

HOUSE BILL No. 5345

November 21, 1991, Introduced by Rep. Perry Bullard and referred to the Committee on Judiciary.

A bill to amend sections 461, 464, 465, 467, 468, 469, 470, 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, and 490 of Act No. 642 of the Public Acts of 1978, entitled as amended

"Revised probate code,"

sections 461, 464, 465, 467, 468, and 474 as amended by Act No. 396 of the Public Acts of 1980 and section 488 as amended by Act No. 222 of the Public Acts of 1988, being sections 700.461, 700.464, 700.465, 700.467, 700.468, 700.469, 700.470, 700.471, 700.472, 700.473, 700.474, 700.476, 700.477, 700.478, 700.479, 700.480, 700.481, 700.482, 700.483, 700.484, 700.485, 700.486, 700.487, 700.488, and 700.490 of the Michigan Compiled Laws; to add sections 467a, 467b, and 468a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 461, 464, 465, 467, 468, 469, 470, 471,
2 472, 473, 474, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485,
3 486, 487, 488, and 490 of Act No. 642 of the Public Acts of 1978,
4 sections 461, 464, 465, 467, 468, and 474 as amended by Act
5 No. 396 of the Public Acts of 1980 and section 488 as amended by
6 Act No. 222 of the Public Acts of 1988, being sections 700.461,
7 700.464, 700.465, 700.467, 700.468, 700.469, 700.470, 700.471,
8 700.472, 700.473, 700.474, 700.476, 700.477, 700.478, 700.479,
9 700.480, 700.481, 700.482, 700.483, 700.484, 700.485, 700.486,
10 700.487, 700.488, and 700.490 of the Michigan Compiled Laws, are
11 amended and sections 467a, 467b, and 468a are added to read as
12 follows:

13 Sec. 461. Upon petition and after notice and hearing in
14 accordance with sections ~~461~~ 462 to 491, the court may appoint
15 a conservator or make other protective order for cause as
16 follows:

17 (a) Appointment of a conservator or other protective order
18 may be made in relation to the estate and FINANCIAL affairs of a
19 minor if the court determines that the minor owns money or prop-
20 erty that requires management or protection ~~which~~ THAT cannot
21 otherwise be provided, THAT THE MINOR has or may have business
22 affairs ~~which~~ THAT may be jeopardized or prevented by the
23 person's minority, or that ~~funds are~~ MONEY IS needed for the
24 ~~person's~~ MINOR'S support and education and that protection is
25 necessary ~~or desirable~~ to obtain, retain, or provide ~~funds~~
26 MONEY.

1 (b) Appointment of a conservator or other protective order
 2 may be made in relation to the estate and FINANCIAL affairs of ~~a~~
 3 ~~person~~ AN ADULT if the court determines ~~that~~ ALL OF THE
 4 FOLLOWING:

5 (i) THAT the person is unable to manage his or her property
 6 and FINANCIAL affairs effectively for reasons such as mental ill-
 7 ness OR DISABILITY, mental incompetency, physical illness or dis-
 8 ability, chronic use of drugs, chronic intoxication, confinement,
 9 detention by a foreign power, or disappearance. ~~, and~~

10 (ii) THAT the person has property ~~which~~ THAT will be
 11 wasted or dissipated unless proper management is provided, or
 12 that ~~funds are~~ MONEY IS needed for the support, care, and wel-
 13 fare of the person or those entitled to be supported by the
 14 person. ~~and that~~

15 (iii) THAT protection is necessary ~~or desirable~~ to obtain,
 16 RETAIN, or provide ~~funds~~ MONEY.

17 (c) Appointment of a conservator may be made in relation to
 18 the estate and FINANCIAL affairs of ~~a person who is mentally~~
 19 ~~competent, but due to age or physical infirmity~~ ANY ADULT WHO is
 20 unable to manage his or her property and FINANCIAL affairs effec-
 21 tively and who, recognizing this ~~disability~~ INABILITY,
 22 ~~requests~~ VOLUNTARILY PETITIONS THE COURT FOR appointment of a
 23 conservator.

