt a record:



68 (i) To execute or adopt a tangible symbol; or
69 (ii) To attach to or logically associate with the
70 record an electronic symbol, sound, or process.

71 (u) "State" means a state of the United States, the
72 District of Columbia, Puerto Rico, the United States Virgin
73 Islands, or any territory or insular possession subject to the
74 jurisdiction of the United States. The term includes a federally
75 recognized Indian tribe.

76 (v) "Summons" means any properly issued summons as
77 provided by the Mississippi Rules of Civil Procedure.

78 (w) "Ward" means an adult or minor for whom a guardian
79 or conservator has been appointed under this chapter.

80 **SECTION 3.** Section 93-20-103, Mississippi Code of 1972, is
81 brought forward as follows:

82 93-20-103. Unless displaced by a particular provision of
83 this chapter, the principles of law and equity supplement its
84 provisions.

85 **SECTION 4.** Section 93-20-104, Mississippi Code of 1972, is
86 brought forward as follows:

87 93-20-104. (1) Except to the extent jurisdiction is
88 precluded by the Uniform Child Custody Jurisdiction and
89 Enforcement Act (Title 93, Chapter 27, Mississippi Code of 1972)
90 and the Uniform Adult Guardianship and Protective Proceedings
91 Jurisdiction Act (Title 93, Chapter, 14, Mississippi Code of
92 1972), the chancery court has jurisdiction over a guardianship or



93 conservatorship for a respondent domiciled or present in this
94 state or having property in this state.

95 (2) After a petition is filed in a proceeding for a
96 guardianship or conservatorship and until termination of the
97 proceeding, the court in which the petition is filed has:

98 (a) Exclusive jurisdiction to determine the need for
99 the guardianship or conservatorship;

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

104 (c) Nonexclusive jurisdiction to determine the validity
105 of a claim against the respondent or property of the respondent or
106 a question of title concerning the property; and

107 (d) If a guardian or conservator is appointed,
108 exclusive jurisdiction over issues related to administration of
109 the guardianship or conservatorship.

110 (3) A court that appoints a guardian or conservator has
111 exclusive and continuing jurisdiction over the proceeding until
112 the court terminates the proceeding.

113 (4) This chapter does not apply to a durable legal relative
114 guardianship to facilitate child placement that may be created by
115 a youth court under Section 43-21-609.

116 **SECTION 5.** Section 93-20-105, Mississippi Code of 1972, is
117 brought forward as follows:



118 93-20-105. (1) This section does not apply to a
119 guardianship or conservatorship for an adult that is subject to
120 the transfer provisions of the Uniform Adult Guardianship and
121 Protective Proceedings Jurisdiction Act (Title 93, Chapter 14,
122 Mississippi Code of 1972).

123 (2) After appointment of a guardian or conservator, the
124 court that made the appointment may transfer the proceeding to a
125 court in another county in this state or another state if transfer
126 is in the best interest of the ward, a final settlement of the
127 conservatorship accounts is made, and the guardian or conservator
128 qualifies as such in the county or state to which the proceeding
129 is being removed.

130 (3) If a proceeding for a guardianship or conservatorship is
131 pending in another state or a foreign country and a petition for
132 guardianship or conservatorship for the same respondent is filed
133 in a court in this state, the court must notify the court in the
134 other state or foreign country and, after consultation with that
135 court, assume or decline jurisdiction, whichever is in the best
136 interest of the respondent.

137 (4) A guardian or conservator appointed in another state or
138 country may petition the court for appointment as a guardian or
139 conservator in this state for the same individual if jurisdiction
140 in this state is or will be established. The appointment may be
141 made on proof as outlined in Section 93-20-124.



142 (5) Summons giving notice of hearing on a petition under
143 subsection (4), together with a copy of the petition, must be
144 given to the respondent, if the respondent is at least fourteen
145 (14) years of age at the time of the hearing, and to the persons
146 that would be entitled to summons or notice if the procedures for
147 appointment of a guardian or conservator under this chapter were
148 applicable. The court shall make the appointment unless it
149 determines the appointment would not be in the best interest of
150 the respondent.

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

156 **SECTION 6.** Section 93-20-106, Mississippi Code of 1972, is
157 brought forward as follows:

158 93-20-106. (1) Venue for a guardianship proceeding for a
159 minor is in:

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

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

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

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



166 (b) If the respondent has been admitted to an
167 institution by court order, the county in which the court is
168 located; or

169 (c) If the proceeding is for appointment of an
170 emergency guardian for an adult, the county in which the
171 respondent is present.

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

173 (a) The county in which the respondent resides, whether
174 or not a guardian has been appointed in another county or other
175 jurisdiction; or

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

178 (4) If proceedings under this chapter are brought in more
179 than one (1) county, the court of the county in which the first
180 proceeding is brought has the exclusive right to proceed unless
181 the court determines venue is properly in another court or that
182 the interest of justice otherwise requires transfer of the
183 proceeding.

184 **SECTION 7.** Section 93-20-107, Mississippi Code of 1972, is
185 brought forward as follows:

186 93-20-107. (1) Except as otherwise provided in this
187 chapter, the Mississippi Rules of Evidence and Mississippi Rules
188 of Civil Procedure, including rules concerning appellate review,
189 govern a proceeding under this chapter.



190 (2) Proceedings for a guardianship and conservatorship for
191 the same individual may be commenced in a single proceeding, and
192 if separate proceedings are commenced or pending in the same
193 court, the proceedings may be consolidated.

194 (3) If the court finds that a provision of this chapter
195 conflicts with a provision of Title 35, Chapter 5, Mississippi
196 Code of 1972 (Uniform Veterans' Guardianship Law), the court must
197 resolve the conflict in the best interest of the ward.

198 **SECTION 8.** Section 93-20-108, Mississippi Code of 1972, is
199 brought forward as follows:

200 93-20-108. (1) At or before the time of appointment, the
201 guardian or conservator must take and subscribe an oath faithfully
202 to discharge the duties of guardian or conservator of the ward
203 according to law.

204 (2) The clerk must issue letters of guardianship to a
205 guardian who takes the proper oath, posts bond if required, and
206 submits a certificate of attorney and certificate of fiduciary,
207 unless waived by the court.

208 (3) The clerk must issue letters of conservatorship to a
209 conservator who takes the proper oath, posts bond if required, and
210 submits a certificate of attorney and certificate of fiduciary,
211 unless waived by the court or unless the conservator complies with
212 another asset-protection arrangement required by the court.

213 (4) The court in its initial order of appointment or at any
214 subsequent time may limit the powers conferred on a guardian or



215 conservator. The court shall direct the clerk to issue new
216 letters of guardianship or conservatorship that reflect the
217 limitation. The court shall direct the clerk to give notice of
218 the limitation by service of a copy of the court's order with
219 proof of service on the guardian or conservator, the ward, and any
220 other person the court determines.

221 (5) Limitations on the powers of a guardian or conservator
222 or on the property subject to conservatorship must be stated in
223 the letters of guardianship or conservatorship.

224 (6) Letters of guardianship and conservatorship may be
225 combined in one (1) document if the guardian and conservator are
226 the same person.

227 **SECTION 9.** Section 93-20-109, Mississippi Code of 1972, is
228 brought forward as follows:

229 93-20-109. By accepting appointment, a guardian or
230 conservator submits to the personal jurisdiction of the court in
231 this state in any proceeding relating to the guardianship or
232 conservatorship.

233 **SECTION 10.** Section 93-20-110, Mississippi Code of 1972, is
234 brought forward as follows:

235 93-20-110. When the court deems appropriate, the co-guardian
236 or co-conservator must comply with Section 93-20-108.

237 **SECTION 11.** Section 93-20-111, Mississippi Code of 1972, is
238 brought forward as follows:



239 93-20-111. (1) The court at any time may appoint a
240 successor guardian or successor conservator to serve immediately
241 as ordered by the court.

242 (2) A person entitled under Section 93-20-202 or 93-20-302
243 to petition the court to appoint a guardian may petition the court
244 to appoint a successor guardian. A person entitled under Section
245 93-20-402 to petition the court to appoint a conservator may
246 petition the court to appoint a successor conservator.

247 (3) A successor guardian or successor conservator appointed
248 to serve may act as guardian or conservator upon compliance with
249 Section 93-20-108.

250 **SECTION 12.** Section 93-20-112, Mississippi Code of 1972, is
251 brought forward as follows:

252 93-20-112. (1) The appointment of a guardian or conservator
253 terminates on the death or removal of the guardian or conservator,
254 or when the court approves a resignation of the guardian or
255 conservator under subsection (2).

256 (2) A guardian or conservator must petition the court to
257 resign. The petition may include a request that the court appoint
258 a successor. Resignation of a guardian or conservator is
259 effective on the date the resignation is approved by the court.

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

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



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

265 **SECTION 13.** Section 93-20-113, Mississippi Code of 1972, is
266 brought forward as follows:

267 93-20-113. (1) Except as otherwise provided in Section
268 93-20-203, 93-20-303 or 93-20-403, if notice of a hearing under
269 this chapter is required, the movant must give notice under Rule 5
270 of the Mississippi Rules of Civil Procedure of the date, time, and
271 place of the hearing to the person to be notified unless otherwise
272 ordered by the court for good cause shown.

273 (2) Proof of notice given of a hearing under this chapter
274 must be made before or at the hearing and filed in the proceeding.

275 (3) Notice given of a hearing under this chapter must be in
276 at least sixteen-point font, in plain language, and, to the extent
277 feasible, in a language in which the person to be notified is
278 proficient.

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

282 **SECTION 14.** Section 93-20-114, Mississippi Code of 1972, is
283 brought forward as follows:

284 93-20-114. Except as otherwise provided in this chapter, a
285 person may waive notice under this chapter in a record signed by
286 the person or person's attorney and filed in the proceeding.
287 However, a respondent or ward may not waive notice under this
288 chapter.



289 **SECTION 15.** Section 93-20-115, Mississippi Code of 1972, is
290 brought forward as follows:

291 93-20-115. The court at any time may appoint a guardian ad
292 litem for an individual. If no conflict of interest exists, a
293 guardian ad litem may be appointed to represent multiple
294 individuals or interests. The guardian ad litem may not be the
295 same individual as the attorney representing the respondent. The
296 court shall state the duties of the guardian ad litem and the
297 reasons for the appointment.

298 **SECTION 16.** Section 93-20-116, Mississippi Code of 1972, is
299 brought forward as follows:

300 93-20-116. (1) A person may file with the court a request
301 for notice under this chapter if the person is:

302 (a) Not otherwise entitled to notice under Section
303 93-20-203, Section 93-20-303 or Section 93-20-403; and

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

305 (2) A request under subsection (1) must include a statement
306 showing the interest of the person making the request and the
307 address of the person or an attorney for the person to whom notice
308 is to be given.

309 (3) If the court approves a request under subsection (1),
310 the court must give notice of the approval to the guardian or
311 conservator, if one has been appointed, or to the respondent if no
312 guardian or conservator has been appointed.



313 **SECTION 17.** Section 93-20-117, Mississippi Code of 1972, is
314 brought forward as follows:

315 93-20-117. Before accepting appointment as a guardian or
316 conservator, a person must disclose to the court whether the
317 person:

318 (a) Is or has been a debtor in a bankruptcy,
319 insolvency, or receivership proceeding; or

320 (b) Has been convicted of:

321 (i) A felony;

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

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

326 **SECTION 18.** Section 93-20-118, Mississippi Code of 1972, is
327 brought forward as follows:

328 93-20-118. (1) An attorney for a respondent in a proceeding
329 under this chapter may be awarded reasonable compensation for
330 services and reasonable expenses in the discretion of the court.

331 (2) An attorney or other person whose services resulted in
332 an order beneficial to a ward may be awarded reasonable
333 compensation for services and reasonable expenses in the
334 discretion of the court.

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



338 (4) If the court dismisses a petition under this chapter and
339 determines the petition was filed in bad faith, the court may
340 assess any costs and attorney's fees the court deems appropriate.

341 **SECTION 19.** Section 93-20-119, Mississippi Code of 1972, is
342 brought forward as follows:

343 93-20-119. (1) Subject to court approval, a guardian may be
344 awarded reasonable compensation for services as guardian and to
345 reimbursement for room, board, clothing, and other appropriate
346 expenses advanced for the benefit of the ward. If a conservator
347 other than the guardian or a person affiliated with the guardian
348 is appointed for the ward, reasonable compensation and
349 reimbursement to the guardian may be approved and paid by the
350 conservator in the discretion of the court.

351 (2) Subject to court approval, a conservator may be awarded
352 reasonable compensation for services and reimbursement for
353 appropriate expenses from the property of the ward in the
354 discretion of the court.

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

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

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

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



362 (d) The conditions and circumstances under which a
363 service was performed, including whether the service was provided
364 outside regular business hours or under dangerous or extraordinary
365 conditions;

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

367 (f) The extent to which the services provided were or
368 were not consistent with the guardian's plan under Section
369 93-20-315 or conservator's plan under Section 93-20-419; and

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

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

374 (5) If a ward seeks to modify or terminate the guardianship
375 or conservatorship or remove the guardian or conservator, the
376 court may order compensation to the guardian or conservator for
377 time spent opposing modification, termination, or removal only to
378 the extent the court determines the opposition was reasonably
379 necessary to protect the interest of the ward.

380 **SECTION 20.** Section 93-20-120, Mississippi Code of 1972, is
381 brought forward as follows:

382 93-20-120. A guardian or conservator is not personally
383 liable to another person solely because of the guardianship or
384 conservatorship for an act or omission of the ward.

385 **SECTION 21.** Section 93-20-121, Mississippi Code of 1972, is
386 brought forward as follows:



387 93-20-121. (1) A guardian or conservator may petition the
388 court for instruction concerning fiduciary responsibility or
389 ratification of a particular act related to the guardianship or
390 conservatorship.

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

394 **SECTION 22.** Section 93-20-122, Mississippi Code of 1972, is
395 brought forward as follows:

396 93-20-122. (1) A person may choose to not recognize the
397 authority of a guardian or conservator to act on behalf of a ward
398 if:

399 (a) The person has actual knowledge or a reasonable
400 belief that the letters of guardianship or conservatorship are
401 invalid or the conservator or guardian is exceeding or improperly
402 exercising authority granted by the court; or

403 (b) The person has actual knowledge that the ward is
404 subject to physical or financial abuse, neglect, exploitation, or
405 abandonment by the guardian or conservator or a person acting for
406 or with the guardian or conservator.

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

409 (a) The guardian's or conservator's proposed action
410 would be inconsistent with this chapter; or



411 (b) The person makes, or has actual knowledge that
412 another person has made, a report to a government agency providing
413 protective services to adults or children stating a good-faith
414 belief that the ward is subject to physical or financial abuse,
415 neglect, exploitation, or abandonment by the guardian or
416 conservator or a person acting for or with the guardian or
417 conservator.

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

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

426 **SECTION 23.** Section 93-20-123, Mississippi Code of 1972, is
427 brought forward as follows:

428 93-20-123. (1) The court may appoint a temporary substitute
429 guardian or conservator for a ward in the discretion of the court.

