

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED THIRD LEGISLATURE  
 SECOND SESSION  
**LEGISLATIVE BILL 920**

Final Reading

Introduced by Coash, 27; Ashford, 20; Brasch, 16; Davis, 43; Harms, 48; Lathrop, 12; McGill, 26; Schilz, 47; Seiler, 33; Watermeier, 1; Wallman, 30.

Read first time January 15, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to guardianship and conservatorship; to amend  
 2 sections 30-2601.01, 30-2627, and 30-2639, Reissue  
 3 Revised Statutes of Nebraska, sections 30-2201, 30-2626,  
 4 30-2630.01, and 30-2640, Revised Statutes Cumulative  
 5 Supplement, 2012, and section 30-2601, Revised Statutes  
 6 Supplement, 2013; to adopt the Public Guardianship Act;  
 7 to harmonize provisions; to provide an operative date;  
 8 and to repeal the original sections.  
 9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 18 of this act shall be known  
2 and may be cited as the Public Guardianship Act.

3           Sec. 2. (1) The Legislature finds that the present system  
4 of obtaining a guardian or conservator for an individual, which often  
5 depends on volunteers, is inadequate when there is no willing and  
6 qualified family member or other person available or willing to serve  
7 as guardian or conservator for such individual. The Legislature finds  
8 that there is a need to provide guardians and conservators when there  
9 is no one suitable or available with priority to serve the needs of  
10 such individual. The Legislature intends that establishment of the  
11 Office of Public Guardian will provide services for individuals when  
12 no private guardian or private conservator is available. The  
13 Legislature also finds that alternatives to full guardianship and  
14 less intrusive means of intervention should always be explored,  
15 including, but not limited to, limited guardianship, temporary  
16 guardianship, conservatorship, or the appointment of a payee. It is  
17 the intent of the Legislature to provide a public guardian or public  
18 conservator only to those individuals whose needs cannot be met  
19 through less intrusive means of intervention.

20           (2) The Legislature finds that:

21           (a) All individuals in need of a guardian or conservator  
22 shall have the opportunity to have one appointed for them;

23           (b) The priorities for appointment in sections 30-2601 to  
24 30-2661 are appropriate in most instances;

25           (c) There are individuals in need of guardians or

1 conservators for whom persons that have priority are unwilling,  
2 unable, or inappropriate to become a guardian or conservator;

3 (d) Guardians and conservators under the current system  
4 do not always carry out the assigned duties in a way that protects  
5 the individual and, in fact, sometimes carry out the duties in a way  
6 that abuses or neglects the individual; and

7 (e) For those for whom no person is available for  
8 appointment as guardian or conservator, the Office of Public Guardian  
9 may provide necessary services.

10 Sec. 3. For purposes of the Public Guardianship Act:

11 (1) Council means the Advisory Council on Public  
12 Guardianship;

13 (2) Office means the Office of Public Guardian;

14 (3) Private conservator means an individual or a  
15 corporation with general power to serve as trustee who is not with  
16 the office and who is appointed by the court to act as conservator  
17 for a protected person;

18 (4) Private guardian means any person who is not with the  
19 office and who is appointed by the court to act as guardian for a  
20 ward;

21 (5) Protected person is as defined in section 30-2601;

22 (6) Public Guardian means the director of the office;

23 (7) Successor conservator means an individual or a  
24 corporation with general power to serve as trustee who is recruited  
25 by the office to become a conservator for a protected person

1 previously served by the office;

2 (8) Successor guardian means a person or entity who is  
3 recruited by the office to become a guardian for a ward previously  
4 served by the office; and

5 (9) Ward is as defined in section 30-2601.