24 Sec. 464. (1) The person to be protected, a person who is
 25 interested in that person's estate, affairs, or welfare including
 26 his or her parent, guardian, or custodian, or a person who would
 27 be adversely affected by lack of effective management of the

1 property and affairs of the person ~~to be protected~~ ALLEGED TO
2 NEED PROTECTION may petition for the appointment of a conservator
3 or for other appropriate protective order. ~~However, if the~~
4 ~~person to be protected is mentally competent but due to age or~~
5 ~~physical infirmity desires the appointment of a conservator to~~
6 ~~assist in the management of his or her property and affairs, only~~
7 ~~that person may petition for the appointment of a conservator.~~

8 (2) The petition shall set forth, to the extent known, the
9 interest of the petitioner; the name, age, residence, and address
10 of the person ~~to be protected~~ ALLEGED TO NEED PROTECTION; the
11 name and address of his or her guardian, IF ANY; the name and
12 address of ~~his or her nearest relative known to the petitioner~~
13 ANY OTHER PERSON AS PROVIDED BY COURT RULE; a general statement
14 of his or her property with an estimate of the value of the
15 property; AND AN ESTIMATE OF HIS OR HER ANNUAL INCOME, INCLUDING
16 THE SOURCES OF THAT INCOME. ~~, including any compensation, insur-~~
17 ~~ance, pension, or allowance to which the person is entitled; and~~
18 ~~the reason why appointment of a conservator or other protective~~
19 ~~order is necessary. If the appointment of a conservator is~~
20 ~~requested, the petition shall set forth the name and address of~~
21 ~~the person whose appointment is sought and the basis of that~~
22 ~~person's priority for appointment.~~

23 (3) THE PETITION SHALL SET FORTH SPECIFIC FACTS ABOUT THE
24 PERSON'S CONDITION AND SPECIFIC EXAMPLES OF THE PERSON'S RECENT
25 CONDUCT THAT DEMONSTRATE THE NEED FOR THE APPOINTMENT OF A CON-
26 SERVATOR OR OTHER PROTECTIVE ORDER.

1 (4) IF THE APPOINTMENT OF A CONSERVATOR IS REQUESTED, THE
2 PETITION SHALL SET FORTH THE NAME AND ADDRESS OF THE PERSON WHOSE
3 APPOINTMENT IS SOUGHT AND THE BASIS OF THAT PERSON'S PRIORITY FOR
4 APPOINTMENT.

5 Sec. 465. ~~On a petition for appointment of a conservator~~
6 ~~or other protective order, the person to be protected and the~~
7 ~~person's spouse or, if none, the person's parents, shall be~~
8 ~~served personally with notice of the proceeding at least 10 days~~
9 ~~before the date of hearing if they can be found within the state,~~
10 ~~or, if they cannot be found within the state, they shall be given~~
11 ~~notice as required by court rule. Waiver by the person to be~~
12 ~~protected is not effective unless the person attends the hearing,~~
13 ~~or, if minority is not the reason for the proceeding, unless~~
14 ~~waiver is confirmed in an interview with a visitor or guardian ad~~
15 ~~litem.~~

16 (1) IN A PROCEEDING FOR THE APPOINTMENT OF A CONSERVATOR OR
17 OTHER PROTECTIVE ORDER, NOTICE SHALL BE GIVEN TO INTERESTED PAR-
18 TIES WITHIN THE TIME PROVIDED BY COURT RULE.

19 (2) NOTICE SHALL BE SERVED PERSONALLY ON THE PERSON ALLEGED
20 TO NEED PROTECTION. NOTICE TO ALL OTHER PERSONS SHALL BE GIVEN
21 AS PROVIDED BY COURT RULE.

22 (3) A COPY OF THE PETITION SHALL BE ATTACHED TO THE NOTICE
23 OF HEARING, AND THE NOTICE TO THE PERSON ALLEGED TO NEED PROTEC-
24 TION SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

25 (A) THE NATURE, PURPOSE, AND LEGAL EFFECT OF THE APPOINTMENT
26 OF A CONSERVATOR OR OTHER PROTECTIVE ORDER.

1 (B) THE RIGHTS OF THE PERSON ALLEGED TO NEED PROTECTION IN
2 THE PROCEEDING, INCLUDING THE RIGHT TO APPOINTED LEGAL COUNSEL.

3 Sec. 467. (1) Upon receipt of a petition for appointment of
4 a conservator or other protective order because of minority, the
5 court shall set a date for A hearing on the matters alleged in
6 the petition. If, at any time in the proceeding, the court
7 determines that the interests of the minor are or may be inade-
8 quately represented, it may appoint an attorney to represent the
9 minor, giving consideration to the choice of the minor if 14
10 years of age or older. An attorney appointed by the court to
11 represent a minor has the powers and duties of a guardian ad
12 litem. AFTER A HEARING, THE COURT MAY APPOINT A CONSERVATOR OR
13 ISSUE A PROTECTIVE ORDER IF IT IS SATISFIED THAT THE MINOR
14 ALLEGED TO NEED PROTECTION MEETS THE REQUIREMENTS OF SECTION 461.