430 (2) Except as otherwise ordered by the court, a temporary
431 substitute guardian or temporary substitute conservator appointed
432 under this section has the powers stated in the order of
433 appointment of the guardian or conservator. The authority of the
434 existing guardian or conservator is suspended for as long as the
435 temporary substitute guardian or conservator has authority.



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

439 (4) The court may remove a temporary substitute guardian or
440 temporary substitute conservator at any time. The temporary
441 substitute guardian or temporary substitute conservator must make
442 any report the court requires.

443 **SECTION 24.** Section 93-20-124, Mississippi Code of 1972, is
444 brought forward as follows:

445 93-20-124. (1) If a guardian has been appointed in another
446 state for an individual, and a petition for guardianship for the
447 individual is not pending in this state, the guardian appointed in
448 the other state, after giving notice to the appointing court, may
449 register the guardianship order in this state by filing certified
450 copies of the order and letters of guardianship as a foreign
451 judgment in a court of an appropriate county of this state.

452 (2) If a conservator has been appointed in another state for
453 an individual, and a petition for conservatorship for the
454 individual is not pending in this state, the conservator appointed
455 for the individual in the other state, after giving notice to the
456 appointing court, may register the conservatorship in this state
457 by filing certified copies of the order of conservatorship,
458 letters of conservatorship, and any bond or other asset-protection
459 arrangement required by the court as a foreign judgment in a court



460 of a county in which property belonging to the individual is
461 located.

462 (3) Upon registration under this section of a guardianship
463 or conservatorship order from another state, the guardian or
464 conservator may exercise in this state all powers authorized in
465 the order except as prohibited by this chapter and law of this
466 state other than this chapter. If the guardian or conservator is
467 not a resident of this state, the guardian or conservator may
468 maintain an action or proceeding in this state subject to any
469 condition imposed by this state on an action or proceeding by a
470 nonresident party.

471 (4) The court may grant any relief available under this
472 chapter and law of this state other than this chapter to enforce
473 an order registered under this section.

474 **SECTION 25.** Section 93-20-125, Mississippi Code of 1972, is
475 brought forward as follows:

476 93-20-125. Except as otherwise provided in this chapter:

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

479 (b) This chapter applies to all guardianship and
480 conservatorship proceedings commenced before January 1, 2020,
481 unless the court, in its discretion, determines that the
482 superseded law should apply. The requirements of this chapter
483 providing for increased court oversight and periodic monitoring do
484 not require that a new proceeding be commenced; and



485 (c) An act done before January 1, 2020, is not affected
486 by this chapter.

487 **SECTION 26.** Section 93-20-201, Mississippi Code of 1972, is
488 brought forward as follows:

489 93-20-201. (1) A person becomes a guardian for a minor only
490 on appointment by the court.

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

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

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

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

500 (3) The guardian for a minor is not required to retain an
501 attorney of record for the guardianship if the court finds that
502 this would impose an undue burden on the ward's estate.

503 **SECTION 27.** Section 93-20-202, Mississippi Code of 1972, is
504 brought forward as follows:

505 93-20-202. (1) A person interested in the welfare of a
506 minor, including the minor, may petition for appointment of a
507 guardian for the minor.

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



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

512 (a) The name and address of any attorney for the
513 parents of the minor;

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

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

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

521 (3) Notice of a hearing on a petition filed after the
522 appointment of a guardian which seeks an order under this article,
523 together with a copy of the petition, must be given to the ward,
524 the guardian, the parents of the ward, and any other person the
525 court determines.

526 **SECTION 28.** Section 93-20-203, Mississippi Code of 1972, is
527 brought forward as follows:

528 93-20-203. (1) If a petition is filed under Section
529 93-20-202, the court must set a date, time and place for a
530 hearing, and the petitioner must cause summons to be issued and
531 served not less than seven (7) days before the hearing, together
532 with a copy of the petition, on each of the following who is not
533 the petitioner:



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

536 (b) Each parent of the minor who can be found with
537 reasonable diligence or, if there is none, the adult nearest in
538 kinship who can be found with reasonable diligence; and

539 (c) Each individual who had primary care or custody of
540 the minor for at least sixty (60) days during the six (6) months
541 immediately before the filing of the petition.

542 (2) For any other person the court determines should know of
543 the proceedings, notice must be provided under Rule 5 of the
544 Mississippi Rules of Civil Procedure.

545 (3) A petition under this article must state the name and
546 address of an attorney representing the petitioner, if any, and
547 must set forth under the style of the case and before the body of
548 the petition the following language in bold or highlighted type:

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

552 (4) If a petitioner is unable to serve summons under
553 subsection (1)(a), the court may appoint a guardian ad litem for
554 the minor for the purpose of receiving summons.

555 **SECTION 29.** Section 93-20-204, Mississippi Code of 1972, is
556 brought forward as follows:



557 93-20-204. The court may appoint an attorney to represent a
558 minor who is the subject of a proceeding under Section 93-20-202
559 if:

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

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

563 (c) The court determines the minor needs
564 representation.

565 **SECTION 30.** Section 93-20-205, Mississippi Code of 1972, is
566 brought forward as follows:

567 93-20-205. (1) The court shall require a minor who is the
568 subject of a hearing for appointment of a guardian to attend the
569 hearing and allow the minor to participate in the hearing unless
570 the court determines, by clear and convincing evidence presented
571 at the hearing or at a separate hearing, that:

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

576 (b) There is no practicable way for the minor to attend
577 the hearing;

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

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



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

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

586 **SECTION 31.** Section 93-20-206, Mississippi Code of 1972, is
587 brought forward as follows:

588 93-20-206. (1) After a hearing the court may appoint a
589 guardian for a minor, dismiss the proceeding, or take other
590 appropriate action consistent with this chapter or law of this
591 state other than this chapter.

592 (2) In appointing a guardian under subsection (1), the
593 following apply:

594 (a) The court shall appoint a person nominated as
595 guardian by a parent of the minor in a will or other record unless
596 the court finds the appointment is contrary to the best interest
597 of the minor.

598 (b) If multiple parents have nominated different
599 persons to serve as guardian, the court shall appoint the nominee
600 whose appointment is in the best interest of the minor, unless the
601 court finds that appointment of none of the nominees is in the
602 best interest of the minor.

603 (c) If a guardian is not appointed under paragraph (a)
604 or (b), the court shall appoint the person nominated by the minor
605 if the minor is fourteen (14) years of age or older unless the



606 court finds that appointment is contrary to the best interest of
607 the minor. In that case, the court shall appoint as guardian a
608 person whose appointment is in the best interest of the minor.

609 (3) In the interest of maintaining or encouraging
610 involvement by a minor's parent in the minor's life, developing
611 self-reliance of the minor, or for other good cause, the court, at
612 the time of appointment of a guardian for the minor or later, on
613 its own or on motion of the minor or other interested person, may
614 create a limited guardianship by limiting the powers otherwise
615 granted by this article to the guardian. Following the same
616 procedure, the court may grant additional powers or withdraw
617 powers previously granted.

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

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

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

626 (b) The court has modified or limited the powers of the
627 guardian; or

628 (c) The court has removed the guardian.

629 **SECTION 32.** Section 93-20-207, Mississippi Code of 1972, is
630 brought forward as follows:



631 93-20-207. (1) On a petition by a person interested in a
632 minor's welfare or a petition filed under Section 93-20-202, the
633 court may appoint an emergency guardian for the minor if the court
634 finds:

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

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

640 (2) The duration of authority of an emergency guardian for a
641 minor may not exceed sixty (60) days, and the emergency guardian
642 may exercise only the powers specified in the order of
643 appointment. The emergency guardian's authority may be extended
644 one (1) time for not more than sixty (60) days if the court finds
645 that the conditions for appointment of an emergency guardian in
646 subsection (1) continue.

647 (3) Except as otherwise provided in subsection (4), summons
648 giving reasonable notice of the date, time, and place of a hearing
649 on a petition for appointment of an emergency guardian for a minor
650 must be given to:

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

653 (b) Any attorney appointed under Section 93-20-204;

654 (c) Each parent of the minor;



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

657 (e) Any other person the court determines.

658 (4) The court may appoint an emergency guardian for a minor
659 under subsection (3) without notice or a hearing only if the court
660 finds from an affidavit or testimony that the minor's health,
661 safety, or welfare will be substantially harmed before a hearing
662 after notice of the appointment could be held. If the court
663 appoints an emergency guardian to an unrepresented minor or the
664 attorney for a represented minor without notice, notice of the
665 appointment must be given not later than forty-eight (48) hours
666 after the appointment to the individuals listed in subsection (3)
667 and summons must be issued on continuation of the guardianship.
668 The court must hold a hearing on continuation of a guardianship
669 within five (5) days of any objection or other contest. Not later
670 than five (5) days after the appointment, the court must hold a
671 hearing on the appropriateness of the appointment.

672 (5) Appointment of an emergency guardian under this section,
673 with or without notice, is not a determination that a basis exists
674 for appointment of a guardian under Section 93-20-201.

675 (6) The court may remove an emergency guardian appointed
676 under this section at any time. The emergency guardian must
677 make any report the court requires.

678 **SECTION 33.** Section 93-20-208, Mississippi Code of 1972, is
679 brought forward as follows:



680 93-20-208. (1) A guardian for a minor is a fiduciary.
681 Except as otherwise limited by the court, a guardian for a minor
682 has the duties and responsibilities of a parent regarding the
683 minor's support, care, education, health, safety, and welfare. A
684 guardian must act in the minor's best interest and exercise
685 reasonable care, diligence, and prudence.

686 (2) A guardian for a minor must:

687 (a) Become personally acquainted with the minor and
688 maintain sufficient contact with the minor to know and report to
689 the court the minor's abilities, limitations, needs,
690 opportunities, and physical and mental health;

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

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

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

701 (e) Report the condition of the minor and account for
702 funds and other property of the minor in the guardian's possession
703 or subject to the guardian's control, as required by court rule or



704 ordered by the court on application of a person interested in the
705 minor's welfare;

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

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

711 **SECTION 34.** Section 93-20-209, Mississippi Code of 1972, is
712 brought forward as follows:

713 93-20-209. (1) Except as otherwise limited by court order,
714 a guardian of a minor has the powers a parent otherwise would have
715 regarding the minor's support, care, education, health, safety,
716 and welfare.

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

719 (a) Apply for and receive funds up to the amount set
720 forth in Section 93-20-431 and benefits otherwise payable for the
721 support of the minor to the minor's parent, guardian, or custodian
722 under a statutory system of benefits or insurance or any private
723 contract, devise, trust, conservatorship, or custodianship.

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



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

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

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

736 (3) The court may authorize a guardian for a minor to
737 consent to the adoption of the minor if the minor does not have a
738 parent.

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

741 **SECTION 35.** Section 93-20-210, Mississippi Code of 1972, is
742 brought forward as follows:

743 93-20-210. (1) Guardianship for a minor under this chapter
744 terminates:

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

747 (b) When the court finds that the standard in Section
748 93-20-201 for appointment of a guardian is not satisfied, unless
749 the court finds that:

750 (i) Termination of the guardianship would be
751 harmful to the minor; and



752 (ii) The minor's interest in the continuation of
753 the guardianship outweighs the interest of any parent of the minor
754 in restoration of the parent's right to make decisions for the
755 minor.

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

759 (3) A petitioner under subsection (2) must give notice of
760 the hearing on the petition to the minor, if the minor is fourteen
761 (14) years of age or older and is not the petitioner, and to the
762 guardian, each parent of the minor, and any other person the court
763 determines.

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

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

773 (6) A guardian for a minor who is removed must cooperate
774 with a successor guardian to facilitate transition of the
775 guardian's responsibilities and protect the best interest of the
776 minor.



777 **SECTION 36.** Section 93-20-301, Mississippi Code of 1972, is
778 brought forward as follows:

779 93-20-301. (1) The court may appoint a guardian for an
780 adult when the respondent lacks the ability to meet essential
781 requirements for physical health, safety or self-care because:

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

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

789 (2) The court shall grant to a guardian only those powers
790 necessitated by the limitations and demonstrated needs of the ward
791 and must enter orders that will encourage the development of the
792 ward's maximum self-determination and independence. The court
793 must consider any less restrictive alternative that would meet the
794 needs of the ward.

795 **SECTION 37.** Section 93-20-302, Mississippi Code of 1972, is
796 brought forward as follows:

797 93-20-302. (1) A proceeding under this article may be
798 instituted by the chancellor or clerk of the chancery court, any
799 relative or friend of the adult, or any other interested party,
800 including the adult for whom the order is sought, by filing a
801 sworn petition in the chancery court of the county of the



802 residence of the adult, setting forth that the adult is alleged to
803 be in need of a guardianship.

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

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

811 (3) The guardian for an adult is not required to retain an
812 attorney of record for the guardianship if the court finds that
813 this would impose an undue burden on the ward's estate.

814 **SECTION 38.** Section 93-20-303, Mississippi Code of 1972, is
815 brought forward as follows:

816 93-20-303. **Notice of hearing for appointment of guardian for**
817 **adult; notice of hearing after appointment of guardian.** (1) On
818 receipt of a petition under Section 93-20-302 for appointment of a
819 guardian for a respondent who is an adult, the court must set a
820 date, time and place for a hearing, and unless the court finds
821 that the adult for whom the guardian is to be appointed is
822 competent and joins in the petition, the petitioner must cause
823 summons to be served not less than seven (7) days before the
824 hearing, together with a copy of the petition, on the adult for
825 whom the guardian is to be appointed. The court may, for good
826 cause shown, direct that a shorter notice be given.



827 (2) Unless the court finds that the adult for whom the
828 guardian is to be appointed is competent and joins in the
829 petition, summons must also issue to:

830 (a) Any conservator appointed to the respondent;

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

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

838 (ii) If no relative within the third degree of
839 kinship to the respondent is found residing in the State of
840 Mississippi, the court shall either designate some other
841 appropriate person to receive the summons or appoint a guardian ad
842 litem to receive the summons.

843 (3) In a proceeding on a petition under this article, notice
844 of the hearing must also be given to any other person the court
845 determines is entitled to notice. Failure to give notice does not
846 preclude the court from appointing a guardian.

847 (4) If the person for whom the guardian is to be appointed
848 is entitled to any benefit, estate or income paid or payable by or
849 through the Veterans' Administration of the United States
850 government, such administration must also be given a summons.



851 (5) Notice of a hearing on a petition seeking an order under
852 this article that is filed after the appointment of a guardian,
853 together with a copy of the petition, must be given to the ward,
854 the guardian, and any other person the court determines.

855 **SECTION 39.** Section 93-20-304, Mississippi Code of 1972, is
856 brought forward as follows:

857 93-20-304. The court may appoint a guardian ad litem to any
858 respondent and allow suitable compensation payable out of the
859 estate of the respondent, but the appointment shall not be made
860 except when the court considers it necessary for the protection of
861 the interest of the respondent; a judgment of any court is not
862 void or erroneous for failure to have a guardian ad litem.

863 **SECTION 40.** Section 93-20-305, Mississippi Code of 1972, is
864 brought forward as follows:

865 93-20-305. (1) The chancery court must conduct a hearing to
866 determine whether a guardian is needed for the respondent. Before
867 the hearing, the court, in its discretion, may appoint a guardian
868 ad litem to look after the interest of the person in question; the
869 guardian ad litem must be present at the hearing and present the
870 interests of the respondent for whose person a guardian is to be
871 appointed.