6 Sec. 4. The office is created within the judicial branch  
7 of government and is directly responsible to the State Court  
8 Administrator. The State Court Administrator shall appoint a director  
9 of the office who shall be known as the Public Guardian. The Public  
10 Guardian shall be hired based on a broad knowledge of human  
11 development, intellectual disabilities, sociology, and psychology and  
12 shall have business acuity and experience in public education and  
13 volunteer recruitment. The Public Guardian shall hire a deputy public  
14 guardian and up to twelve associate public guardians who shall serve  
15 at the pleasure of the Public Guardian and perform such duties as  
16 assigned by the Public Guardian. The Public Guardian shall assume all  
17 the duties and responsibilities of a guardian and conservator for any  
18 individual appointed to his or her supervision and may designate  
19 authority to act on his or her behalf to the deputy public guardian  
20 and associate public guardians. The Public Guardian shall administer  
21 public guardianship and public conservatorship and shall serve as  
22 staff to the council. The Public Guardian may hire support staff as  
23 required.

24 Sec. 5. The office:

25 (1) Shall provide immediate response when a guardian or

1 conservator is needed in an emergency situation;

2 (2) Shall provide an option upon the resignation,  
3 removal, or discharge of a guardian or conservator so that there is  
4 no lapse in service to the ward or protected person;

5 (3) Shall provide equal access and protection for all  
6 individuals in need of guardianship or conservatorship services;

7 (4) Shall promote or provide public education to increase  
8 the awareness of the duties of guardians and conservators and  
9 encourage more people to serve as private guardians or private  
10 conservators;

11 (5) Shall recruit members of the general public or family  
12 members to serve as guardians or conservators and provide adequate  
13 training and support to enhance their success;

14 (6) Shall act as a resource to persons already serving as  
15 guardians or conservators for education, information, and support;

16 (7) Shall safeguard the rights of individuals by  
17 exploring all options available to support individuals in the least  
18 restrictive manner possible and seek full guardianship only as a last  
19 resort; and

20 (8) Shall model the highest standard of practice for  
21 guardians and conservators to improve the performance of all  
22 guardians and conservators in the state.

23 Sec. 6. The Advisory Council on Public Guardianship is  
24 created. The council shall be appointed by the State Court  
25 Administrator, be comprised of individuals from a variety of

1 disciplines who are knowledgeable in guardianship and  
2 conservatorship, and be representative of the geographical and  
3 cultural diversity of the state and reflect gender fairness. The  
4 council shall consist of the following members: A representative of  
5 the Nebraska County Court Judges Association, attorneys licensed to  
6 practice law in this state, social workers, mental health  
7 professionals, professionals with expertise in the aging population,  
8 developmental disability professionals, and other interested groups  
9 or individuals.

10           Sec. 7. The State Court Administrator shall appoint  
11 initial members of the council for staggered terms of one, two, or  
12 three years as designated by the State Court Administrator. All  
13 subsequent appointments shall be made for terms of three years. Any  
14 vacancy on the council shall be filled in the same manner in which  
15 the original appointment was made and for the duration of the term  
16 vacated. Appointments of initial members of the council shall be made  
17 within ninety days after the operative date of this act. The council  
18 shall select a chairperson, a vice-chairperson, and such other  
19 officers as it deems necessary.

20           Sec. 8. (1) The council shall advise the Public Guardian  
21 on the administration of public guardianship and public  
22 conservatorship.

23           (2) The council shall meet at least four times per year  
24 and at other times deemed necessary to perform its functions upon the  
25 call of the chairperson. Members of the council shall be reimbursed

1 for their actual and necessary expenses as provided in sections  
2 81-1174 to 81-1177.

3 Sec. 9. Consistent with the purposes and objectives of  
4 the Public Guardianship Act and in consultation with the council, the  
5 Public Guardian shall:

6 (1) Develop a uniform system of reporting and collecting  
7 statistical data regarding guardianships and conservatorships;

8 (2) Develop and adopt a standard of practice and code of  
9 ethics for public guardianship and public conservatorship;

10 (3) Prepare a biennial budget for the implementation of  
11 the act;

12 (4) Develop guidelines for a sliding scale of fees to be  
13 charged for public guardianship and public conservatorship services;

14 (5) Maintain, in conjunction with private and other  
15 public resources, a curricula for training sessions to be made  
16 available for successor guardians and successor conservators and  
17 private guardians and private conservators;

18 (6) Maintain training programs available statewide to  
19 offer the training curricula for interested parties to include:

20 (a) Helping a guardian understand his or her ward's  
21 disabilities and a conservator understand his or her fiduciary duties  
22 with respect to his or her protected person;

23 (b) Helping a guardian encourage increased independence  
24 on the part of his or her ward, as appropriate;

25 (c) Helping a guardian with the preparation and revision

1 of guardianship plans and reports and a conservator with the  
2 preparation and revision of accountings; and

3 (d) Advising a guardian or conservator on ways to secure  
4 rights, benefits, and services to which his or her ward or protected  
5 person is entitled;

6 (7) Promote public awareness of guardianship and  
7 conservatorship, the responsibilities attached, and the need for more  
8 private guardians and private conservators; and

9 (8) Apply for and receive funds from public and private  
10 sources for carrying out the purposes and obligations of the act.

11 Sec. 10. The Supreme Court, upon recommendation by the  
12 Public Guardian, in consultation with the council, shall promulgate  
13 rules to carry out the Public Guardianship Act.

14 Sec. 11. The Public Guardian shall report to the State  
15 Court Administrator as directed by the State Court Administrator. The  
16 Public Guardian shall report to the Chief Justice and the Legislature  
17 on the implementation of the Public Guardianship Act on or before  
18 January 1 of each year. The report to the Legislature shall be made  
19 electronically. The report shall include the number and types of  
20 guardianships and conservatorships for which the Public Guardian has  
21 been appointed, including full guardianships, limited guardianships,  
22 and temporary guardianships, the disposition of those appointments,  
23 the amount of guardianship and conservatorship fees charged and  
24 collected under the act, and the status of the waiting list for  
25 public guardianship and public conservatorship services.

1           Sec. 12. A court may order appointment of the Public  
2 Guardian as a guardian or conservator only after notice to the Public  
3 Guardian and a determination that the appointment or order is  
4 necessary and will not result in the Public Guardian having more  
5 appointments than permitted by section 15 of this act. The  
6 determination of necessity may require the court to ascertain whether  
7 there is any other alternative to public guardianship or public  
8 conservatorship.

9           Sec. 13. The office shall charge fees pursuant to the  
10 guidelines developed pursuant to section 9 of this act unless  
11 modified or waived by the court.

12           Sec. 14. (1) Once the Public Guardian is appointed as  
13 guardian or conservator, the office shall make a reasonable effort to  
14 locate a successor guardian or successor conservator. By June 30 and  
15 January 1 of each year, the office shall file an aggregate report  
16 with the State Court Administrator describing its efforts to locate a  
17 successor guardian or successor conservator.

18           (2) Upon location of a successor guardian or successor  
19 conservator, the office shall file a motion with the court for  
20 termination or modification of the guardianship or conservatorship.  
21 Availability of a successor guardian or successor conservator shall  
22 be deemed a change in the suitability of the office for carrying out  
23 its powers and duties under section 5 of this act.

24           Sec. 15. The Public Guardian may accept an appointment as  
25 a guardian or conservator for an individual not to exceed an average

1 of forty individuals per associate public guardian hired by the  
2 office. When the average has been reached, the Public Guardian shall  
3 not accept further appointments. The Public Guardian, upon reaching  
4 the maximum number of appointments, shall notify the State Court  
5 Administrator that the maximum number of appointments has been  
6 reached.

7           Sec. 16. (1) When the court appoints the Public Guardian  
8 as guardian or conservator for an individual, the Public Guardian  
9 immediately succeeds to (a) all powers and duties of a guardian  
10 provided in sections 30-2626 and 30-2628, if appointed a guardian, or  
11 (b) all powers and duties of a conservator provided in sections  
12 30-2646, 30-2647, 30-2653, 30-2654, 30-2655, 30-2656, and 30-2657, if  
13 appointed a conservator.