15 ~~(2) Upon receipt of a petition for appointment of a conser-~~
16 ~~vator or other protective order for reasons other than minority,~~
17 ~~the court shall set a date for hearing. Unless the person to be~~
18 ~~protected has private counsel, or unless the person to be pro-~~
19 ~~tected is mentally competent but aged or physically infirm, the~~
20 ~~court shall appoint a guardian ad litem to represent the person.~~
21 ~~If the alleged disability is mental illness, mental incompetency,~~
22 ~~physical illness or disability, chronic use of drugs, or chronic~~
23 ~~intoxication, the court may direct that the person to be pro-~~
24 ~~tected be examined by a physician designated by the court, pref-~~
25 ~~erably a physician who is not connected with an institution in~~
26 ~~which the person is a patient or is detained. The court may send~~
27 ~~a visitor to interview the person to be protected. The visitor~~

1 ~~may be a guardian ad litem or an officer or employee of the~~
2 ~~court.~~ UNLESS AN ADULT ALLEGED TO NEED PROTECTION HAS LEGAL
3 COUNSEL OR HAS VOLUNTARILY BROUGHT THE PETITION, UPON RECEIPT OF
4 A PETITION FOR APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE
5 ORDER, THE COURT SHALL CHOOSE AND APPOINT A GUARDIAN AD LITEM TO
6 REPRESENT THE ADULT.

7 ~~(3) After hearing, upon finding that a basis for the~~
8 ~~appointment of a conservator or other protective order is estab-~~
9 ~~lished, the court shall make an appointment or other appropriate~~
10 ~~protective order.~~

11 SEC. 467A. (1) FOR PROCEEDINGS UNDER THIS ARTICLE, A GUARD-
12 IAN AD LITEM FOR AN ADULT HAS ALL OF THE FOLLOWING DUTIES:

13 (A) PERSONALLY VISITING THE ADULT ALLEGED TO NEED
14 PROTECTION.

15 (B) EXPLAINING TO THE ADULT ALLEGED TO NEED PROTECTION THE
16 NATURE, PURPOSE, AND LEGAL EFFECTS OF THE APPOINTMENT OF A CON-
17 SERVATOR OR OTHER PROTECTIVE ORDER.

18 (C) EXPLAINING TO THE ADULT ALLEGED TO NEED PROTECTION THE
19 HEARING PROCEDURE AND THE PERSON'S RIGHTS IN THE HEARING PROCE-
20 DURE, INCLUDING, BUT NOT LIMITED TO, BEING PRESENT AT THE HEAR-
21 ING, CONTESTING THE PETITION, REQUESTING LIMITS ON THE
22 CONSERVATOR'S POWERS, OBJECTING TO A PARTICULAR PERSON BEING
23 APPOINTED CONSERVATOR, AND BEING REPRESENTED BY LEGAL COUNSEL,
24 WITH THAT LEGAL COUNSEL BEING COURT APPOINTED IF THE PERSON IS
25 UNABLE TO AFFORD LEGAL COUNSEL.

1 (D) INFORMING THE ADULT ALLEGED TO NEED PROTECTION OF THE
2 NAME OF ANY PERSON KNOWN TO BE SEEKING APPOINTMENT AS
3 CONSERVATOR.

4 (E) MAKING DETERMINATIONS, AND INFORMING THE COURT OF THOSE
5 DETERMINATIONS, ON ALL OF THE FOLLOWING:

6 (i) WHETHER THE ADULT ALLEGED TO NEED PROTECTION WISHES TO
7 BE PRESENT AT THE HEARING.

8 (ii) WHETHER THE ADULT ALLEGED TO NEED PROTECTION WISHES TO
9 CONTEST THE PETITION.

10 (iii) WHETHER THE ADULT ALLEGED TO NEED PROTECTION WISHES
11 LIMITS PLACED ON THE CONSERVATOR'S POWERS.

12 (iv) WHETHER THE ADULT ALLEGED TO NEED PROTECTION OBJECTS TO
13 A PARTICULAR PERSON BEING APPOINTED CONSERVATOR.

14 (2) IF THE ADULT ALLEGED TO NEED PROTECTION WISHES TO CON-
15 TEST THE PETITION, TO HAVE LIMITS PLACED ON THE CONSERVATOR'S
16 POWERS, OR TO OBJECT TO A PARTICULAR PERSON BEING APPOINTED CON-
17 SERVATOR, THE COURT SHALL APPOINT LEGAL COUNSEL, IF LEGAL COUNSEL
18 HAS NOT BEEN SECURED, TO REPRESENT THE ADULT ALLEGED TO NEED
19 PROTECTION. IF THE ADULT ALLEGED TO NEED PROTECTION IS INDIGENT,
20 THE STATE SHALL BEAR THE EXPENSE OF LEGAL COUNSEL.