872 (2) The chancery judge shall be the judge of the number and
873 character of the witnesses and proof to be presented, except that
874 the proof must include certificates made after a personal
875 examination of the respondent by the following professionals, each



876 of whom shall make in writing a certificate of the result of that
877 examination to be filed with the clerk of the court and become a
878 part of the record of the case

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

880 (b) One (1) licensed physician and either one (1)
881 licensed psychologist, nurse practitioner, or physician's
882 assistant.

883 (3) The personal examination may occur face-to-face or via
884 telemedicine, but any telemedicine examination must be made using
885 an audio-visual connection by a physician licensed in this state
886 and as defined in Section 83-9-351. A nurse practitioner or
887 physician assistant conducting an examination shall not also be in
888 a collaborative or supervisory relationship, as the law may
889 otherwise require, with the physician conducting the examination.
890 A professional conducting an examination under this section may
891 also be called to testify at the hearing.

892 **SECTION 41.** Section 93-20-306, Mississippi Code of 1972, is
893 brought forward as follows:

894 93-20-306. (1) At a hearing held under this article, the
895 respondent may:

896 (a) Present evidence and subpoena witnesses and
897 documents;

898 (b) Examine witnesses; and

899 (c) Otherwise participate in the hearing.



900 (2) Unless excused by the court for good cause shown, a
901 proposed guardian must attend a hearing under this article.

902 (3) A hearing under this article must be closed upon request
903 of the respondent and a showing of good cause.

904 (4) Any person may request to participate in a hearing under
905 this article. The court may grant the request, with or without a
906 hearing, on determining that the best interest of the respondent
907 will be served. The court may impose appropriate conditions on
908 the person's participation.

909 **SECTION 42.** Section 93-20-307, Mississippi Code of 1972, is
910 brought forward as follows:

911 93-20-307. (1) An adult subject to a proceeding for a
912 guardianship, an attorney designated by the adult, and a person
913 entitled to notice either under Section 93-20-309(4) or a court
914 order may access court records of the proceeding and resulting
915 guardianship, including the guardian's plan under Section
916 93-20-315 and guardian's well-being report under Section
917 93-20-316. A person not otherwise entitled to access court
918 records under this subsection may petition the court for access to
919 court records of the guardianship, including the guardian's report
920 and plan, for good cause. The court shall grant access if access
921 is in the best interest of the respondent or ward or furthers the
922 public interest and does not endanger the welfare or financial
923 interests of the respondent or ward.



924 (2) A report under Section 93-20-304 of a guardian ad litem
925 or a professional evaluation under Section 93-20-305 may be
926 considered confidential and may be sealed on filing when
927 determined necessary by the court. If the court finds the file
928 should be sealed, the file will remain available to:

929 (a) The court;

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

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

934 (d) Unless the court orders otherwise, an agent
935 appointed under a power of attorney for health care or power of
936 attorney for finances in which the respondent is the principal;
937 and

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

940 **SECTION 43.** Section 93-20-308, Mississippi Code of 1972, is
941 brought forward as follows:

942 93-20-308. (1) Appointment of a guardian for an adult will
943 be at the discretion of the court and in the best interest of the
944 respondent. If two (2) or more persons have requested
945 responsibility as guardian for the adult, the court shall select
946 as guardian the person the court considers best qualified. In
947 determining the best qualified person, the court shall consider
948 the person's relationship with the respondent, the person's



949 skills, the expressed wishes of the respondent, including any
950 designation made in a will, durable power of attorney, or
951 health-care directive, the extent to which the person and the
952 respondent have similar values and preferences, and the likelihood
953 the person will be able to perform the duties of a guardian
954 successfully. The court, acting in the best interest of the
955 respondent, may decline to appoint as guardian a person requesting
956 such an appointment.

957 (2) If a qualified guardian under this section cannot be
958 determined, or if other circumstances arise where the court
959 determines that a guardian must instead be appointed, the court,
960 at its discretion, may appoint the chancery court clerk for the
961 county in which the proceedings were filed, to serve as the
962 respondent's guardian. The chancery court clerk shall serve in
963 the capacity ordered by the court unless a conflict of interest
964 arises or the clerk presents circumstances where the court
965 determines the clerk's recusal from appointment is permitted.

966 (3) A person that provides paid services to the respondent,
967 or an individual who is employed by a person who provides paid
968 services to the respondent or is the spouse, parent, or child of
969 an individual who provides or is employed to provide paid services
970 to the respondent, may not be appointed as guardian unless:

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



973 (b) The court finds by clear and convincing evidence
974 that the person is the best qualified person available for
975 appointment and the appointment is in the best interest of the
976 respondent.

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

981 **SECTION 44.** Section 93-20-309, Mississippi Code of 1972, is
982 brought forward as follows:

983 93-20-309. (1) A court order appointing a guardian for an
984 adult must:

985 (a) Include a specific finding that clear and
986 convincing evidence established that the identified needs of the
987 respondent cannot be met by a less restrictive alternative,
988 including use of appropriate supportive services and technological
989 assistance; and

990 (b) Include a specific finding that clear and
991 convincing evidence established the respondent was given proper
992 summons notifying the respondent of the hearing on the petition.

993 (2) A court order establishing a full guardianship for an
994 adult must state the basis for granting a full guardianship and
995 include specific findings that support the conclusion that a
996 limited guardianship would not meet the functional needs of the
997 ward.



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

1000 (4) The court, as part of an order establishing a
1001 guardianship for an adult, must identify and include the contact
1002 information for any person that subsequently is entitled to:

1003 (a) Notice of the rights of the adult under Section
1004 93-20-310(2);

1005 (b) Notice of a change in the primary dwelling of the
1006 adult;

1007 (c) Notice that the guardian has delegated:

1008 (i) The power to manage the care of the adult;

1009 (ii) The power to make decisions about where the
1010 adult lives;

1011 (iii) The power to make major medical decisions on
1012 behalf of the adult;

1013 (iv) A power that requires court approval under
1014 Section 93-20-314; or

1015 (v) Substantially all powers of the guardian;

1016 (d) A copy of the guardian's plan under Section
1017 93-20-315 and the guardian's well-being report under Section
1018 93-20-316;

1019 (e) Access to court records relating to the
1020 guardianship;

1021 (f) Notice of the death or significant change in the
1022 condition of the adult;



1023 (g) Notice that the court has limited or modified the
1024 powers of the guardian; and

1025 (h) Notice of the removal of the guardian.

1026 (5) A spouse and adult children of a ward are entitled to
1027 notice under Section 93-20-303 unless the court determines notice
1028 would be contrary to the preferences or prior directions of the
1029 ward or not in the best interest of the ward.

1030 (6) (a) If the chancellor finds from the evidence that the
1031 adult is incapable of taking care of his person, the chancellor
1032 shall appoint a guardian over the person.

1033 (b) The costs and expenses of the proceedings shall be
1034 paid out of the estate of the person if a guardian is appointed.
1035 If a guardian is appointed and the adult has no estate, or if no
1036 guardian is appointed, then the costs and expenses must be paid by
1037 the person instituting the proceedings.

1038 **SECTION 45.** Section 93-20-310, Mississippi Code of 1972, is
1039 brought forward as follows:

1040 93-20-310. (1) A guardian appointed under Section 93-20-309
1041 must give the ward and all other persons given notice under
1042 Section 93-20-309(4) a copy of the order of appointment, together
1043 with notice of the right to request termination or modification.
1044 The order and notice must be given not later than fourteen (14)
1045 days after the appointment.

1046 (2) Not later than fourteen (14) days after appointment of a
1047 guardian under Section 93-20-309, the guardian must request from



1048 the court a statement of the rights of the ward and must give the
1049 statement to the ward and any other person entitled to notice
1050 under Section 93-20-303 or a court order. The statement must
1051 notify the ward of the right to:

1052 (a) Seek termination or modification of the
1053 guardianship, or removal of the guardian, and choose an attorney
1054 to represent the adult in these matters;

1055 (b) Be involved in decisions affecting the adult,
1056 including decisions about the adult's care, dwelling, activities,
1057 or social interactions, to the extent reasonably feasible;

1058 (c) Be involved in health-care decision-making to the
1059 extent reasonably feasible and supported in understanding the
1060 risks and benefits of health-care options to the extent reasonably
1061 feasible;

1062 (d) Be notified at least fourteen (14) days before a
1063 change in the adult's primary dwelling or permanent move to a
1064 nursing home, mental-health facility, or other facility that
1065 places restrictions on the individual's ability to leave or have
1066 visitors, unless the change or move is proposed in the guardian's
1067 plan under Section 93-20-315 or authorized by the court by
1068 specific order;

1069 (e) Object to a change or move described in paragraph
1070 (d) and the process for objecting;

1071 (f) Communicate, visit, or interact with others,
1072 including receiving visitors, and making or receiving telephone



1073 calls, personal mail, or electronic communications, including
1074 through social media, unless:

1075 (i) The guardian has been authorized by the court
1076 by specific order to restrict communications, visits, or
1077 interactions;

1078 (ii) A protective order is in effect that limits
1079 contact between the adult and a person; or

1080 (iii) The guardian has good cause to believe
1081 restriction is necessary because interaction with a specified
1082 person poses a risk of significant physical, psychological, or
1083 financial harm to the adult, and the restriction is:

1084 1. For a period of not more than seven (7)
1085 business days if the person has a family or pre-existing social
1086 relationship with the adult; or

1087 2. For a period of not more than sixty (60)
1088 days if the person does not have a family or pre-existing social
1089 relationship with the adult;

1090 (g) Receive a copy of the guardian's plan under Section
1091 93-20-315 and the guardian's well-being report under Section
1092 93-20-316; and

1093 (h) Object to the guardian's plan or report.

1094 **SECTION 46.** Section 93-20-311, Mississippi Code of 1972, is
1095 brought forward as follows:

1096 93-20-311. (1) On a petition by a person interested in an
1097 adult's welfare or a petition filed under Section 93-20-302, the



1098 court may appoint an emergency guardian for the adult if the court
1099 finds:

1100 (a) Appointment of an emergency guardian is likely to
1101 prevent substantial harm to the adult's physical health, safety,
1102 or welfare;

1103 (b) No other person appears to have authority and
1104 willingness to act in the circumstances; and

1105 (c) There is reason to believe that a basis for
1106 appointment of a guardian under Section 93-20-301 exists.

1107 (2) The duration of authority of an emergency guardian for
1108 an adult may not exceed sixty (60) days, and the emergency
1109 guardian may exercise only the powers specified in the order of
1110 appointment. The emergency guardian's authority may be extended
1111 once for not more than sixty (60) days if the court finds that the
1112 conditions for appointment of an emergency guardian in subsection
1113 (1) continue. Summons must be issued on continuation of the
1114 guardianship as required in subsection (4).

1115 (3) Except as otherwise provided in subsection (4), summons
1116 giving reasonable notice of the date, time, and place of a hearing
1117 on the petition must be given to the respondent, the respondent's
1118 attorney, and any other person the court determines.

1119 (4) (a) The court may appoint an emergency guardian for an
1120 adult without notice to the adult and any attorney for the adult
1121 only if the court finds from an affidavit or testimony that the
1122 respondent's physical health, safety, or welfare will be



1123 substantially harmed before a hearing with notice on the
1124 appointment can be held. If the court appoints an emergency
1125 guardian without giving notice under subsection (3), the court
1126 must give notice of the appointment not later than forty-eight
1127 (48) hours after the appointment to:

- 1128 (i) The respondent;
 - 1129 (ii) The respondent's attorney;
 - 1130 (iii) Any other person the court determines; and
- 1131 (b) The court must hold a hearing on the
1132 appropriateness of the appointment not later than five (5) days
1133 after the appointment.

1134 (5) Appointment of an emergency guardian under this section
1135 is not a final determination that a basis exists for appointment
1136 of a guardian under Section 93-20-301.

1137 (6) The court may remove an emergency guardian appointed
1138 under this section at any time. The emergency guardian must make
1139 any report the court requires.

1140 **SECTION 47.** Section 93-20-312, Mississippi Code of 1972, is
1141 brought forward as follows:

1142 93-20-312. (1) A guardian for an adult is a fiduciary.
1143 Except as otherwise limited by the court, a guardian for an adult
1144 shall make decisions regarding the support, care, education,
1145 health, and welfare of the ward to the extent necessitated by the
1146 adult's limitations.



1147 (2) A guardian for an adult promotes the self-determination
1148 of the adult and, to the extent reasonably feasible, encourages
1149 the adult to participate in decisions, act on the adult's own
1150 behalf, and develop or regain the capacity to manage the adult's
1151 personal affairs. In furtherance of this duty, the guardian may:

1152 (a) Become personally acquainted with the adult and
1153 maintain sufficient contact with the adult through regular
1154 visitation and other means, and to know the adult's abilities,
1155 limitations, needs, opportunities, and physical and mental health;

1156 (b) To the extent reasonably feasible, identify the
1157 values and preferences of the adult and involve the adult in
1158 decisions affecting the adult, including decisions about the
1159 adult's care, dwelling, activities, or social interactions; and

1160 (c) Make reasonable efforts to identify and facilitate
1161 supportive relationships and services for the adult.

1162 (3) A guardian for an adult at all times shall exercise
1163 reasonable care, diligence, and prudence when acting on behalf of
1164 or making decisions for the adult. In furtherance of this duty,
1165 the guardian shall:

1166 (a) Take reasonable care of the personal effects, pets,
1167 and service or support animals of the adult and bring a proceeding
1168 for a conservatorship if necessary to protect the adult's
1169 property;



1170 (b) Expend funds and other property of the adult
1171 received by the guardian for the adult's current needs for
1172 support, care, education, health, and welfare;

1173 (c) Conserve any funds and other property of the adult
1174 not expended under paragraph (b) for the adult's future needs, but
1175 if a conservator has been appointed for the adult, pay the funds
1176 and other property at least quarterly to the conservator to be
1177 conserved for the adult's future needs; and

1178 (d) Monitor the quality of services, including
1179 long-term care services, provided to the adult.

1180 (4) In making a decision for a ward, the guardian must make
1181 the decision the guardian reasonably believes the adult would make
1182 if the adult were able unless doing so would unreasonably harm or
1183 endanger the welfare or personal or financial interests of the
1184 adult. To determine the decision the ward would make if able, the
1185 guardian shall consider the adult's previous or current
1186 directions, preferences, opinions, values, and actions, to the
1187 extent actually known or reasonably ascertainable by the guardian.

1188 (5) If a guardian for an adult cannot make a decision under
1189 subsection (4) because the guardian does not know and cannot
1190 reasonably determine the decision the adult probably would make if
1191 able, or the guardian reasonably believes the decision the adult
1192 would make would unreasonably harm or endanger the welfare or
1193 personal or financial interests of the adult, the guardian must
1194 act in accordance with the best interest of the adult. In



1195 determining the best interest of the adult, the guardian may
1196 consider:

1197 (a) Information received from professionals and persons
1198 that demonstrate sufficient interest in the welfare of the adult;

1199 (b) Other information the guardian believes the adult
1200 would have considered if the adult were able to act; and

1201 (c) Other factors a reasonable person in the
1202 circumstances of the adult would consider, including consequences
1203 for others.