14           (2) The Public Guardian shall:

15           (a) Be considered as an interested party in the welfare  
16 of the ward or protected person for purposes of filing a motion for  
17 termination or modification of a public guardianship or public  
18 conservatorship;

19           (b) Visit the facility in which the ward or protected  
20 person is to be placed if it is proposed that the individual be  
21 placed outside his or her home; and

22           (c) Monitor the ward or protected person and his or her  
23 care and progress on a continuing basis. Monitoring shall, at a  
24 minimum, consist of monthly personal contact with the ward or  
25 protected person. The Public Guardian shall maintain a written record

1 of each visit with a ward or protected person. The Public Guardian  
2 shall maintain periodic contact with all individuals and agencies,  
3 public or private, providing care or related services to the ward or  
4 protected person.

5           Sec. 17. The Public Guardian may be discharged by a court  
6 with respect to any of the authority granted over a ward or protected  
7 person upon petition of such individual, any interested party, or the  
8 Public Guardian or upon the court's own motion when it appears that  
9 the services of the Public Guardian are no longer necessary.

10           Sec. 18. The Public Guardianship Cash Fund is created.  
11 The State Court Administrator shall administer the fund. The fund  
12 shall consist of money remitted pursuant to the Public Guardianship  
13 Act. The fund shall only be used to support the Public Guardianship  
14 Act. Any money in the fund available for investment shall be invested  
15 by the state investment officer pursuant to the Nebraska Capital  
16 Expansion Act and the Nebraska State Funds Investment Act.

17           Sec. 19. Section 30-2201, Revised Statutes Cumulative  
18 Supplement, 2012, is amended to read:

19           30-2201 Sections 30-2201 to 30-2902, 30-3901 to 30-3923,  
20 and 30-4001 to 30-4045 and the Public Guardianship Act shall be known  
21 and may be cited as the Nebraska Probate Code.

22           Sec. 20. Section 30-2601, Revised Statutes Supplement,  
23 2013, is amended to read:

24           30-2601 Unless otherwise apparent from the context, in  
25 the Nebraska Probate Code:

1           (1) Incapacitated person means any person who is impaired  
2 by reason of mental illness, mental deficiency, physical illness or  
3 disability, chronic use of drugs, chronic intoxication, or other  
4 cause (except minority) to the extent that the person lacks  
5 sufficient understanding or capacity to make or communicate  
6 responsible decisions concerning himself or herself;

7           (2) A protective proceeding is a proceeding under the  
8 provisions of section 30-2630 to determine that a person cannot  
9 effectively manage or apply his or her estate to necessary ends,  
10 either because the person lacks the ability or is otherwise  
11 inconvenienced, or because the person is a minor, and to secure  
12 administration of the person's estate by a conservator or other  
13 appropriate relief;

14           (3) A protected person is a minor or other person for  
15 whom a conservator has been appointed or other protective order has  
16 been made;

17           (4) A ward is a person for whom a guardian has been  
18 appointed. A minor ward is a minor for whom a guardian has been  
19 appointed solely because of minority;

20           (5) Full guardianship means the guardian has been granted  
21 all powers which may be conferred upon a guardian by law;

22           (6) Guardian means any person appointed to protect a ward  
23 and may include the Public Guardian;

24           (7) Public Guardian is as defined in section 3 of this  
25 act;

1           ~~(6)-(8)~~ Limited guardianship means any guardianship which  
2 is not a full guardianship; ~~and~~

3           (9) Conservator means any person appointed to protect a  
4 protected person and may include the Public Guardian; and

5           ~~(7)-(10)~~ For purposes of article 26 of the Nebraska  
6 Probate Code, interested person means children, spouses, those  
7 persons who would be the heirs if the ward or person alleged to be  
8 incapacitated died without leaving a valid will who are adults and  
9 any trustee of any trust executed by the ward or person alleged to be  
10 incapacitated. After the death of a ward, interested person also  
11 includes the personal representative of a deceased ward's estate, the  
12 deceased ward's heirs in an intestate estate, and the deceased ward's  
13 devisees in a testate estate. The meaning of interested person as it  
14 relates to particular persons may vary from time to time and must be  
15 determined according to the particular purposes of, and matter  
16 involved in, any proceeding. If there are no persons identified as  
17 interested persons above, then interested person shall also include  
18 any person or entity named as a devisee in the most recently executed  
19 will of the ward or person alleged to be incapacitated.