21 (3) IF THE ADULT ALLEGED TO NEED PROTECTION REQUESTS LEGAL
22 COUNSEL, OR IF THE GUARDIAN AD LITEM DETERMINES IT IS IN THE BEST
23 INTEREST OF THE ADULT TO HAVE LEGAL COUNSEL, AND IF LEGAL COUNSEL
24 HAS NOT BEEN SECURED, THE COURT SHALL APPOINT LEGAL COUNSEL. IF
25 THE ADULT ALLEGED TO NEED PROTECTION IS INDIGENT, THE STATE SHALL
26 BEAR THE EXPENSE OF LEGAL COUNSEL.

1 (4) IF THE ADULT ALLEGED TO NEED PROTECTION HAS LEGAL
2 COUNSEL APPOINTED PURSUANT TO SUBSECTION (2) OR (3), THE
3 APPOINTMENT OF A GUARDIAN AD LITEM TERMINATES.

4 SEC. 467B. (1) THE ADULT ALLEGED TO NEED PROTECTION IS
5 ENTITLED TO BE PRESENT IN PERSON AT A HEARING HELD UNDER THIS
6 ARTICLE AND TO SEE OR HEAR ALL EVIDENCE BEARING UPON HIS OR HER
7 CONDITION. IF THE ADULT WISHES TO BE PRESENT AT THE HEARING, ALL
8 PRACTICAL STEPS SHALL BE TAKEN TO ENSURE HIS OR HER PRESENCE,
9 INCLUDING, IF NECESSARY, MOVING THE SITE OF THE HEARING.

10 (2) THE ADULT ALLEGED TO NEED PROTECTION IS ENTITLED TO BE
11 REPRESENTED BY LEGAL COUNSEL, TO TRIAL BY JURY, TO PRESENT EVI-
12 DENCE, AND TO CROSS-EXAMINE WITNESSES, INCLUDING THE ADULT'S CUR-
13 RENT OR FORMER GUARDIAN AD LITEM.

14 (3) IF REQUESTED BY THE ADULT ALLEGED TO NEED PROTECTION OR
15 THAT PERSON'S LEGAL COUNSEL, A HEARING UNDER THIS ARTICLE MAY BE
16 CLOSED AND HELD WITHOUT A JURY.

17 Sec. 468. ~~(1) The court has the following powers which may~~
18 ~~be exercised directly or through a conservator with respect to~~
19 ~~the estate and affairs of protected persons: (a) While a peti-~~
20 ~~tion for appointment of a conservator or other protective order~~
21 ~~is pending, UPON NOTICE TO THE PERSON ALLEGED TO NEED PROTECTION~~
22 ~~and after preliminary hearing, and without notice to others,~~
23 the court may preserve and apply the property of the person
24 ALLEGED to ~~be protected~~ NEED PROTECTION as may be required for
25 the person's benefit or the benefit of the person's dependents.

26 ~~(b) After a hearing, and upon determining that a basis for~~
27 ~~an appointment or other protective order exists with respect to a~~

~~1 minor without other disability, the court has all those powers
2 over the estate and affairs of the minor which are or may be nec-
3 essary for the best interests of the minor, the minor's family,
4 and members of the minor's household.~~

~~5 (c) After a hearing, and upon determining that a basis for
6 an appointment or other protective order exists with respect to a
7 person for reasons other than minority, the court, for the bene-
8 fit of the person and members of the person's household, has all
9 the powers over the person's estate and affairs which the person
10 could exercise if present and not under disability, except the
11 power to make a will. These powers include the power to make
12 gifts, to convey or release contingent and expectant interests in
13 property including marital property rights and any right of sur-
14 vivorship incident to joint tenancy or tenancy by the entirety,
15 to exercise or release powers as trustee, personal representa-
16 tive, custodian for minors, conservator, or donee of a power of
17 appointment, to enter into contracts, to create revocable or
18 irrevocable trusts of property of the estate which may extend
19 beyond disability or life, to exercise options of the disabled
20 person to purchase securities or other property, to exercise
21 rights to elect options and change beneficiaries under insurance
22 and annuity policies and to surrender the policies for their cash
23 value, to exercise the right to an elective share in the estate
24 of a deceased spouse, and to renounce any interest by testate or
25 intestate succession or by inter vivos transfer.~~

~~26 (d) The court may exercise, or direct the exercise of, its
27 authority to exercise or release powers of appointment of which~~

~~1 the protected person is donee, to renounce interests, to make
2 gifts in trust or otherwise exceeding 20% of any year's income of
3 the estate, or to change beneficiaries under insurance and annu-
4 ity policies, only if satisfied, after notice and hearing, that
5 it is in the best interests of the protected person, and that the
6 person is incapable of consenting or has consented to the pro-
7 posed exercise of power.~~