1204 (6) A guardian for an adult immediately must notify the
1205 court if the condition of the adult has changed so that the adult
1206 is capable of exercising rights previously removed.

1207 **SECTION 48.** Section 93-20-313, Mississippi Code of 1972, is
1208 brought forward as follows:

1209 93-20-313. (1) Except as limited by court order, a guardian
1210 for an adult may:

1211 (a) Apply for and receive funds and benefits for the
1212 support of the adult, unless a conservator is appointed for the
1213 adult and the application or receipt is within the powers of the
1214 conservator;

1215 (b) Unless inconsistent with a court order, establish
1216 the adult's place of dwelling;

1217 (c) Consent to health or other care, treatment, or
1218 service for the adult;



1219 (d) If a conservator for the adult has not been
1220 appointed, commence a proceeding, including an administrative
1221 proceeding, or take other appropriate action to compel a person to
1222 support the adult or pay funds for the adult's benefit;

1223 (e) To the extent reasonable, delegate to the adult
1224 responsibility for a decision affecting the adult's well-being;
1225 and

1226 (f) Receive personally identifiable health-care
1227 information regarding the adult.

1228 (2) In exercising a guardian's power under subsection (1)(b)
1229 to establish the adult's place of dwelling, the guardian must:

1230 (a) Select a residential setting the guardian believes
1231 the adult would select if the adult were able, in accordance with
1232 the decision-making standard in Section 93-20-312(4) and (5). If
1233 the guardian does not know and cannot reasonably determine what
1234 setting the ward likely would choose if able, or if the guardian
1235 reasonably believes the decision the adult would make would
1236 unreasonably harm or endanger the welfare or personal or financial
1237 interests of the adult, the guardian must choose in accordance
1238 with Section 93-20-312(5) a residential setting that is consistent
1239 with the adult's best interest;

1240 (b) In selecting among residential settings, give
1241 priority to a residential setting in a location that will allow
1242 the adult to interact with persons important to the adult and meet
1243 the adult's needs in the least restrictive manner reasonably



1244 feasible unless to do so would be inconsistent with the
1245 decision-making standard in Section 93-20-312(4) and (5);

1246 (c) Establish or move the permanent place of dwelling
1247 of the adult to a nursing home, mental-health facility, or other
1248 facility that places restrictions on the adult's ability to leave
1249 or have visitors only if:

1250 (i) The establishment or move is in the guardian's
1251 plan under Section 93-20-315;

1252 (ii) The court authorizes the establishment or
1253 move; or

1254 (iii) The guardian gives notice of the
1255 establishment or move at least fourteen (14) days before the
1256 establishment or move to the adult and all persons entitled to
1257 notice under Section 93-20-309(4) or court order, and no objection
1258 is filed;

1259 (d) Establish or move the place of dwelling of the
1260 adult outside this state only if consistent with the guardian's
1261 plan and authorized by the court by specific order;

1262 (e) Take action that would result in the sale of or
1263 surrender of the lease to the primary dwelling of the adult only
1264 if:

1265 (i) The action is specifically included in the
1266 guardian's plan under Section 93-20-315;

1267 (ii) The court authorizes the action by specific
1268 order; or



1269 (iii) Notice of the action was given at least
1270 fourteen (14) days before the action to the adult and all persons
1271 entitled to the notice under Section 93-20-309(4) or court order
1272 and no objection has been filed; and

1273 (f) Notify the court that the adult's dwelling or
1274 permanent residence has become so damaged by fire, flood, or other
1275 emergency circumstance that the guardian has had to temporarily or
1276 permanently relocate the adult to another residential setting.

1277 (3) In exercising a guardian's power under subsection (1)(c)
1278 to make health-care decisions, the guardian shall:

1279 (a) Involve the adult in decision-making to the extent
1280 reasonably feasible, including, when practicable, by encouraging
1281 and supporting the adult in understanding the risks and benefits
1282 of health-care options;

1283 (b) Defer to a decision by an agent under an advanced
1284 healthcare directive executed by the adult and cooperate to the
1285 extent feasible with the agent making the decision; and

1286 (c) Take into account:

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

1288 and

1289 (ii) The current and previous wishes and values of
1290 the adult, if known or reasonably ascertainable by the guardian.

1291 **SECTION 49.** Section 93-20-314, Mississippi Code of 1972, is
1292 brought forward as follows:



1293 93-20-314. (1) Unless authorized by the court by specific
1294 order, a guardian for an adult does not have the power to revoke
1295 or amend an advanced health-care directive or power of attorney
1296 for finances executed by the adult. If an advanced health-care
1297 directive is in effect, unless there is a court order to the
1298 contrary, a health-care decision of an agent takes precedence over
1299 that of the guardian and the guardian must cooperate with the
1300 agent to the extent feasible. If a power of attorney for finances
1301 is in effect, unless there is a court order to the contrary, a
1302 decision by the agent which the agent is authorized to make under
1303 the power of attorney for finances takes precedence over that of
1304 the guardian and the guardian must cooperate with the agent to the
1305 extent feasible.

1306 (2) A guardian for an adult may not initiate the commitment
1307 of the adult to a mental health facility except in accordance with
1308 the state's procedure for involuntary civil commitment.

1309 (3) A guardian for an adult may not restrict the ability of
1310 the adult to communicate, visit, or interact with others,
1311 including receiving visitors and making or receiving telephone
1312 calls, personal mail, or electronic communications, including
1313 through social media, or participating in social activities,
1314 unless:

1315 (a) Authorized by the court by specific order;

1316 (b) A protective order is in effect that limits contact
1317 between the adult and a person; or



1318 (c) The guardian has good cause to believe restriction
1319 is necessary because interaction with a specified person poses a
1320 risk of significant physical, psychological, or financial harm to
1321 the adult and the restriction is:

1322 (i) For a period of not more than seven (7)
1323 business days if the person has a family or pre-existing social
1324 relationship with the adult; or

1325 (ii) For a period of not more than sixty (60) days
1326 if the person does not have a family or pre-existing social
1327 relationship with the adult.

1328 **SECTION 50.** Section 93-20-315, Mississippi Code of 1972, is
1329 brought forward as follows:

1330 93-20-315. (1) If required by the court, a guardian must
1331 file with the court a plan for the care of the adult no later than
1332 ninety (90) days after the court's order of appointment or order
1333 to file a plan. If a plan is required and there is a significant
1334 change in circumstances, or if the guardian seeks to deviate
1335 significantly from the guardian's plan, a guardian must file with
1336 the court a revised plan no later than ninety (90) days after the
1337 change in circumstances or decision to deviate from the plan.
1338 Every plan must be based on the needs of the adult and take into
1339 account the best interest of the adult as well as the adult's
1340 preferences, values, and prior directions, to the extent known to
1341 or reasonably ascertainable by the guardian. Along with other



1342 items determined necessary by the court, the guardian's plan must
1343 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 51.** Section 93-20-316, Mississippi Code of 1972, is
1374 brought forward as follows:

1375 93-20-316. (1) If there is a significant change in
1376 circumstances, or if the guardian seeks to deviate significantly
1377 from the guardian's plan, a guardian must file with the court a
1378 report in a record regarding the condition of the adult and
1379 accounting for funds and other property in the guardian's
1380 possession or subject to the guardian's control within ninety (90)
1381 days after being so ordered by the court.

1382 (2) A report under subsection (1) must state:

1383 (a) The mental, physical, and social condition of the
1384 adult;

1385 (b) The living arrangements of the adult during the
1386 reporting period;

1387 (c) A summary of any technological assistance, medical
1388 services, educational and vocational services, and other supports
1389 and services provided to the adult and the guardian's opinion as
1390 to the adequacy of the adult's care;



1391 (d) A summary of the guardian's visits with the adult,
1392 including the dates of the visits;

1393 (e) Action taken on behalf of the adult;

1394 (f) The extent to which the adult has participated in
1395 decision-making;

1396 (g) If the adult is living in a mental health facility
1397 or living in a facility that provides the adult with health-care
1398 or other personal services, whether the guardian considers the
1399 facility's current plan for support, care, treatment, or
1400 habilitation consistent with the adult's preferences, values,
1401 prior directions, and best interest;

1402 (h) Any business relation the guardian has with a
1403 person the guardian has paid or that has benefited from the
1404 property of the adult;

1405 (i) A copy of the guardian's most recently approved
1406 plan under Section 93-20-315 and a statement whether the guardian
1407 has deviated from the plan and, if so, how the guardian has
1408 deviated and why;

1409 (j) Plans for future care and support of the adult;

1410 (k) A recommendation as to the need for continued
1411 guardianship and any recommended change in the scope of the
1412 guardianship, when determined applicable by the court;

1413 (l) Whether any co-guardian or successor guardian
1414 appointed to serve when a designated event occurs is alive and
1415 able to serve;



1416 (m) Photographs of the adult ward and the adult ward's
1417 living conditions, as required by the court at its discretion; and

1418 (n) Any amounts requested for reimbursement by the
1419 guardian of fees related to the administration of the guardianship
1420 or legal fees incurred for matters related to the guardianship.

1421 (3) The court may appoint a guardian ad litem to review a
1422 report submitted under this section or any guardian's plan
1423 submitted under Section 93-20-315, interview the guardian or ward,
1424 or investigate any other matter involving the guardianship.

1425 (4) Notice of the filing under this section of a guardian's
1426 well-being report, together with a copy of the report, must be
1427 given to the adult ward, the adult ward's spouse, parents,
1428 children, and any other person the court determines. The notice
1429 and report must be delivered not later than fourteen (14) days
1430 after the filing.

1431 (5) The court must establish procedures for monitoring a
1432 report submitted under this section and review each report at
1433 least annually to determine whether:

1434 (a) The report provides sufficient information to
1435 establish if the guardian has complied with the guardian's duties;

1436 (b) The guardianship should continue; and

1437 (c) The guardian's requested fees, if any, should be
1438 approved.



1439 (6) If the court determines there is reason to believe a
1440 guardian for an adult has not complied with the guardian's duties
1441 or the guardianship should be modified or terminated, the court:

1442 (a) Shall notify the adult ward, the adult ward's
1443 spouse, parents, children, and persons entitled to notice under
1444 Section 93-20-309(4) or a court order;

1445 (b) May appoint a guardian ad litem to interview the
1446 adult or guardian or investigate any matter involving the
1447 guardianship; and

1448 (c) May hold a hearing to consider removal of the
1449 guardian, termination of the guardianship, or a change in the
1450 powers granted to the guardian or terms of the guardianship.

1451 (7) A guardian for an adult may petition the court for
1452 approval of a report filed under this section. The court after
1453 review may approve the report. If the court approves the report,
1454 there is a rebuttable presumption the report is accurate as to a
1455 matter adequately disclosed in the report.

1456 **SECTION 52.** Section 93-20-317, Mississippi Code of 1972, is
1457 brought forward as follows:

1458 93-20-317. (1) Upon petition and for good cause shown, the
1459 court may hold a hearing to consider whether to remove a guardian
1460 for an adult for failure to perform the guardian's duties and
1461 appoint a successor guardian to assume the duties of guardian.

1462 (2) Notice of a petition under this section must be given to
1463 the ward, the guardian, and any other person the court determines.



1464 (3) A ward who seeks to remove the guardian and have a
1465 successor guardian appointed has the right to choose an attorney
1466 for representation in this matter. The court shall award
1467 reasonable attorney's fees to the attorney for the adult as
1468 provided in Section 93-20-118.

1469 (4) Not later than ten (10) days after appointing a
1470 successor guardian, the court shall give notice of the appointment
1471 to the adult ward, the adult ward's spouse, parents, children, and
1472 any person entitled to notice under a court order.

1473 **SECTION 53.** Section 93-20-318, Mississippi Code of 1972, is
1474 brought forward as follows:

1475 93-20-318. (1) Upon petition and for good cause shown, the
1476 court may hold a hearing to consider whether termination of the
1477 guardianship exists on the ground that a basis for appointment
1478 under Section 93-20-301 does not exist or termination would be in
1479 the best interest of the adult or for other good cause; or
1480 modification of the guardianship exists on the ground that the
1481 extent of protection or assistance granted is not appropriate or
1482 for other good cause.

1483 (2) Notice of a petition under this section must be given to
1484 the ward, the guardian, and any other person the court determines.

1485 (3) On presentation of prima facie evidence for termination
1486 of a guardianship for an adult, the court shall order termination
1487 unless it is proven that a basis for appointment of a guardian
1488 under Section 93-20-301 exists.



1489 (4) The court shall modify the powers granted to a guardian
1490 for an adult if the powers are excessive or inadequate due to a
1491 change in the abilities or limitations of the adult, the adult's
1492 supports, or other circumstances.

1493 (5) Unless the court otherwise orders for good cause shown,
1494 before terminating or modifying a guardianship for an adult, the
1495 court shall follow the same procedures to safeguard the rights of
1496 the adult which apply to a petition for guardianship.

1497 (6) A ward who seeks to terminate or modify the terms of the
1498 guardianship has the right to choose an attorney for
1499 representation in the matter. The court shall award reasonable
1500 attorney's fees to the attorney for the adult as provided in
1501 Section 93-20-118.

1502 **SECTION 54.** Section 93-20-401, Mississippi Code of 1972, is
1503 brought forward as follows:

1504 93-20-401. (1) **For a minor.** The court may appoint a
1505 conservator for the property or financial affairs of a minor if
1506 the court finds by clear and convincing evidence that appointment
1507 of a conservator is in the minor's best interest, and:

1508 (a) If the minor has a parent, the court gives weight
1509 to any recommendation of the parent whether an appointment is in
1510 the minor's best interest; and

1511 (b) Either:



1512 (i) The minor owns funds or other property
1513 requiring management or protection that otherwise cannot be
1514 provided;

1515 (ii) The minor has or may have financial affairs
1516 that may be put at unreasonable risk or hindered because of the
1517 minor's age; or

1518 (iii) Appointment is necessary or desirable to
1519 obtain or provide funds or other property needed for the support,
1520 care, education, health, or welfare of the minor.

1521 (2) **For an adult.** The court may appoint a conservator for
1522 the property or financial affairs of an adult if the court finds
1523 by clear and convincing 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 55.** Section 93-20-402, Mississippi Code of 1972, is
1548 brought forward as follows:

1549 93-20-402. (1) A person interested in the estate, financial
1550 affairs, or welfare of the individual, including a person that
1551 would be adversely affected by lack of effective management of
1552 property or financial affairs of the individual, may petition for
1553 the appointment of a conservator for the individual.

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



1559 setting forth that the individual is alleged to be in need of a
1560 conservatorship.