20           Sec. 21. Section 30-2601.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           30-2601.01 ~~The State Court Administrator~~ Public Guardian  
23 shall approve training curricula for persons appointed as guardians  
24 and conservators. Such training curricula shall include, but not be  
25 limited to:

1                   (1) The rights of wards under sections 30-2601 to 30-2661  
2 and the Public Guardianship Act specifically and under the laws of  
3 the United States generally;

4                   (2) The duties and responsibilities of guardians;

5                   (3) Reporting requirements;

6                   (4) Least restrictive options in the areas of housing,  
7 medical care, and psychiatric care; and

8                   (5) Resources to assist guardians in fulfilling their  
9 duties.

10                   Sec. 22. Section 30-2626, Revised Statutes Cumulative  
11 Supplement, 2012, is amended to read:

12                   30-2626 (a) If a person alleged to be incapacitated has  
13 no guardian and an emergency exists, the court may, pending notice  
14 and hearing, exercise the power of a guardian or enter an ex parte  
15 order appointing a temporary guardian to address the emergency. The  
16 order and letters of temporary guardianship shall specify the powers  
17 and duties of the temporary guardian limiting the powers and duties  
18 to those necessary to address the emergency.

19                   (b) When the court takes action to exercise the powers of  
20 a guardian or to appoint a temporary guardian under subsection (a) of  
21 this section, an expedited hearing shall be held if requested by the  
22 person alleged to be incapacitated, or by any interested person, if  
23 the request is filed more than ten business days prior to the date  
24 set for the hearing on the petition for appointment of the guardian.  
25 If an expedited hearing is to be held, the hearing shall be held

1 within ten business days after the request is received. At the  
2 hearing on the temporary appointment, the petitioner shall have the  
3 burden of showing by a preponderance of the evidence that temporary  
4 guardianship continues to be necessary to address the emergency  
5 situation. Unless the person alleged to be incapacitated has counsel  
6 of his or her own choice, the court may appoint an attorney to  
7 represent the person alleged to be incapacitated at the hearing as  
8 provided in section 30-2619.

9 (c) If an expedited hearing is requested, notice shall be  
10 served as provided in section 30-2625. The notice shall specify that  
11 a temporary guardian has been appointed and shall be given at least  
12 twenty-four hours prior to the expedited hearing.

13 (d) At the expedited hearing, the court may render a  
14 judgment authorizing the temporary guardianship to continue beyond  
15 the original ten-day period. The judgment shall prescribe the  
16 specific powers and duties of the temporary guardian in the letters  
17 of temporary guardianship and shall be effective for a single ninety-  
18 day period. For good cause shown, the court may extend the temporary  
19 guardianship for successive ninety-day periods.

20 (e) The temporary guardianship shall terminate at the end  
21 of the ninety-day period in which the temporary guardianship is valid  
22 or at any time prior thereto if the court deems the circumstances  
23 leading to the order for temporary guardianship no longer exist or if  
24 an order has been entered as a result of a hearing pursuant to  
25 section 30-2619 which has been held during the ninety-day period.

1           (f) If the court denies the request for the ex parte  
2 order, the court may, in its discretion, enter an order for an  
3 expedited hearing pursuant to subsections (b) through (e) of this  
4 section.

5           (g) If the petitioner requests the entry of an order of  
6 temporary guardianship pursuant to subsection (a) of this section  
7 without requesting an ex parte order, the court may hold an expedited  
8 hearing pursuant to subsections (b) through (e) of this section.

9           (h) If an appointed guardian is not effectively  
10 performing his or her duties and the court further finds that the  
11 welfare of the incapacitated person requires immediate action, it  
12 may, pending notice and hearing in accordance with section 30-2220,  
13 appoint a temporary guardian for the incapacitated person for a  
14 specified period not to exceed ninety days. For good cause shown, the  
15 court may extend the temporary guardianship for successive ninety-day  
16 periods. A temporary guardian appointed pursuant to this subsection  
17 has only the powers and duties specified in the previously appointed  
18 guardian's letters of guardianship, and the authority of any  
19 permanent guardian previously appointed by the court is suspended so  
20 long as a temporary guardian has authority.