~~8 (2) An order made pursuant to this section determining that
9 a basis for appointment of a conservator or other protective
10 order exists, does not affect the capacity of the protected
11 person.~~

~~12 (3) To encourage the self reliance and independence of a
13 protected person, the court may authorize the individual to func-
14 tion without the consent or supervision of the person's conserva-
15 tor in the handling of part of his or her money or property,
16 including the maintenance of a savings or checking account in a
17 bank or other institution, and, to the extent authorized, any
18 person may deal with that individual as though the individual
19 were mentally competent.~~

20 SEC. 468A. (1) AFTER A HEARING, THE COURT MAY APPOINT A
21 CONSERVATOR OR ISSUE A PROTECTIVE ORDER IF IT IS SATISFIED BY
22 CLEAR AND CONVINCING EVIDENCE THAT THE ADULT ALLEGED TO NEED PRO-
23 TECTION MEETS THE REQUIREMENTS OF SECTION 461.

24 (2) A CONSERVATOR SHALL BE GRANTED POWERS OVER ONLY THOSE
25 ASSETS AND THAT INCOME OF THE PROTECTED PERSON, AND ONLY FOR THAT
26 PERIOD OF TIME, AS IS NECESSARY TO PROVIDE FOR THE DEMONSTRATED
27 NEED OF THE PROTECTED PERSON.

1 (3) TO ENCOURAGE THE SELF-RELIANCE AND INDEPENDENCE OF A
2 PROTECTED PERSON, THE COURT MAY AUTHORIZE THE INDIVIDUAL TO FUNC-
3 TION WITHOUT THE CONSENT OR SUPERVISION OF THE PERSON'S CONSERVA-
4 TOR IN THE HANDLING OF PART OF HIS OR HER MONEY OR PROPERTY,
5 INCLUDING THE MAINTENANCE OF A SAVINGS OR CHECKING ACCOUNT IN A
6 BANK OR OTHER INSTITUTION.

7 (4) A COURT ORDER ESTABLISHING A CONSERVATORSHIP SHALL SPEC-
8 IFY ANY ASSETS AND INCOME OF THE PROTECTED PERSON NOT SUBJECT TO
9 THE CONSERVATORSHIP, ANY OTHER LIMITATIONS ON THE CONSERVATOR'S
10 POWERS, AND ANY TIME LIMITS ON THE CONSERVATORSHIP.

11 Sec. 469. (1) If it is established in a proper proceeding
12 that a basis exists as described in section 461 for affecting the
13 property and FINANCIAL affairs of a person, the court, without
14 appointing a conservator, may authorize, direct, or ratify any
15 transaction necessary or desirable to achieve any security, serv-
16 ice, or care arrangement meeting the foreseeable needs of the
17 protected person. ~~Protective arrangements include payment,~~
18 ~~delivery, deposit, or retention of funds or property, sale, mort-~~
19 ~~gage, lease or other transfer of property, entry into an annuity~~
20 ~~contract, a contract for life care, a deposit contract, a con-~~
21 ~~tract for training and education, or addition to or establishment~~
22 ~~of a suitable trust.~~

23 (2) ~~When~~ IF it is established in a proper proceeding that
24 a basis exists as described in section 461 for affecting the
25 property and FINANCIAL affairs of a person, the court, without
26 appointing a conservator, may authorize, direct, or ratify any
27 contract, trust, or other transaction relating to the protected

1 person's financial affairs or involving the person's estate if
2 the court determines that the transaction is in the best inter-
3 ests of the protected person.

4 (3) Before approving a protective arrangement or other
5 transaction under this section, the court shall consider the
6 interests of creditors and dependents of the protected person
7 and, in view of the person's ~~disability~~ CIRCUMSTANCES THAT
8 RESULT IN THE ORDER, whether the protected person needs the con-
9 tinuing protection of a GUARDIAN OR conservator. The court may
10 appoint a special conservator to assist in the accomplishment of
11 any protective arrangement or other transaction authorized under
12 this section who shall have the authority conferred by the order
13 and serve until discharged by order after report to the court of
14 all matters done pursuant to the order of appointment.

15 Sec. 470. (1) The court may appoint an individual, ~~or~~ a
16 corporation with general power to serve as trustee, OR A NON-
17 PROFIT CORPORATION WHOSE PRINCIPAL BUSINESS IS PROVIDING FIDU-
18 CIARY SERVICES as conservator ~~of the estate~~ of a protected
19 person. The following are entitled to consideration for appoint-
20 ment in the order listed:

21 (a) A conservator, guardian of property, or other like fidu-
22 ciary appointed or recognized by the appropriate court of another
23 jurisdiction in which the protected person resides.