1561 (3) The petition must state the name and address of an
1562 attorney representing the petitioner, if any, and must set forth
1563 under the style of the case and before the body of the petition
1564 the following language in bold or highlighted type:

1565 **"THE RELIEF SOUGHT IN THIS PETITION MAY AFFECT YOUR LEGAL**
1566 **RIGHTS. YOU HAVE A RIGHT TO NOTICE OF ANY HEARING ON THIS**
1567 **PETITION, TO ATTEND ANY HEARING, AND TO BE REPRESENTED BY AN**
1568 **ATTORNEY."**

1569 **SECTION 56.** Section 93-20-403, Mississippi Code of 1972, is
1570 brought forward as follows:

1571 **93-20-403. Notice and hearing for appointment of**
1572 **conservator; notice of hearing after appointment of conservator.**

1573 (1) On receipt of a petition under Section 93-20-402 for
1574 appointment of a conservator for a respondent, the court must set
1575 a date, time, and place for a hearing on the petition, and unless
1576 the court finds that the respondent for whom the conservator is to
1577 be appointed is competent and joins in the petition, the
1578 petitioner must cause summons to be served not less than seven (7)
1579 days before the hearing, together with a copy of the petition, on
1580 the person for whom the conservator is to be appointed. The court
1581 may, for good cause shown, direct that a shorter notice be given.



1582 (2) 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 summons must also issue to:

1585 (a) Any guardian appointed to the respondent; and

1586 (b) At least one (1) adult relative of the respondent
1587 who resides in Mississippi from the following group in the listed
1588 order of preference: spouse, children, parents, siblings; but if
1589 none of those can be found:

1590 (i) To one (1) adult relative of the respondent
1591 and who is not the petitioner and who resides in Mississippi if
1592 that relative is within the third degree of kinship.

1593 (ii) If no relative within the third degree of
1594 kinship to the respondent is found residing in the State of
1595 Mississippi, the court must either designate some other
1596 appropriate person to receive the summons or appoint a guardian ad
1597 litem to receive the summons.

1598 (3) In a proceeding under this article, notice of the
1599 hearing also must be given to any other person interested in the
1600 respondent's welfare that the court determines is entitled to
1601 notice. Failure to give notice under this subsection does not
1602 preclude the court from appointing a guardian.

1603 (4) If the person for whom the conservator is to be
1604 appointed is entitled to any benefit, estate or income paid or
1605 payable by or through the Veterans' Administration of the United



1606 States government, such administration shall also be given
1607 summons.

1608 (5) Notice of a hearing on a petition seeking an order under
1609 this article that is filed after the appointment of a conservator,
1610 together with a copy of the petition, must be given to the ward,
1611 the conservator, and any other person the court determines.

1612 **SECTION 57.** Section 93-20-404, Mississippi Code of 1972, is
1613 brought forward as follows:

1614 93-20-404. While a petition under Section 93-20-402 is
1615 pending, after preliminary hearing and without notice to others,
1616 the court may issue an order to preserve and apply property of the
1617 respondent as required for the support of the respondent or an
1618 individual who is in fact dependent on the respondent.

1619 **SECTION 58.** Section 93-20-405, Mississippi Code of 1972, is
1620 brought forward as follows:

1621 93-20-405. The court may appoint a guardian ad litem to any
1622 respondent and allow suitable compensation payable out of the
1623 estate of the respondent, but the appointment shall not be made
1624 unless the court considers it necessary; a judgment of any court
1625 is not void or erroneous because of the failure to have a guardian
1626 ad litem.

1627 **SECTION 59.** Section 93-20-406, Mississippi Code of 1972, is
1628 brought forward as follows:

1629 93-20-406. If the respondent in a proceeding for appointment
1630 of a conservator is not represented by an attorney, the court, in



1631 its discretion, may appoint an attorney to represent the
1632 respondent.

1633 **SECTION 60.** Section 93-20-407, Mississippi Code of 1972, is
1634 brought forward as follows:

1635 93-20-407. (1) The chancery court must conduct a hearing to
1636 determine whether a conservator is needed for the respondent.
1637 Before the hearing, the court, in its discretion, may appoint a
1638 guardian ad litem, and the guardian ad litem must be present at
1639 the hearing and present the interests of the respondent.

1640 (2) The chancery judge shall be the judge of the number and
1641 character of the witnesses and proof to be presented, except that
1642 the proof must include certificates made after a personal
1643 examination of the respondent by the following professionals, each
1644 of whom must make in writing a certificate of the result of that
1645 examination to be filed with the clerk of the court and become a
1646 part of the record of the case.

1647 (a) Two (2) licensed physicians; or

1648 (b) One (1) licensed physician and either one (1)
1649 licensed psychologist, nurse practitioner, or physician's
1650 assistant.

1651 (3) The personal examination may occur face-to-face or via
1652 telemedicine, but any telemedicine examination must be made using
1653 an audiovisual connection by a physician licensed in this state
1654 and as defined in Section 83-9-351. A nurse practitioner or
1655 physician assistant conducting an examination shall not also be in



1656 a collaborative or supervisory relationship, as the law may
1657 otherwise require, with the physician conducting the examination.
1658 A professional conducting an examination under this section may
1659 also be called to testify at the hearing.

1660 (4) The personal examination requirement in subsections (2)
1661 and (3) does not apply if the respondent is:

1662 (a) Missing, detained or unable to return to the United
1663 States; or

1664 (b) A minor with no other disability or incapacity.

1665 However, a personal examination is required to extend a
1666 conservatorship beyond the age of majority.

1667 **SECTION 61.** Section 93-20-408, Mississippi Code of 1972, is
1668 brought forward as follows:

1669 93-20-408. (1) At a hearing under this article, the
1670 respondent may:

1671 (a) Present evidence and subpoena witnesses and
1672 documents;

1673 (b) Examine witnesses; and

1674 (c) Otherwise participate in the hearing.

1675 (2) Unless excused by the court for good cause, a proposed
1676 conservator must attend a hearing under this article.

1677 (3) A hearing under this article must be closed on request
1678 of the respondent and a showing of good cause.

1679 (4) Any person may request to participate in a hearing under
1680 this article. The court may grant the request, with or without a



1681 hearing, on determining that the best interest of the respondent
1682 will be served. The court may impose appropriate conditions on
1683 the person's participation.

1684 **SECTION 62.** Section 93-20-409, Mississippi Code of 1972, is
1685 brought forward as follows:

1686 93-20-409. (1) An individual subject to a proceeding for a
1687 conservatorship, an attorney designated by the respondent or ward,
1688 and a person entitled to notice either under Section 93-20-411(5)
1689 or court order may access court records of the proceeding and
1690 resulting conservatorship, including the conservator's plan under
1691 Section 93-20-419 and the conservator's report under Section
1692 93-20-423. A person not otherwise entitled to access to court
1693 records under this section for good cause may petition the court
1694 for access to court records of the conservatorship, including the
1695 conservator's plan and report. The court must grant access if
1696 access is in the best interest of the respondent or ward or
1697 furthers the public interest and does not endanger the welfare or
1698 financial interests of the respondent or individual.

1699 (2) A report under Section 93-20-405 of a guardian ad litem
1700 or professional evaluation under Section 93-20-407 may be
1701 confidential and may be sealed on filing when determined necessary
1702 by the court. If the court finds the file should be sealed, the
1703 file shall remain available to:

1704 (a) The court;



1705 (b) The individual who is the subject of the report or
1706 evaluation, without limitation as to use;

1707 (c) The petitioner, guardian ad litem and petitioner's
1708 and respondent's attorneys, for purposes of the proceeding;

1709 (d) Unless the court directs otherwise, a person
1710 appointed under a power of attorney for finances in which the
1711 respondent is identified as the principal; and

1712 (e) Any other person if it is in the public interest or
1713 for a purpose the court orders for good cause.

1714 **SECTION 63.** Section 93-20-410, Mississippi Code of 1972, is
1715 brought forward as follows:

1716 93-20-410. (1) Appointment of a conservator is at the
1717 discretion of the court, and in the best interest of the
1718 respondent. If two (2) or more persons have requested
1719 responsibility as conservator, the court shall select as
1720 conservator the person the court considers best qualified. In
1721 determining the best qualified person, the court shall consider
1722 the person's relationship with the respondent, the person's
1723 skills, the expressed wishes of the respondent including any
1724 designation made in a will, durable power of attorney, or
1725 health-care directive, the extent to which the person and the
1726 respondent have similar values and preferences, and the likelihood
1727 the person will be able to perform the duties of a conservator
1728 successfully. The court, acting in the best interest of the



1729 respondent, may decline to appoint as conservator a person
1730 requesting the appointment.

1731 (2) If a qualified conservator cannot be determined, the
1732 court, in its discretion, may appoint the chancery court clerk or
1733 probate administrator for the county in which the proceedings were
1734 filed to serve as the respondent's conservator. The chancery
1735 court clerk or the probate administrator shall serve in the
1736 capacity ordered by the court unless a conflict of interest arises
1737 or the clerk or the probate administrator presents circumstances
1738 where the court determines the clerk's recusal from appointment is
1739 permitted.

1740 (3) A person that provides paid services to the respondent,
1741 or an individual who is employed by a person that provides paid
1742 services to the respondent or is the spouse, parent, or child of
1743 an individual who provides or is employed to provide paid services
1744 to the respondent, may not be appointed as conservator unless:

1745 (a) The individual is related to the respondent by
1746 blood, marriage, or adoption; or

1747 (b) The court finds by clear and convincing evidence
1748 that the person is the best qualified person available for
1749 appointment and the appointment is in the best interest of the
1750 respondent.

1751 (4) An owner, operator, or employee of a long-term-care
1752 institution at which the respondent is receiving care may not be



1753 appointed as conservator unless the owner, operator, or employee
1754 is related to the respondent by blood, marriage, or adoption.

1755 **SECTION 64.** Section 93-20-411, Mississippi Code of 1972, is
1756 brought forward as follows:

1757 93-20-411. (1) A court order appointing a conservator for a
1758 minor must include findings to support appointment of a
1759 conservator and, if a full conservatorship is granted, the reason
1760 a limited conservatorship would not meet the identified needs of
1761 the minor.

1762 (2) A court order appointing a conservator for an adult
1763 must:

1764 (a) Include a specific finding that clear and
1765 convincing evidence has established that the identified needs of
1766 the respondent cannot be met by a less restrictive alternative,
1767 including use of appropriate supportive services or technological
1768 assistance; and

1769 (b) Include a specific finding that clear and
1770 convincing evidence established that the respondent was given
1771 proper summons notifying the respondent of the hearing on the
1772 petition.

1773 (3) A court order establishing a full conservatorship for an
1774 adult must state the basis for granting a full conservatorship and
1775 include specific findings to support the conclusion that a limited
1776 conservatorship would not meet the functional needs of the adult.



1777 (4) A court order establishing a limited conservatorship
1778 must state the specific property placed under the control of the
1779 conservator and the powers granted to the conservator.

1780 (5) The court, as part of an order establishing a
1781 conservatorship, must identify and include the contact information
1782 for any person that subsequently is entitled to:

1783 (a) Notice of the rights of the ward under Section
1784 93-20-412(2);

1785 (b) Notice of a sale of or surrender of a lease to the
1786 primary dwelling of the individual;

1787 (c) Notice that the conservator has delegated a power
1788 that requires court approval under Section 93-20-414 or
1789 substantially all powers of the conservator;

1790 (d) Notice that the conservator will be unavailable to
1791 perform the conservator's duties for more than one (1) month;

1792 (e) A copy of the conservator's plan under Section
1793 93-20-419 and the conservator's report under Section 93-20-423;

1794 (f) Access to court records relating to the
1795 conservatorship;

1796 (g) Notice of a transaction involving a substantial
1797 conflict between the conservator's fiduciary duties and personal
1798 interests;

1799 (h) Notice of the death or significant change in the
1800 condition of the individual;



1801 (i) Notice that the court has limited or modified the
1802 powers of the conservator; and

1803 (j) Notice of the removal of the conservator.

1804 (6) If a ward is an adult, the spouse and adult children of
1805 the ward are entitled under subsection (5) to notice unless the
1806 court determines notice would be contrary to the preferences or
1807 prior directions of the ward or are not in the best interest of
1808 the ward.

1809 (7) If a ward is a minor, each parent and adult sibling of
1810 the minor is entitled to notice under subsection (5) unless the
1811 court determines notice would not be in the best interest of the
1812 minor.

1813 (8) (a) If the chancellor finds from the evidence that the
1814 person is in need of a conservatorship, the chancellor must
1815 appoint a conservator over the estate of the person.

1816 (b) The costs and expenses of the proceedings shall be
1817 paid out of the estate of the respondent if a conservator is
1818 appointed. If a conservator is not appointed, the costs and
1819 expenses shall be paid by the person instituting the proceedings
1820 unless the proceedings were instituted by the court or the
1821 chancery clerk.

1822 **SECTION 65.** Section 93-20-412, Mississippi Code of 1972, is
1823 brought forward as follows:

1824 93-20-412. (1) A conservator appointed under Section
1825 93-20-411 must give to the ward and to all other persons given



1826 notice under Section 93-20-403 a copy of the order of appointment.
1827 The order and notice must be given not later than fourteen (14)
1828 days after the appointment.

1829 (2) Not later than fourteen (14) days after appointment of a
1830 conservator under Section 93-20-411, the court must give to the
1831 ward, the conservator, and any other person entitled to notice
1832 under Section 93-20-411(5), a statement of the rights of the ward
1833 and procedures to seek relief if the ward is denied those rights.
1834 The statement must be in plain language, in at least sixteen-point
1835 font, and to the extent feasible, in a language in which the ward
1836 is proficient. The statement must notify the ward of the right
1837 to:

1838 (a) Seek termination or modification of the
1839 conservatorship, or removal of the conservator, and choose an
1840 attorney to represent the individual in these matters;

1841 (b) Participate in decision-making to the extent
1842 reasonably feasible;

1843 (c) Receive a copy of the conservator's plan under
1844 Section 93-20-419, the conservator's inventory under Section
1845 93-20-420, and the conservator's report under Section 93-20-423;
1846 and

1847 (d) Object to the conservator's inventory, plan, or
1848 report.



1849 (3) If a conservator is appointed for the reasons stated in
1850 Section 93-20-401(2)(a)(ii) and the ward is missing, notice under
1851 this section to the individual is not required.

1852 **SECTION 66.** Section 93-20-413, Mississippi Code of 1972, is
1853 brought forward as follows:

1854 93-20-413. (1) Upon a petition by a person interested in an
1855 individual's welfare or a petition filed under Section 93-20-402,
1856 the court may appoint an emergency conservator for the individual
1857 if the court finds:

1858 (a) Appointment of an emergency conservator is likely
1859 to prevent substantial and irreparable harm to the individual's
1860 property or financial interests;

1861 (b) No other person appears to have authority and
1862 willingness to act in the circumstances; and

1863 (c) There is reason to believe that a basis for
1864 appointment of a conservator under Section 93-20-401 exists.

1865 (2) The duration of authority of an emergency conservator
1866 may not exceed sixty (60) days and the emergency conservator may
1867 exercise only the powers specified in the order of appointment.
1868 The emergency conservator's authority may be extended once for not
1869 more than sixty (60) days if the court finds that the conditions
1870 for appointment of an emergency conservator under subsection (1)
1871 continue. Summons must be issued on continuation of the
1872 guardianship as required in subsection (4).



1873 (3) Except as otherwise provided in subsection (4), summons
1874 giving reasonable notice of the date, time, and place of a hearing
1875 on the petition must be given to the respondent, the respondent's
1876 attorney, and any other person the court determines.