21           (i) A temporary guardian may be removed at any time. A  
22 temporary guardian shall make any report the court requires, except  
23 that a temporary guardian shall not be required to provide the check  
24 or report under section 30-2602.02. In other respects the provisions  
25 of the Nebraska Probate Code concerning guardians apply to temporary

1 guardians.

2 (j) The court may appoint the Public Guardian as the  
3 temporary guardian pursuant to the Public Guardianship Act.

4 Sec. 23. Section 30-2627, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 30-2627 (a) Any competent person or a ~~suitable~~  
7 ~~institution~~ the Public Guardian may be appointed guardian of a person  
8 alleged to be incapacitated, except that it shall be unlawful for any  
9 agency providing residential care in an institution or community-  
10 based program, or any owner, part owner, manager, administrator,  
11 employee, or spouse of an owner, part owner, manager, administrator,  
12 or employee of any nursing home, room and board home, assisted-living  
13 facility, or institution engaged in the care, treatment, or housing  
14 of any person physically or mentally handicapped, infirm, or aged to  
15 be appointed guardian of any such person residing, being under care,  
16 receiving treatment, or being housed in any such home, facility, or  
17 institution within the State of Nebraska. Nothing in this subsection  
18 shall prevent the spouse, adult child, parent, or other relative of  
19 the person alleged to be incapacitated from being appointed guardian  
20 or prevent the guardian officer for one of the Nebraska veterans  
21 homes as provided in section 80-327 from being appointed guardian or  
22 conservator for the person alleged to be incapacitated. It shall be  
23 unlawful for any county attorney or deputy county attorney appointed  
24 as guardian for a person alleged to be incapacitated to circumvent  
25 his or her duties or the rights of the ward pursuant to the Nebraska

1 Mental Health Commitment Act by consenting to inpatient or outpatient  
2 psychiatric treatment over the objection of the ward.

3 (b) Persons who are not disqualified under subsection (a)  
4 of this section and who exhibit the ability to exercise the powers to  
5 be assigned by the court have priority for appointment as guardian in  
6 the following order:

7 (1) A person nominated most recently by one of the  
8 following methods:

9 (i) A person nominated by the incapacitated person in a  
10 power of attorney or a durable power of attorney;

11 (ii) A person acting under a power of attorney or durable  
12 power of attorney; or

13 (iii) A person nominated by an attorney in fact who is  
14 given power to nominate in a power of attorney or a durable power of  
15 attorney executed by the incapacitated person;

16 (2) The spouse of the incapacitated person;

17 (3) An adult child of the incapacitated person;

18 (4) A parent of the incapacitated person, including a  
19 person nominated by will or other writing signed by a deceased  
20 parent;

21 (5) Any relative of the incapacitated person with whom he  
22 or she has resided for more than six months prior to the filing of  
23 the petition;

24 (6) A person nominated by the person who is caring for  
25 him or her or paying benefits to him or her; -

1                   (7) The Public Guardian.

2                   (c) When appointing a guardian, the court shall take into  
3 consideration the expressed wishes of the allegedly incapacitated  
4 person. The court, acting in the best interest of the incapacitated  
5 person, may pass over a person having priority and appoint a person  
6 having lower priority or no priority. With respect to persons having  
7 equal priority, the court shall select the person it deems best  
8 qualified to serve.

9                   (d) In its order of appointment, unless waived by the  
10 court, the court shall require any person appointed as guardian to  
11 successfully complete within three months of such appointment a  
12 training program approved by the ~~State Court Administrator.~~ Public  
13 Guardian. If the person appointed as guardian does not complete the  
14 training program, the court shall issue an order to show cause why  
15 such person should not be removed as guardian.

16                   (e) The court may require a guardian to furnish a bond in  
17 an amount and conditioned in accordance with the provisions of  
18 sections 30-2640 and 30-2641. The Public Guardian shall not be  
19 required to post bond.