24 (b) An individual or corporation nominated by the protected
25 person if the person is 14 years of age or older and ~~, in the~~
26 ~~opinion of the court, has sufficient mental capacity to make an~~

1 ~~intelligent choice~~ IF THE NOMINEE IS SUITABLE AND IS WILLING TO
2 SERVE.

3 (C) A PERSON PREVIOUSLY DESIGNATED BY THE PROTECTED PERSON
4 AS ATTORNEY-IN-FACT THROUGH A DURABLE POWER OF ATTORNEY.

5 (D) ~~(c)~~ The spouse of the protected person.

6 (E) ~~(d)~~ An adult child of the protected person.

7 (F) ~~(e)~~ A parent of the protected person, or a person nom-
8 inated by the will of a deceased parent.

9 (G) ~~(f)~~ A relative of the protected person with whom the
10 person has resided for more than 6 months before the filing of
11 the petition.

12 (H) ~~(g)~~ A person nominated by the person who is caring for
13 the protected person or paying benefits to the protected person.

14 (I) ~~(h)~~ Any other person determined by the court to be
15 suitable and qualified.

16 (2) ~~A person in a priority pursuant to subdivisions (a) or~~
17 ~~(c) to (f) may nominate in writing a person to serve in the~~
18 ~~person's stead.~~ With respect to persons having equal priority,
19 the court shall select the person best qualified of those willing
20 to serve. The court, for good cause, may pass over a person
21 having priority and appoint a person having less priority or no
22 priority.

23 (3) THE COURT SHALL NOT APPOINT AS CONSERVATOR AN AGENCY,
24 PUBLIC OR PRIVATE, THAT FINANCIALLY BENEFITS FROM DIRECTLY PRO-
25 VIDING HOUSING, MEDICAL SERVICES, OR SOCIAL SERVICES TO THE PRO-
26 TECTED PERSON.

1 Sec. 471. The court may require a conservator to furnish a
2 bond conditioned upon faithful discharge of all duties of the
3 trust according to law, with sureties ~~as it shall specify~~
4 SPECIFIED BY THE COURT. Unless otherwise directed, the bond
5 shall be in the amount of the aggregate capital value of the
6 property of the estate in the person's control plus 1 year's
7 estimated income minus the value of securities deposited under
8 arrangements requiring an order of the court of their removal and
9 the value of any land ~~which~~ THAT the fiduciary, by express lim-
10 itation of power, lacks power to sell or convey without court
11 authorization. ~~The court in~~ IN lieu of sureties on a bond, THE
12 COURT may accept other security for the performance of the bond,
13 including a pledge of securities or a mortgage of land. IN LIEU
14 OF A BOND, THE COURT MAY REQUIRE THAT A CONSERVATOR FILE AN
15 ACCEPTANCE OF TRUST.

16 Sec. 472. (1) The following apply to any bond required
17 under section 471:

18 (a) Unless otherwise provided by the terms of the approved
19 bond, sureties are jointly and severally liable with the conser-
20 vator and with each other.

21 (b) By executing an approved bond of a conservator, the
22 surety consents to the jurisdiction of the court ~~which~~ THAT
23 issued letters to the primary obligor in any proceeding pertain-
24 ing to the fiduciary duties of the conservator and naming the
25 surety as a party defendant. Notice of any proceeding shall be
26 ~~delivered to the surety or mailed to the surety by registered or~~
27 ~~certified mail at the surety's address as listed with the court~~

1 ~~where the bond is filed and to the surety's address as then known~~
2 ~~to the petitioner~~ SERVED ON THE SURETY IN THE MANNER PROVIDED BY
3 COURT RULE.

4 (c) On petition of a successor conservator or an interested
5 person, a proceeding may be initiated against a surety for breach
6 of the obligation of the bond of the conservator.

7 (d) The bond of the conservator is not void after the first
8 recovery but may be proceeded against from time to time until the
9 entire penalty is exhausted.

10 (E) AN ATTORNEY REPRESENTING A CONSERVATOR OR PROTECTED
11 PERSON IS NOT REQUIRED TO SIGN THE BOND.

12 (2) A proceeding may not be commenced against the surety on
13 any matter as to which an action or proceeding against the pri-
14 mary obligor is barred by adjudication or limitation.