1877 (4) The court may appoint an emergency conservator without
1878 notice to the respondent and any attorney for the respondent only
1879 if the court finds from an affidavit or testimony that the
1880 respondent's property or financial interests will be substantially
1881 and irreparably harmed before a hearing with notice on the
1882 appointment can be held. If the court appoints an emergency
1883 conservator without giving notice under subsection (3), the court
1884 must give notice of the appointment not later than forty-eight
1885 (48) hours after the appointment to:

- 1886 (a) The respondent;
- 1887 (b) The respondent's attorney;
- 1888 (c) Any other person the court determines; and
- 1889 (d) Hold a hearing on the appropriateness of the
1890 appointment not later than five (5) days after the appointment.

1891 (5) Appointment of an emergency conservator under this
1892 section is not a determination that a basis exists for appointment
1893 of a conservator under Section 93-20-401.

1894 (6) The court may remove an emergency conservator appointed
1895 under this section at any time. The emergency conservator shall
1896 make any report the court requires.



1897 **SECTION 67.** Section 93-20-414, Mississippi Code of 1972, is
1898 brought forward as follows:

1899 93-20-414. (1) Except as otherwise ordered by the court, a
1900 conservator must give notice to persons entitled to notice under
1901 Section 93-20-411(5) and receive specific authorization by the
1902 court before the conservator may exercise with respect to the
1903 conservatorship the power to:

1904 (a) Make a gift;

1905 (b) Sell, encumber an interest in, or surrender a lease
1906 to the primary dwelling of the ward;

1907 (c) Convey, release, or disclaim a contingent or
1908 expectant interest in property, including marital property and any
1909 right of survivorship incident to joint tenancy or tenancy by the
1910 entireties;

1911 (d) Exercise or release a power of appointment;

1912 (e) Create a revocable or irrevocable trust of property
1913 of the conservatorship estate, whether or not the trust extends
1914 beyond the duration of the conservatorship, or revoke or amend a
1915 trust revocable by the ward;

1916 (f) Exercise a right to elect an option or change a
1917 beneficiary under an insurance policy or annuity or surrender the
1918 policy or annuity for its cash value;

1919 (g) Exercise a right to an elective share in the estate
1920 of a deceased spouse of the ward or renounce or disclaim a
1921 property interest;



1922 (h) Grant a creditor priority for payment over
1923 creditors of the same or higher class if the creditor is providing
1924 property or services used to meet the basic living and care needs
1925 of the ward and preferential treatment otherwise would be
1926 impermissible under Section 93-20-427(6);

1927 (i) Make, modify, amend, or revoke the will of the ward
1928 in compliance with Section 91-5-1 et seq.;

1929 (j) Pay premiums on any insurance policy issued on the
1930 life of the ward if the individual is a minor, the policy was
1931 issued during the lifetime of the individual's deceased parent,
1932 and the court finds the policy's continuance is warranted;

1933 (k) Acquire or dispose of real property, including real
1934 property in another state, for cash or on credit, at public or
1935 private sale, and manage, develop, improve, exchange, partition,
1936 change the character of, or abandon property;

1937 (l) Make repairs or alterations in a building or other
1938 structure, demolish any improvement, or raze an existing or erect
1939 a new wall or building if costs exceed Two Thousand Five Hundred
1940 Dollars (\$2,500.00);

1941 (m) Subdivide or develop land, dedicate land to public
1942 use, make or obtain the vacation of a plat and adjust a boundary,
1943 adjust a difference in valuation of land, exchange or partition
1944 land by giving or receiving consideration, and dedicate an
1945 easement to public use without consideration;



1946 (n) Enter for any purpose into a lease of property as
1947 lessor or lessee, with or without an option to purchase or renew,
1948 for a term within or extending beyond the term of the
1949 conservatorship;

1950 (o) Enter into a lease or arrangement for exploration
1951 and removal of minerals or other natural resources or a pooling or
1952 unitization agreement;

1953 (p) Borrow funds, with or without security, to be
1954 repaid from the conservatorship estate or otherwise;

1955 (q) Pay or contest a claim, settle a claim by or
1956 against the conservatorship estate or the ward by compromise,
1957 arbitration, or otherwise, or release, in whole or in part, a
1958 claim belonging to the conservatorship estate to the extent the
1959 claim is uncollectible; or

1960 (r) Bring an action, claim, or proceeding in any
1961 jurisdiction for the protection of the conservatorship estate or
1962 the conservator in the performance of the conservator's duties;

1963 (2) In approving a conservator's exercise of a power listed
1964 in subsection (1), the court must consider the ward's prior or
1965 current directions, preferences, opinions, values, and actions, to
1966 the extent actually known or reasonably ascertainable by the
1967 conservator. The court also must consider:

1968 (a) The financial needs of the ward and individuals who
1969 are in fact dependent on the ward for support, and the interests
1970 of creditors of the individual;



1971 (b) Possible reduction of income, estate, inheritance,
1972 or other tax liabilities;
1973 (c) Eligibility for governmental assistance;
1974 (d) The previous pattern of giving or level of support
1975 provided by the individual;
1976 (e) Any existing estate plan or lack of estate plan of
1977 the individual;
1978 (f) The life expectancy of the individual and the
1979 probability the conservatorship will terminate before the ward's
1980 death; and
1981 (g) Any other relevant factor.

1982 (3) A conservator may not revoke or amend a power of
1983 attorney for finances executed by the ward. If a power of
1984 attorney for finances is in effect, a decision of the conservator
1985 takes precedence over that of the attorney-in-fact only to the
1986 extent of the authorization granted to the conservator by court
1987 order.

1988 **SECTION 68.** Section 93-20-415, Mississippi Code of 1972, is
1989 brought forward as follows:

1990 93-20-415. A ward or a person interested in the welfare of
1991 the individual may petition for an order:

1992 (a) Requiring the conservator to furnish a bond or
1993 collateral or additional bond or collateral or allowing a
1994 reduction in a bond or collateral previously furnished;



- 1995 (b) Requiring an accounting for the administration of
1996 the conservatorship estate;
- 1997 (c) Directing distribution;
- 1998 (d) Removing the conservator and appointing a temporary
1999 or successor conservator;
- 2000 (e) Modifying the type of appointment or powers granted
2001 to the conservator, if the extent of protection or management
2002 previously granted is excessive or insufficient to meet the
2003 individual's needs, including because the individual's abilities
2004 or supports have changed;
- 2005 (f) Rejecting or modifying the conservator's plan under
2006 Section 93-20-419, the conservator's inventory under Section
2007 93-20-420, or the conservator's report under Section 93-20-423; or
2008 (g) Granting other appropriate relief.

2009 **SECTION 69.** Section 93-20-416, Mississippi Code of 1972, is
2010 brought forward as follows:

2011 93-20-416. (1) Except as otherwise provided in subsection
2012 (3), the court shall require a conservator to furnish a bond with
2013 a surety the court specifies, or require an alternative
2014 asset-protection arrangement, conditioned on faithful discharge of
2015 all duties of the conservator. The court may waive or partially
2016 waive the requirement if:

- 2017 (a) The respondent is a minor and the minor's parent
2018 has waived the requirement in a valid holographic will or another
2019 instrument to take effect at the parent's death that is signed by



2020 the parent and attested by two (2) or more credible witnesses, not
2021 including the person nominated as conservator; or

2022 (b) Part of the assets of the ward's estate are
2023 deposited in one or more banking corporations, building and loan
2024 associations or savings and loan associations ("financial
2025 institutions") in this state if the deposits are fully insured by
2026 the Federal Deposit Insurance Corporation (FDIC) and will remain
2027 on deposit in that institution until further order of the court, a
2028 certified copy or MEC-filed copy of the order for deposit having
2029 been furnished to the depository or depositories and its receipt
2030 acknowledged in a form that substantially complies with subsection
2031 (7); or

2032 (c) The court finds that a bond or other
2033 asset-protection arrangement is not necessary to protect the
2034 interests of the individual subject to conservatorship. Except as
2035 otherwise provided in subsection (3), the court may not waive the
2036 requirement of bond or other asset-protection arrangement if the
2037 conservator is in the business of serving as a conservator and is
2038 being paid for the conservator's service.

2039 (2) Unless the court directs otherwise, the bond required
2040 under this section must be in the amount of the aggregate capital
2041 value of the conservatorship estate, plus one (1) year's estimated
2042 income, less the value of property deposited under an arrangement
2043 requiring a court order for its removal and real property the
2044 conservator lacks power to sell or convey without specific court



2045 authorization. The court, in place of surety on a bond, may
2046 accept collateral for the performance of the bond, including a
2047 pledge of securities or a mortgage of real property.

2048 (3) A banking institution insured by the FDIC qualified to
2049 do trust business in this state is not required to give a bond
2050 under this section.

2051 (4) Every bond must be filed in the records of the chancery
2052 court and may be put in suit for any breach of the condition,
2053 whether the appointment be legal or not; and the condition shall
2054 be as follows:

2055 "The condition of the above obligation is that if the above
2056 bound, as conservator of _____ in _____ County
2057 shall faithfully discharge all the duties required of him by law,
2058 then the above obligation shall cease."

2059 The conservator must also take and subscribe on oath, at or
2060 before the conservator's appointment, faithfully to discharge the
2061 duties of conservator of the ward according to law.

2062 (5) A financial institution that substantially complies with
2063 the provisions of this article when acting as a depository of
2064 conservatorship funds is not liable to any person for so acting
2065 except for willful default, gross negligence or malfeasance.

2066 (6) A financial institution that acts as a depository of the
2067 funds may charge a fee for servicing the account.

2068 (7) ACKNOWLEDGMENT OF RECEIPT OF ORDER FOR DEPOSIT
2069 AND RECEIPT OF CASH FUNDS



2070 The Chancery Court of _____ County, Mississippi,
2071 having rendered its order in the above-entitled and numbered cause
2072 on the ____ day of _____, _____, designating a
2073 banking institution insured by the Federal Deposit Insurance
2074 Corporation as the depository of the funds of
2075 _____, by and through
2076 _____, as conservator, and the
2077 conservator, having elected to use
2078 _____ (Name of Financial
2079 Institution) as the aforesaid depository, I, acting pursuant to my
2080 authority in and for said bank, do hereby acknowledge that I have
2081 received a copy of the order of the chancery court, duly certified
2082 as true and correct by the chancery clerk of _____
2083 County, Mississippi, or a MEC-filed copy of the order of the
2084 chancery court. I further note that said order provides that all
2085 funds so deposited to the account shall remain on deposit until
2086 further order of the court.

2087 Receipt is also hereby acknowledged of the funds in the
2088 amount of \$ _____ in this matter.
2089 _____ (Name of Financial Institution)
2090 hereby acknowledges that the funds, described above, shall not be
2091 disbursed without further order of this court.

2092 This the _____ day of _____, _____.

2093 STATE OF MISSISSIPPI

2094 COUNTY OF _____



2095 Personally came and appeared before me, the undersigned
2096 authority in and for the jurisdiction aforesaid, the within named
2097 _____ (Name of Bank Officer), who is
2098 _____ (Job Title) of
2099 _____ (Name of Financial Institution) and
2100 who acknowledged to me that he/she signed and delivered the above
2101 and foregoing Acknowledgment of Receipt of Order for Deposit and
2102 Receipt of Cash Funds as the act and deed of said bank, he/she
2103 being first duly authorized so to do.

2104 Given under my hand and official seal, this the
2105 _____ day of _____, _____.
2106 _____

2107 Notary Public My commission expires

2108 **SECTION 70.** Section 93-20-417, Mississippi Code of 1972, is
2109 brought forward as follows:

2110 93-20-417. (1) The following rules apply to the bond
2111 required under Section 93-20-416:

2112 (a) Except as otherwise provided by the bond, the
2113 surety and the conservator are jointly and severally liable.

2114 (b) By executing a bond provided by a conservator, the
2115 surety submits to the personal jurisdiction of the court that
2116 issued letters of office to the conservator in a proceeding
2117 relating to the duties of the conservator in which the surety is
2118 named as a party. Notice of the proceeding must be given to the
2119 surety at the address shown in the records of the court in which



2120 the bond is filed and any other address of the surety then known
2121 to the person required to provide the notice.

2122 (c) On petition of a successor conservator or person
2123 affected by a breach of the obligation of the bond, a proceeding
2124 may be brought against the surety for breach of the obligation of
2125 the bond.

2126 (d) A proceeding against the bond may be brought until
2127 liability under the bond is exhausted.

2128 (2) A proceeding may not be brought under this section
2129 against a surety of a bond on a matter as to which a proceeding
2130 against the conservator is barred.

2131 (3) If a bond under Section 93-20-416 is not renewed by the
2132 conservator, the surety or sureties immediately must give notice
2133 to the court and the attorney for the conservatorship.

2134 **SECTION 71.** Section 93-20-418, Mississippi Code of 1972, is
2135 brought forward as follows:

2136 93-20-418. (1) A conservator is a fiduciary and has duties
2137 of prudence and loyalty to the ward.

2138 (2) A conservator must promote the self-determination of the
2139 ward and, to the extent feasible, encourage the ward to
2140 participate in decisions, act on the ward's own behalf, and
2141 develop or regain the capacity to manage the ward's personal
2142 affairs.

2143 (3) In making a decision for a ward, the conservator must
2144 make the decision the conservator reasonably believes the ward



2145 would make if able, unless doing so would fail to preserve the
2146 resources needed to maintain the ward's well-being and lifestyle
2147 or otherwise unreasonably harm or endanger the welfare or personal
2148 or financial interests of the ward. To determine the decision the
2149 ward would make if able, the conservator must consider the ward's
2150 prior or current directions, preferences, opinions, values, and
2151 actions, to the extent actually known or reasonably ascertainable
2152 by the conservator.

2153 (4) If a conservator cannot make a decision under subsection
2154 (3) because the conservator does not know and cannot reasonably
2155 determine the decision the ward probably would make if able, or
2156 the conservator reasonably believes the decision the individual
2157 would make would fail to preserve resources needed to maintain the
2158 ward's well-being and lifestyle or otherwise unreasonably harm or
2159 endanger the welfare or personal or financial interests of the
2160 ward, the conservator shall act in accordance with the best
2161 interest of the ward. In determining the best interest of the
2162 ward, the conservator shall consider:

2163 (a) Information received from professionals and persons
2164 who demonstrate sufficient interest in the welfare of the ward;

2165 (b) Other information the conservator believes the ward
2166 would have considered if the ward were able to act; and

2167 (c) Other factors a reasonable person in the
2168 circumstances of the ward would consider, including consequences
2169 for others.



2170 (5) Except when inconsistent with the conservator's duties
2171 under subsections (1) through (4), and where investments other
2172 than in FDIC-insured investments are permitted in the court's
2173 order approving the conservator's plan, a conservator must invest
2174 and manage the conservatorship estate as a prudent investor would,
2175 by considering:

2176 (a) The circumstances of the ward and the
2177 conservatorship estate;

2178 (b) General economic conditions;

2179 (c) The possible effect of inflation or deflation;

2180 (d) The expected tax consequences of an investment
2181 decision or strategy;

2182 (e) The role of each investment or course of action in
2183 relation to the conservatorship estate as a whole;

2184 (f) The expected total return from income and
2185 appreciation of capital;

2186 (g) The need for liquidity, regularity of income, and
2187 preservation or appreciation of capital; and

2188 (h) The special relationship or value, if any, of
2189 specific property to the ward.