20                   Sec. 24. Section 30-2630.01, Revised Statutes Cumulative  
21 Supplement, 2012, is amended to read:

22                   30-2630.01 (a) If a person alleged to be in need of  
23 protection under section 30-2630 has no conservator and an emergency  
24 exists, the court may, pending notice and hearing, exercise the power  
25 of a conservator or enter an emergency protective order appointing a

1 temporary conservator, who may be the Public Guardian, to address the  
2 emergency.

3 (b) When the court takes action to exercise the powers of  
4 a conservator or to appoint a temporary conservator under subsection  
5 (a) of this section, an expedited hearing shall be held if requested  
6 by the person alleged to be in need of protection, or by any  
7 interested person, if the request is filed more than ten business  
8 days prior to the date set for the hearing on the petition for  
9 appointment of the conservator. If an expedited hearing is to be  
10 held, the hearing shall be held within ten business days after the  
11 request is received. At the hearing on the temporary appointment, the  
12 petitioner shall have the burden of showing by a preponderance of the  
13 evidence that temporary conservatorship continues to be necessary to  
14 address the emergency situation. Unless the person alleged to be in  
15 need of protection has counsel of his or her own choice, the court  
16 may appoint an attorney to represent the person at the hearing as  
17 provided in section 30-2636.

18 (c) If an expedited hearing is requested, notice shall be  
19 served as provided in section 30-2634. The notice shall specify that  
20 a temporary conservator has been appointed and shall be given at  
21 least twenty-four hours prior to the expedited hearing.

22 (d) At the expedited hearing, the court may render a  
23 judgment authorizing the temporary conservatorship to continue beyond  
24 the original ten-day period. The judgment shall prescribe the  
25 specific powers and duties of the temporary conservator in the

1 letters of temporary conservatorship and shall be effective for a  
2 ninety-day period. For good cause shown, the court may extend the  
3 temporary conservatorship for successive ninety-day periods.

4 (e) The temporary conservatorship shall terminate at the  
5 end of the ninety-day period in which the temporary conservatorship  
6 is valid or at any time prior thereto if the court deems the  
7 circumstances leading to the order for temporary conservatorship no  
8 longer exist or if an order has been entered as a result of a hearing  
9 pursuant to section 30-2636 which has been held during the ninety-day  
10 period.

11 (f) If the court denies the request for the ex parte  
12 order, the court may, in its discretion, enter an order for an  
13 expedited hearing pursuant to subsections (b) through (e) of this  
14 section.

15 (g) If the petitioner requests the entry of an order of  
16 temporary conservatorship pursuant to subsection (a) of this section  
17 without requesting an ex parte order, the court may hold an expedited  
18 hearing pursuant to subsections (b) through (e) of this section.

19 (h) A temporary conservator may be removed at any time. A  
20 temporary conservator shall make any report the court requires,  
21 except that a temporary conservator shall not be required to provide  
22 the national criminal history record check and report under section  
23 30-2602.02. In other respects the provisions of the Nebraska Probate  
24 Code concerning conservators apply to temporary conservators.

25 Sec. 25. Section 30-2639, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           30-2639 (a) The court may appoint an individual, ~~or~~a  
3 corporation with general power to serve as trustee, or the Public  
4 Guardian as conservator of the estate of a protected person, except  
5 that it shall be unlawful for any agency providing residential care  
6 in an institution or community-based program or any owner, part  
7 owner, manager, administrator, employee, or spouse of an owner, part  
8 owner, manager, administrator, or employee of any nursing home, room  
9 and board home, assisted-living facility, or institution engaged in  
10 the care, treatment, or housing of any person physically or mentally  
11 handicapped, infirm, or aged to be appointed conservator of any such  
12 person residing, being under care, receiving treatment, or being  
13 housed in any such home, facility, or institution within the State of  
14 Nebraska. Nothing in this subsection shall prevent the spouse, adult  
15 child, parent, or other relative of the person in need of protection  
16 from being appointed conservator.