15 Sec. 473. By accepting appointment, a conservator submits
16 personally to the jurisdiction of the court in any proceeding
17 relating to the estate that may be instituted by an interested
18 person. Notice of any proceeding shall be ~~delivered to the con-~~
19 ~~servator, or mailed to him by registered or certified mail at the~~
20 ~~conservator's address as listed in the petition for appointment~~
21 ~~or as thereafter reported to the court and to the conservator's~~
22 ~~address as then known to the petitioner~~ SERVED ON THE CONSERVA-
23 TOR IN THE MANNER PROVIDED BY COURT RULE.

24 Sec. 474. If not otherwise compensated for services
25 rendered, a guardian ad litem, visitor, attorney, physician, con-
26 servator, or special conservator appointed in a protective

1 proceeding is entitled to reasonable compensation from the
2 estate.

3 Sec. 476. (1) ~~A~~ THE PROTECTED PERSON OR A person inter-
4 ested in the welfare of ~~a~~ THE PROTECTED person ~~for whom a con-~~
5 ~~servator is appointed~~ may file a petition in the appointing
6 court for ~~an order~~ ANY OF THE FOLLOWING:

7 (a) ~~Requiring~~ AN ORDER REQUIRING bond or security or addi-
8 tional bond or security, or reducing bond.

9 (b) ~~Requiring~~ AN ORDER REQUIRING an accounting for the
10 administration of the trust.

11 (c) ~~Directing~~ AN ORDER DIRECTING distribution.

12 ~~(d) Removing the conservator and appointing a temporary or~~
13 ~~successor conservator.~~

14 (D) ~~(e) Granting~~ AN ORDER GRANTING other appropriate
15 relief.

16 (2) A conservator may petition the appointing court for
17 instructions concerning his or her fiduciary responsibility.

18 (3) Upon notice and hearing, the court may give appropriate
19 instructions or make any appropriate order.

20 Sec. 477. In the exercise of his or her powers, a conserva-
21 tor is ~~to act as~~ a fiduciary and shall observe the standards of
22 care applicable to fiduciaries as described by article 5.

23 Sec. 478. (1) Within ~~60~~ 56 days after his or her appoint-
24 ment, a conservator shall prepare and file with the appointing
25 court a complete inventory of the estate of the protected person
26 together with an oath or affirmation that it is complete and
27 accurate so far as the conservator is informed. ~~The~~

1 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
2 conservator shall provide a copy of the inventory to the pro-
3 tected person if the person can be located ~~, has attained the~~
4 ~~age of 14 years, and has sufficient mental capacity to understand~~
5 ~~these matters and to any parent or guardian with whom the pro-~~
6 ~~tected person resides~~ AND IS NOT LESS THAN 14 YEARS OF AGE, AND
7 TO ALL OTHER INTERESTED PARTIES. IF THE PROTECTED PERSON IS A
8 MINOR, THE COURT MAY WAIVE THE REQUIREMENT TO PROVIDE THE PRO-
9 TECTED PERSON WITH THE INVENTORY.

10 (3) UPON OBJECTION OF AN INTERESTED PARTY, THE COURT MAY
11 ORDER AMENDMENT OF THE INVENTORY.

12 (4) The conservator shall keep suitable records of the
13 administration and exhibit the records on request of an inter-
14 ested person.

15 Sec. 479. (1) A conservator shall ~~account to the court~~
16 ~~for~~ FILE WITH THE COURT A COMPLETE ITEMIZED ACCOUNT ON the
17 administration of the trust ~~upon resignation or removal and at~~
18 ~~other times as the court may direct. On termination of the pro-~~
19 ~~tected person's minority or disability, a conservator may account~~
20 ~~to the court, or may account to the former protected person or~~
21 ~~the person's personal representative.~~ AT LEAST ANNUALLY AND
22 AFTER ANY OF THE FOLLOWING:

23 (A) THE DEATH OF THE PROTECTED PERSON.

24 (B) TERMINATION OF THE PROTECTED PERSON'S MINORITY OR
25 DISABILITY.

26 (C) RESIGNATION OR REMOVAL OF THE CONSERVATOR.

1 (D) AT OTHER TIMES AS THE COURT MAY DIRECT.

2 (2) THE CONSERVATOR SHALL PROVIDE A COPY OF THE ACCOUNT TO
3 THE PROTECTED PERSON IF THE PERSON CAN BE LOCATED AND TO ALL
4 OTHER INTERESTED PARTIES. COPIES OF THE ACCOUNT SHALL INCLUDE
5 NOTICE THAT ANY OBJECTION TO THE ACCOUNT MAY BE FILED WITH THE
6 COURT. IF THE PROTECTED PERSON IS A MINOR, THE COURT MAY WAIVE
7 THE REQUIREMENT TO PROVIDE THE PROTECTED PERSON WITH THE
8 ACCOUNT.