2190 (6) The propriety of a conservator's investment and
2191 management of the conservatorship estate is determined in light of
2192 the facts and circumstances existing when the conservator decides
2193 or acts and not by hindsight.



2194 (7) A conservator must make a reasonable effort to verify
2195 facts relevant to the investment and management of the
2196 conservatorship estate.

2197 (8) A conservator that has special skills or expertise, or
2198 is named conservator in reliance on the conservator's
2199 representation of special skills or expertise, has a duty to use
2200 the special skills or expertise in carrying out the conservator's
2201 duties.

2202 (9) In investing, selecting specific property for
2203 distribution, and invoking a power of revocation or withdrawal for
2204 the use or benefit of the ward, a conservator must consider any
2205 estate plan of the ward known or reasonably ascertainable to the
2206 conservator and may examine the will or other donative,
2207 nominative, or appointive instrument of the individual.

2208 (10) A conservator must maintain insurance on the insurable
2209 real and personal property of the ward, unless the conservatorship
2210 estate lacks sufficient funds to pay for insurance or the court
2211 finds:

2212 (a) The property lacks sufficient equity; or

2213 (b) Insuring the property would unreasonably dissipate
2214 the conservatorship estate or otherwise not be in the best
2215 interest of the ward.

2216 (11) A conservator has access to and authority over a
2217 digital asset of the ward to the extent provided by the Revised



2218 Uniform Fiduciary Access to Digital Assets Act (Title 91, Chapter
2219 23, Mississippi Code of 1972).

2220 (12) A conservator for an adult must notify the court if the
2221 condition of the adult has changed so that the adult has become
2222 capable of autonomy in exercising rights previously delegated to
2223 the conservator. The notice must be given immediately on learning
2224 of the change.

2225 **SECTION 72.** Section 93-20-419, Mississippi Code of 1972, is
2226 brought forward as follows:

2227 93-20-419. (1) If required by the court, a conservator must
2228 file with the court a plan for investing, protecting, managing,
2229 expending, and distributing the assets of the conservatorship
2230 estate no later than ninety (90) days after the court's order of
2231 appointment or order to file a plan. If a plan is required and
2232 there is a significant change in circumstances, or if the
2233 conservator seeks to deviate significantly from the conservator's
2234 plan, a conservator must file with the court a revised plan no
2235 later than ninety (90) days after the change in circumstances or
2236 decision to deviate from the plan. Every plan must be based on
2237 the needs of the ward and take into account the best interest of
2238 the ward as well as the ward's preferences, values, and prior
2239 directions, to the extent known to or reasonably ascertainable by
2240 the conservator. Along with other items determined necessary by
2241 the court, the conservator's plan must include:



2242 (a) A budget containing projected expenses and
2243 resources, including an estimate of the total amount of fees the
2244 conservator anticipates charging per year and a statement or list
2245 of the amount the conservator proposes to charge for each service
2246 the conservator anticipates providing to the individual;

2247 (b) How the conservator will involve the individual in
2248 decisions about management of the conservatorship estate;

2249 (c) Any step the conservator plans to take to develop
2250 or restore the ability of the ward to manage the conservatorship
2251 estate; and

2252 (d) An estimate of the duration of the conservatorship.

2253 (2) A conservator must give reasonable notice of the filing
2254 of the conservator's plan under subsection (1), together with a
2255 copy of the plan, to the ward, a person entitled to notice under
2256 Section 93-20-411(5) or a court order, and any other person the
2257 court determines. The notice must include a statement of the
2258 right to object to the plan and be given not later than fourteen
2259 (14) days after the filing.

2260 (3) A ward and any person entitled under subsection (2) to
2261 receive notice and a copy of the conservator's plan may object to
2262 the plan.

2263 (4) The court must review the conservator's plan filed under
2264 subsection (1) and determine whether to approve the plan or
2265 require a new plan. In deciding whether to approve the plan, the
2266 court shall consider objections made under subsection (3) and



2267 whether the plan is consistent with the conservator's duties and
2268 powers. The court may not approve the plan until thirty (30) days
2269 after its filing.

2270 (5) After a conservator's plan under this section is
2271 approved by the court, the conservator must provide a copy of the
2272 plan to the ward, a person entitled to notice under Section
2273 93-20-411(5) or a court order, and any other person the court
2274 determines.

2275 **SECTION 73.** Section 93-20-420, Mississippi Code of 1972, is
2276 brought forward as follows:

2277 93-20-420. (1) Unless the inventory requirement has been
2278 waived, not later than ninety (90) days after appointment, a
2279 conservator must prepare and file with the appointing court a
2280 detailed inventory of the conservatorship estate, together with an
2281 oath or affirmation that the inventory is believed to be complete
2282 and accurate as far as information permits.

2283 (2) A conservator must give reasonable notice of the filing
2284 of an inventory to the ward, a person entitled to notice under
2285 Section 93-20-411(5) or a court order, and any other person the
2286 court determines. The notice must be given not later than
2287 fourteen (14) days after the filing.

2288 (3) A conservator must keep records of the administration of
2289 the conservatorship estate and make them available for examination
2290 on reasonable request of the ward, a guardian for the ward, or any
2291 other person the conservator or the court determines.



2292 **SECTION 74.** Section 93-20-421, Mississippi Code of 1972, is
2293 brought forward as follows:

2294 93-20-421. (1) Except as otherwise provided in Section
2295 93-20-414 or qualified or limited in the court's order of
2296 appointment and stated in the letters of conservatorship, a
2297 conservator has all powers granted in this section and any
2298 additional power granted to a trustee by law of this state other
2299 than this chapter.

2300 (2) The court may authorize the conservator in a court order
2301 to execute powers not listed in Section 93-20-414 without prior
2302 specific court authorization or confirmation, including by way of
2303 illustration, but not limited to, the following:

2304 (a) To collect, hold, and retain property, including
2305 property in which the conservator has a personal interest and real
2306 property in another state, until the conservator determines
2307 disposition of the property should be made;

2308 (b) To receive additions to the conservatorship estate;

2309 (c) To continue or participate in the operation of a
2310 business or other enterprise;

2311 (d) To acquire an undivided interest in property in
2312 which the conservator, in a fiduciary capacity, holds an undivided
2313 interest;

2314 (e) To acquire or dispose of personal property;

2315 (f) To continue to invest assets;



2316 (g) To deposit funds or other property in a financial
2317 institution, including one operated by the conservator;

2318 (h) To grant an option involving disposition of
2319 property or accept or exercise an option for the acquisition of
2320 property;

2321 (i) To vote a security, in person or by general or
2322 limited proxy;

2323 (j) To pay a call, assessment, or other sum chargeable
2324 or accruing against or on account of a security;

2325 (k) To sell or exercise a stock subscription or
2326 conversion right;

2327 (l) To consent, directly or through a committee or
2328 agent, to the reorganization, consolidation, merger, dissolution,
2329 or liquidation of a corporation or other business enterprise;

2330 (m) To hold a security in the name of a nominee or in
2331 other form without disclosure of the conservatorship so that title
2332 to the security may pass by delivery;

2333 (n) To insure:

2334 (i) The conservatorship estate, in whole or in
2335 part, against damage or loss in accordance with Section
2336 93-20-418(10); and

2337 (ii) The conservator against liability with
2338 respect to a third person;

2339 (o) Advance funds for the protection of the
2340 conservatorship estate or the ward and all expenses, losses, and



2341 liability sustained in the administration of the conservatorship
2342 estate or because of holding any property for which the
2343 conservator has a lien on the conservatorship estate;

2344 (p) Pay a tax, assessment, compensation of the
2345 conservator or any guardian, and other expense incurred in the
2346 collection, care, administration, and protection of the
2347 conservatorship estate;

2348 (q) Pay a sum distributable to the ward or an
2349 individual who is in fact dependent on the ward by paying the sum
2350 to the distributee or for the use of the distributee:

2351 (i) To the guardian for the distributee;

2352 (ii) To the custodian of the distributee under the
2353 Uniform Transfers to Minors Act, Section 91-20-1 et seq.; or

2354 (iii) If there is no guardian, custodian, or
2355 custodial trustee, to a relative or other person having physical
2356 custody of the distributee;

2357 (r) Defend an action, claim, or proceeding in any
2358 jurisdiction for the protection of the conservatorship estate or
2359 the conservator in the performance of the conservator's duties;

2360 (s) Structure the finances of the ward to establish
2361 eligibility for a public benefit, including by making gifts
2362 consistent with the ward's preferences, values, and prior
2363 directions, if the conservator's action does not jeopardize the
2364 ward's welfare and otherwise is consistent with the conservator's
2365 duties; and



2366 (t) Execute and deliver any instrument that will
2367 accomplish or facilitate the exercise of a power of the
2368 conservator.

2369 **SECTION 75.** Section 93-20-422, Mississippi Code of 1972, is
2370 brought forward as follows:

2371 93-20-422. Except as otherwise provided in Section 93-20-414
2372 or qualified or limited in the court's order of appointment and
2373 stated in the letters of conservatorship, and unless contrary to a
2374 conservator's plan under Section 93-20-419, the conservator may
2375 expend or distribute income or principal of the conservatorship
2376 estate for the support, care, education, health, or welfare of the
2377 ward or an individual who is in fact dependent on the ward,
2378 including the payment of child or spousal support, without
2379 specific court authorization or confirmation in accordance with
2380 the following rules:

2381 (a) The conservator shall consider a recommendation
2382 relating to the appropriate standard of support, care, education,
2383 health, or welfare for the ward or individual who is dependent on
2384 the ward, made by a guardian for the ward, if any, and, if the
2385 ward is a minor, a recommendation made by a parent of the minor.
2386 If the minor has a father or mother, the court shall determine
2387 whether the expense of maintaining and educating the minor shall
2388 be borne by the ward's estate.

2389 (b) The conservator acting in compliance with the
2390 conservator's duties under Section 93-20-418 is not liable for an



2391 expenditure or distribution made based on a recommendation under
2392 paragraph (a) unless the conservator knows the expenditure or
2393 distribution is not in the best interest of the ward.

2394 (c) In making an expenditure or distribution under this
2395 section, the conservator must consider:

2396 (i) The size of the conservatorship estate, the
2397 estimated duration of the conservatorship, and the likelihood the
2398 ward, at some future time, may be fully self-sufficient and able
2399 to manage the individual's financial affairs and the
2400 conservatorship estate;

2401 (ii) The accustomed standard of living of the ward
2402 and individual who is dependent on the ward;

2403 (iii) Other funds or sources used for the support
2404 of the ward; and

2405 (iv) The preferences, values, and prior directions
2406 of the ward.

2407 (d) Funds expended or distributed under this section
2408 may be paid by the conservator to any person, including the ward,
2409 as reimbursement for expenditures the conservator might have made,
2410 or in advance for services to be provided to the ward or
2411 individual who is dependent on the ward if it is reasonable to
2412 expect the services will be performed and advance payment is
2413 customary or reasonably necessary under the circumstances.

2414 **SECTION 76.** Section 93-20-423, Mississippi Code of 1972, is
2415 brought forward as follows:



2416 93-20-423. (1) Except as otherwise provided under
2417 subsection (11), a conservator must file a report in a record
2418 regarding the administration of the conservatorship estate with
2419 the court annually unless the court otherwise directs, if provided
2420 by will, or made necessary by resignation or removal, or
2421 termination of the conservatorship. A conservator must petition
2422 the court for approval of a report filed under this section. The
2423 court, after review, may approve the report.

2424 (2) A report under subsection (1) must state or contain:

2425 (a) An accounting that lists property included in the
2426 conservatorship estate and the receipts, disbursements,
2427 liabilities, and distributions during the period for which the
2428 report is made;

2429 (b) A list of the services provided to the ward;

2430 (c) A statement whether the conservator has deviated
2431 from the plan and, if so, how the conservator has deviated and
2432 why;

2433 (d) A recommendation as to the need for continued
2434 conservatorship and any recommended change in the scope of the
2435 conservatorship;

2436 (e) Anything of more than de minimis value which the
2437 conservator, any individual who resides with the conservator, or
2438 the spouse, parent, child, or sibling of the conservator has
2439 received from a person providing goods or services to the ward;
2440 and



2441 (f) Any business relationship the conservator has with
2442 a person the conservator has paid or that has benefited from the
2443 property of the ward.

2444 (3) The court, in its discretion, may request a copy of the
2445 most recent reasonably available financial statements evidencing
2446 the status of bank accounts, investment accounts, and mortgages or
2447 other debts of the ward with all but the last four (4) digits of
2448 the account numbers and social security number redacted;

2449 (4) The court may appoint a guardian ad litem to review a
2450 report under this section or a conservator's plan under Section
2451 93-20-419, to interview the ward or conservator, or to investigate
2452 any other matter involving the conservatorship. In connection
2453 with the report, the court may order the conservator to submit the
2454 conservatorship estate to appropriate examination in a manner the
2455 court directs.

2456 (5) Reasonable notice of the filing under this section of a
2457 conservator's report, together with a copy of the report, must be
2458 provided to the ward, a person entitled to notice under Section
2459 93-20-411(5) or a court order, and other persons the court
2460 determines. The notice and report must be given not later than
2461 fourteen (14) days after filing.

2462 (6) The court may establish procedures for monitoring a
2463 report submitted under this section and review each report at
2464 least annually unless otherwise directed by the court. The court
2465 must consider whether:



2466 (a) The reports provide sufficient information to
2467 establish that the conservator has complied with the conservator's
2468 duties;

2469 (b) The conservatorship should continue; and

2470 (c) The conservator's requested fees, if any, should be
2471 approved.

2472 (7) If the court determines there is reason to believe a
2473 conservator has not complied with the conservator's duties or the
2474 conservatorship should not continue, the court:

2475 (a) Shall notify the ward, the conservator, and any
2476 other person entitled to notice under Section 93-20-411(5) or a
2477 court order;

2478 (b) May require additional information from the
2479 conservator;

2480 (c) May appoint a guardian ad litem to interview the
2481 ward or conservator or investigate any matter involving the
2482 conservatorship; and

2483 (d) Consistent with Sections 93-20-429 and 93-20-430,
2484 may hold a hearing to consider removal of the conservator,
2485 termination of the conservatorship, or a change in the powers
2486 granted to the conservator or terms of the conservatorship.

2487 (8) If the court has reason to believe fees requested by a
2488 conservator are not reasonable, the court shall hold a hearing to
2489 determine whether to adjust the requested fees.



2490 (9) An order may be entered, after notice and consideration
2491 by the court, approving a report of a conservator filed under this
2492 section.

2493 (10) A conservator may seek an order, after notice and
2494 hearing, approving a report filed under this section that
2495 discharges the conservator from all liabilities, claims, and
2496 causes of action by a person given notice of the report and the
2497 hearing as to a matter adequately disclosed in the report.