17           (b) Persons who are not disqualified under subsection (a)  
18 of this section and who exhibit the ability to exercise the powers to  
19 be assigned by the court have priority for appointment as conservator  
20 in the following order:

21           (1) A person nominated most recently by one of the  
22 following methods:

23           (i) A person nominated by the protected person in a power  
24 of attorney or durable power of attorney;

25           (ii) A person acting under a power of attorney or durable

1 power of attorney; or

2 (iii) A person nominated by an attorney in fact who is  
3 given power to nominate in a power of attorney or a durable power of  
4 attorney executed by the protected person;

5 (2) A conservator, guardian of property, or other like  
6 fiduciary appointed or recognized by the appropriate court of any  
7 other jurisdiction in which the protected person resides;

8 (3) An individual or corporation nominated by the  
9 protected person if he or she is fourteen or more years of age and  
10 has, in the opinion of the court, sufficient mental capacity to make  
11 an intelligent choice;

12 (4) The spouse of the protected person;

13 (5) An adult child of the protected person;

14 (6) A parent of the protected person or a person  
15 nominated by the will of a deceased parent;

16 (7) Any relative of the protected person with whom he or  
17 she has resided for more than six months prior to the filing of the  
18 petition;

19 (8) A person nominated by the person who is caring for  
20 him or her or paying benefits to him or her; -

21 (9) The Public Guardian.

22 (c) When appointing a conservator, the court shall take  
23 into consideration the expressed wishes of the person to be  
24 protected. A person having priority listed in subdivision (2), (4),  
25 (5), (6), or (7) of subsection (b) of this section may nominate in

1 writing a person to serve in his or her stead. With respect to  
2 persons having equal priority, the court shall select the person it  
3 deems best qualified of those willing to serve. The court, acting in  
4 the best interest of the protected person, may pass over a person  
5 having priority and appoint a person having lower priority or no  
6 priority.

7 (d) In its order of appointment, unless waived by the  
8 court, the court shall require any person appointed as conservator to  
9 successfully complete within three months of such appointment a  
10 training program approved by the ~~State Court Administrator.~~ Public  
11 Guardian. If the person appointed as conservator does not complete  
12 the training program, the court shall issue an order to show cause  
13 why such person should not be removed as conservator.

14 Sec. 26. Section 30-2640, Revised Statutes Cumulative  
15 Supplement, 2012, is amended to read:

16 30-2640 For estates with a net value of more than ten  
17 thousand dollars, the bond for a conservator shall be in the amount  
18 of the aggregate capital value of the personal property of the estate  
19 in the conservator's control plus one year's estimated income from  
20 all sources minus the value of securities and other assets deposited  
21 under arrangements requiring an order of the court for their removal.  
22 The bond of the conservator shall be conditioned upon the faithful  
23 discharge of all duties of the trust according to law, with sureties  
24 as the court shall specify. The court, in lieu of sureties on a bond,  
25 may accept other security for the performance of the bond, including

1 a pledge of securities or a mortgage of land owned by the  
2 conservator. For good cause shown, the court may eliminate the  
3 requirement of a bond or decrease or increase the required amount of  
4 any such bond previously furnished. The court shall not require a  
5 bond if the protected person executed a written, valid power of  
6 attorney that specifically nominates a guardian or conservator and  
7 specifically does not require a bond. The court shall consider as one  
8 of the factors of good cause, when determining whether a bond should  
9 be required and the amount thereof, the protected person's choice of  
10 any attorney in fact or alternative attorney in fact. No bond shall  
11 be required of any financial institution, as that term is defined in  
12 subdivision (12) of section 8-101, or any officer, director,  
13 employee, or agent of the financial institution serving as a  
14 conservator, or any trust company serving as a conservator. The  
15 Public Guardian shall not be required to post bond.

16 Sec. 27. This act becomes operative on January 1, 2015.

17 Sec. 28. Original sections 30-2601.01, 30-2627, and  
18 30-2639, Reissue Revised Statutes of Nebraska, sections 30-2201,  
19 30-2626, 30-2630.01, and 30-2640, Revised Statutes Cumulative  
20 Supplement, 2012, and section 30-2601, Revised Statutes Supplement,  
21 2013, are repealed.