2498 (11) When the funds and personal property of the ward do not
2499 exceed the sum or value of Ten Thousand Dollars (\$10,000.00) and
2500 there is no foreseeable prospect of further receipt to come into
2501 the hands of the conservator other than interest thereon, or in
2502 conservatorships in which the only funds on hand or to be received
2503 by the guardian are funds paid or to be paid by a government
2504 agency providing protective services to adults or children for the
2505 benefit of the ward, the chancery court or chancellor in vacation,
2506 for good cause shown, in the chancellor's discretion and upon
2507 being satisfied it is to the best interest and welfare of the
2508 ward, may authorize the guardian to dispense with further annual
2509 accounts, except for a final account.

2510 **SECTION 77.** Section 93-20-424, Mississippi Code of 1972, is
2511 brought forward as follows:

2512 93-20-424. (1) The interest of a ward in property included
2513 in the conservatorship estate is not transferrable or assignable
2514 by the ward and is not subject to levy, garnishment, or similar



2515 process for claims against the ward unless allowed under Section
2516 93-20-427.

2517 (2) If a ward enters into a contract after the right to
2518 enter the contract has been delegated to another by the court, the
2519 contract is void against the ward and the ward's property but is
2520 enforceable against the person that contracted with the ward.

2521 (3) A person other than the conservator that deals with a
2522 ward with respect to property included in the conservatorship
2523 estate is entitled to protection provided by law of this state
2524 other than this chapter.

2525 **SECTION 78.** Section 93-20-425, Mississippi Code of 1972, is
2526 brought forward as follows:

2527 93-20-425. A transaction involving a conservatorship estate
2528 which is affected by a substantial conflict between the
2529 conservator's fiduciary duties and personal interests is voidable
2530 unless the transaction is authorized by court order after notice
2531 to persons entitled to notice under Section 93-20-411(5) or a
2532 court order. A transaction affected by a substantial conflict
2533 includes a sale, encumbrance, or other transaction involving the
2534 conservatorship estate entered into by the conservator, an
2535 individual with whom the conservator resides, the spouse,
2536 descendant, sibling, or attorney of the conservator, or a
2537 corporation or other enterprise in which the conservator has a
2538 substantial beneficial interest.



2539 **SECTION 79.** Section 93-20-426, Mississippi Code of 1972, is
2540 brought forward as follows:

2541 93-20-426. (1) A person that assists or deals with a
2542 conservator in good faith and for value in any transaction, other
2543 than a transaction requiring a court order under Section
2544 93-20-414, is protected as though the conservator properly
2545 exercised any power in question. Mere knowledge by a person that
2546 the person is dealing with a conservator does not require the
2547 person to inquire into the existence of authority of the
2548 conservator or the propriety of the conservator's exercise of
2549 authority, but restrictions on authority stated in letters of
2550 conservatorship, or otherwise provided by law, are effective as to
2551 the person. A person that pays or delivers property to a
2552 conservator is not responsible for proper application of the
2553 property.

2554 (2) Protection under subsection (1) extends to a procedural
2555 irregularity or jurisdictional defect in the proceeding leading to
2556 the issuance of letters of conservatorship and does not substitute
2557 for protection for a person that assists or deals with a
2558 conservator provided by comparable provisions in law of this state
2559 other than this chapter relating to a commercial transaction or
2560 simplifying a transfer of securities by a fiduciary.

2561 **SECTION 80.** Section 93-20-427, Mississippi Code of 1972, is
2562 brought forward as follows:



2563 93-20-427. (1) A conservator may pay, or secure by
2564 encumbering property included in the conservatorship estate, a
2565 claim against the conservatorship estate or the ward arising
2566 before or during the conservatorship, on presentation and
2567 allowance in accordance with the priorities under subsection (5)
2568 or (6). A claimant may present a claim by filing the claim with
2569 the court, in a form acceptable to the court, and sending or
2570 delivering a copy of the claim to the conservator.

2571 (2) A presented claim is allowed if it is not disallowed in
2572 whole or in part by the conservator in a record sent or delivered
2573 to the claimant not later than ninety (90) days after its
2574 presentation. Before payment, the conservator may change an
2575 allowance of the claim to a disallowance in whole or in part, but
2576 not after allowance under a court order or order directing payment
2577 of the claim. Presentation of a claim tolls the running of a
2578 statute of limitations that has not expired relating to the claim
2579 until thirty (30) days after disallowance of the claim.

2580 (3) A claimant whose claim has not been paid may petition
2581 the court to determine the claim at any time before it is barred
2582 by a statute of limitations, and the court may order its
2583 allowance, payment, or security by encumbering property included
2584 in the conservatorship estate. If a proceeding is pending against
2585 the ward at the time of appointment of the conservator or is
2586 initiated after the appointment, the moving party must give the



2587 conservator notice of the proceeding if it could result in
2588 creating a claim against the conservatorship estate.

2589 (4) If a conservatorship estate is likely to be exhausted
2590 before all existing claims are paid, the provisions of the law on
2591 proceedings to insolvency and distribution of assets of insolvent
2592 estates shall, as far as applicable and not otherwise provided, be
2593 observed and enforced.

2594 (5) When the claims are established and the amount of assets
2595 ascertained, the court shall adjudge the pro rata share of each
2596 claimant, deducting first the preference claims in the following
2597 order:

2598 (a) Costs and expenses of administration;

2599 (b) A claim of the federal or state government having
2600 priority under law other than this article;

2601 (c) A claim incurred by the conservator for support,
2602 care, education, health, or welfare previously provided to the
2603 ward or an individual who is in fact dependent on the ward;

2604 (d) A claim arising before the conservatorship; and

2605 (e) All other claims.

2606 (6) Preference may not be given in the payment of a claim
2607 under subsection (5) over another claim of the same class. A
2608 claim due and payable may not be preferred over a claim not due
2609 unless:



2610 (a) Doing so would leave the conservatorship estate
2611 without sufficient funds to pay the basic living and health-care
2612 expenses of the ward; and

2613 (b) The court authorizes the preference under Section
2614 93-20-414(1)(h).

2615 (7) If assets of a conservatorship estate are adequate to
2616 meet all existing claims, the court, acting in the best interest
2617 of the ward, may order the conservator to grant a security
2618 interest in the conservatorship estate for payment of a claim at a
2619 future date.

2620 **SECTION 81.** Section 93-20-428, Mississippi Code of 1972, is
2621 brought forward as follows:

2622 93-20-428. (1) Except as otherwise agreed by a conservator,
2623 the conservator is not personally liable on a contract properly
2624 entered into in a fiduciary capacity in the course of
2625 administration of the conservatorship estate unless the
2626 conservator fails to reveal the conservator's representative
2627 capacity in the contract or before entering into the contract.

2628 (2) A conservator may be personally liable for an obligation
2629 arising from control of property of the conservatorship estate or
2630 an act or omission occurring in the course of administration of
2631 the conservatorship estate only if the conservator is personally
2632 grossly negligent or in breach of fiduciary duty.

2633 (3) A claim based on a contract entered into by a
2634 conservator in a fiduciary capacity, an obligation arising from



2635 control of property included in the conservatorship estate, or a
2636 tort committed in the course of administration of the
2637 conservatorship estate may be asserted against the conservatorship
2638 estate in a proceeding against the conservator in a fiduciary
2639 capacity, whether or not the conservator is personally liable for
2640 the claim.

2641 (4) A question of liability between a conservatorship estate
2642 and the conservator personally may be determined in a proceeding
2643 for accounting, surcharge, or indemnification or another
2644 appropriate proceeding or action.

2645 **SECTION 82.** Section 93-20-429, Mississippi Code of 1972, is
2646 brought forward as follows:

2647 93-20-429. (1) The court may remove a conservator for
2648 failure to perform the conservator's duties or other good cause
2649 and appoint a successor conservator to assume the duties of the
2650 conservator.

2651 (2) The court must hold a hearing to determine whether to
2652 remove a conservator and appoint a successor on:

2653 (a) A petition of the ward, conservator, or person
2654 interested in the welfare of the ward that contains allegations
2655 which, if true, would support a reasonable belief that removal of
2656 the conservator and appointment of a successor may be appropriate,
2657 but the court may decline to hold a hearing if a petition based on
2658 the same or substantially similar facts was filed during the
2659 preceding six (6) months;



2660 (b) Communication from the ward, conservator, or person
2661 interested in the welfare of the ward which supports a reasonable
2662 belief that removal of the conservator and appointment of a
2663 successor may be appropriate; or

2664 (c) Determination by the court that a hearing would be
2665 in the best interest of the ward.

2666 (3) Notice of a petition under subsection (2)(a) must be
2667 given to the ward, the conservator, and any other person the court
2668 determines.

2669 (4) A ward who seeks to remove the conservator and have a
2670 successor appointed has the right to choose an attorney to
2671 represent the ward in this matter. If the ward is not represented
2672 by an attorney, the court may appoint an attorney under the same
2673 conditions as in Section 93-20-406. The court may award
2674 reasonable attorney's fees to the attorney as provided in Section
2675 93-20-118.

2676 (5) In selecting a successor conservator, the court must
2677 follow the priorities under Section 93-20-410.

2678 **SECTION 83.** Section 93-20-430, Mississippi Code of 1972, is
2679 brought forward as follows:

2680 93-20-430. (1) A conservatorship must be terminated when
2681 the minor becomes an adult, becomes emancipated, or dies; the
2682 termination must comply with Section 93-20-423, but a
2683 conservatorship may continue into adulthood when the court finds



2684 the ward qualifies for conservatorship as an adult under the
2685 provisions of subsections (5) and (6).

2686 (2) A ward, the conservator, or a person interested in the
2687 welfare of the individual may petition for:

2688 (a) Termination of the conservatorship on the ground
2689 that a basis for appointment under Section 93-20-401 does not
2690 exist or termination would be in the best interest of the ward or
2691 for other good cause; or

2692 (b) Modification of the conservatorship on the ground
2693 that the extent of protection or assistance granted is not
2694 appropriate or for other good cause shown.

2695 (3) The court must hold a hearing to determine whether
2696 termination or modification of a conservatorship is appropriate
2697 on:

2698 (a) A petition that contains allegations which, if
2699 true, would support a reasonable belief that termination or
2700 modification of the conservatorship may be appropriate, but the
2701 court may decline to hold a hearing if a petition based on the
2702 same or substantially similar facts was filed within the preceding
2703 six (6) months;

2704 (b) A communication from the ward, conservator, or
2705 person interested in the welfare of the ward which supports a
2706 reasonable belief that termination or modification of the
2707 conservatorship may be appropriate, including because the



2708 functional needs of the ward or supports or services available to
2709 the ward have changed;

2710 (c) A report from a guardian or conservator which
2711 indicates that termination or modification may be appropriate
2712 because the functional needs or supports or services available to
2713 the ward have changed or other less restrictive alternative is
2714 available; or

2715 (d) A determination by the court that a hearing would
2716 be in the best interest of the ward.

2717 (4) Notice of a petition under this section must be given to
2718 the ward, the conservator, and any other person the court
2719 determines.

2720 (5) On presentation of prima facie evidence for termination
2721 of a conservatorship, the court must order termination unless it
2722 is proven that a basis for appointment of a conservator under
2723 Section 93-20-401 exists.

2724 (6) The court must modify the powers granted to a
2725 conservator if the powers are excessive or inadequate due to a
2726 change in the abilities or limitations of the ward, the ward's
2727 supports, or other circumstances.

2728 (7) Unless the court otherwise orders for good cause, before
2729 terminating a conservatorship, the court shall follow the same
2730 procedures to safeguard the rights of the ward which apply to a
2731 petition for conservatorship.



2732 (8) A ward who seeks to terminate or modify the terms of the
2733 conservatorship has the right to choose an attorney to represent
2734 the ward in this matter. If the ward is not represented by an
2735 attorney, the court may appoint an attorney under the same
2736 conditions as in Section 93-20-406. The court may award
2737 reasonable attorney's fees to the attorney as provided in Section
2738 93-20-118.

2739 (9) On termination of a conservatorship other than by reason
2740 of the death of the ward, property of the conservatorship estate
2741 passes to the ward. The order of termination must direct the
2742 conservator to file a final report and petition for discharge on
2743 approval by the court of the final report.

2744 (10) If a ward dies testate, the conservator must deliver
2745 the will to the named representative and certify that delivery to
2746 the court. If the ward dies intestate, Section 91-7-68 governs.

2747 **SECTION 84.** Section 93-20-431, Mississippi Code of 1972, is
2748 brought forward as follows:

2749 93-20-431. (1) Unless a person required to transfer a
2750 liquidated sum certain under a banking provision, a contract for
2751 payment or under a judgment or decree of a court, or other
2752 property to a minor knows that a conservator for the minor has
2753 been appointed or a proceeding is pending for conservatorship:

2754 (a) The person may transfer a liquidated sum certain or
2755 property of certain value not exceeding Twenty-five Thousand
2756 Dollars (\$25,000.00) in a twelve-month period to:



2757 (i) A person who has care or custody of the minor
2758 and with whom the minor resides;

2759 (ii) A guardian for the minor;

2760 (iii) A custodian under the Uniform Transfers to
2761 Minors Act, Section 91-20-1 et seq.; or

2762 (iv) A financial institution as a deposit in an
2763 account or certificate solely in the name of the minor; notice of
2764 the deposit must be given to the minor; or

2765 (v) An Achieving a Better Life Experience (ABLE)
2766 account.

2767 (b) The person must seek chancery court approval if the
2768 sum of money or value of property that may be due to the ward is
2769 not a liquidated sum certain or property of certain value under a
2770 banking provision, a contract for payment, or under a judgment,
2771 order or decree of a court, and the chancery court before ordering
2772 the money paid or personal property delivered must fully
2773 investigate the matter and satisfy itself by evidence or otherwise
2774 that the proposed sum of money to be paid or property to be
2775 delivered because of any claim of the ward whatsoever, whether
2776 arising ex delicto or ex contractu, is a fair settlement of the
2777 claim of the ward and that it is in the best interest of the ward
2778 that the settlement be made or the personal property be delivered
2779 to the ward. Upon making that determination, the chancery court
2780 may order that the money or personal property be accepted by the
2781 ward and paid or delivered by the party owing the money or in



2782 possession of the property as authorized by the decree of the
2783 court, and compliance with the order shall acquit and release the
2784 person so paying or delivering the same. The person who receives
2785 the money or property of a ward under the order thereby becomes
2786 amenable to the court for the disposition of it for the use and
2787 benefit of the ward, but is not required to furnish security
2788 therefor absent order of the chancery court.

2789 (2) A person that transfers funds or other property under
2790 this section is not responsible for its proper application.

2791 (3) A person that receives funds or other property for a
2792 minor under subsection (1)(a) or (b) may apply it only to the
2793 support, care, education, health, or welfare of the minor, and may
2794 not derive a personal financial benefit from it, except for
2795 reimbursement for necessary expenses. Funds not applied for these
2796 purposes must be preserved for the future support, care,
2797 education, health, or welfare of the minor, and the balance, if
2798 any, transferred to the minor when the minor becomes an adult or
2799 otherwise is emancipated.

2800 (4) Contributions to an ABLE account, and the provisions for
2801 permissible disbursements from such account, are governed by 26
2802 USC Section 529A and the terms of the applicable ABLE plan. The
2803 amount of annual contributions is subject to 26 USC Section
2804 2503(b).

2805 **SECTION 85.** This act shall take effect and be in force from
2806 and after July 1, 2024.