9 (3) AFTER AN ACCOUNT IS FILED AND IF THE COURT DOES NOT HOLD
10 A HEARING, THE COURT SHALL REVIEW THE ACCOUNT OR CAUSE THE
11 ACCOUNT TO BE REVIEWED BY A GUARDIAN AD LITEM. THE COURT SHALL
12 ORDER A HEARING IF AN OBJECTION TO THE ACCOUNT IS FILED BY AN
13 INTERESTED PARTY OR GUARDIAN AD LITEM.

14 (4) Subject to appeal or vacation within the time permitted,
15 an order ~~, made upon notice and hearing,~~ allowing an intermedi-
16 ate account of a conservator ~~, adjudicates~~ as to the
17 conservator's liabilities concerning the matters considered in
18 connection ~~therewith~~ WITH THE ACCOUNT; and an order ~~, made~~
19 ~~upon notice and hearing,~~ allowing a final account adjudicates as
20 to all previously unsettled liabilities of the conservator to the
21 protected person or the person's successors relating to the
22 conservatorship. In connection with an account, the court may
23 require a conservator to submit to a physical check of the estate
24 in the conservator's control, to be made in any manner specified
25 by the court.

26 Sec. 480. ~~The~~ EXCEPT FOR ASSETS AND INCOME SPECIFIED IN
27 THE COURT ORDER AS NOT BEING SUBJECT TO THE CONSERVATORSHIP, THE

1 appointment of a conservator vests in the conservator title as
2 trustee to all property of the protected person, presently held
3 or thereafter acquired, including title to any property thereto-
4 fore held for the protected person by custodians or attorneys in
5 fact. The appointment of a conservator is not a transfer or
6 alienation within the meaning of general provisions of any fed-
7 eral or state statute or rule, insurance policy, pension plan,
8 contract, OR will or trust instrument, imposing restrictions upon
9 or penalties for transfer or alienation by the protected person
10 of the person's rights or interest, but this section does not
11 restrict the ability of persons to make specific provision by
12 contract or depositive instrument relating to a conservator.

13 Sec. 481. (1) Letters of conservatorship are evidence of
14 transfer of all assets of a protected person SUBJECT TO A
15 CONSERVATORSHIP to the conservator. An order terminating a con-
16 servatorship is evidence of transfer of all assets ~~of the~~
17 ~~estate~~ SUBJECT TO THE CONSERVATORSHIP from the conservator to
18 the protected person ~~—~~ or the person's successors. Subject to
19 the requirements of law governing the filing or recordation of
20 documents of title to land or other property, letters of conse-
21 rvatorship ~~—~~ and orders terminating conservatorships ~~—~~ may be
22 filed or recorded to give record notice of title as between the
23 conservator and the protected person.

24 (2) LETTERS OF CONSERVATORSHIP SHALL SPECIFY ANY ASSETS AND
25 INCOME OF THE PROTECTED PERSON NOT SUBJECT TO THE CONSERVATOR-
26 SHIP, ANY OTHER LIMITATIONS ON THE CONSERVATOR'S POWER, AND ANY
27 TIME LIMITS ON THE CONSERVATORSHIP.

1 Sec. 482. A sale or encumbrance to a conservator, the
2 conservator's spouse, agent, or attorney, or any corporation or
3 trust in which the conservator has a substantial beneficial
4 interest, or any transaction ~~which~~ THAT is affected by a sub-
5 stantial conflict of interest, is ~~voidable~~ VOID unless the
6 transaction is approved by the court after notice to interested
7 persons and others as directed by the court.

8 Sec. 483. A person who in good faith assists a conservator
9 or deals with a conservator for value in any transaction other
10 than those requiring a court order as provided in section ~~468,~~
11 486 is protected as if the conservator properly exercised the
12 power. The fact that a person knowingly deals with a conservator
13 does not alone require the person to inquire into the existence
14 of a power or the propriety of its exercise, except that restric-
15 tions on powers of conservators ~~which~~ THAT are indorsed on let-
16 ters as provided in section ~~485~~ 481 are effective as to third
17 persons. A person is not bound to see to the proper application
18 of estate assets paid or delivered to a conservator. The protec-
19 tion ~~here expressed~~ PROVIDED BY THIS SECTION extends to
20 instances in which some procedural irregularity or jurisdictional
21 defect occurred in proceedings leading to the issuance of
22 letters. The protection ~~here expressed is not by~~ PROVIDED BY
23 THIS SECTION IS IN ADDITION TO, AND NOT A substitution for ~~that~~
24 PROTECTION provided by comparable ~~provisions of the~~ laws relat-
25 ing to commercial transactions ~~and~~ OR laws simplifying trans-
26 fers of securities by fiduciaries.

1 Sec. 484. ~~(1) A conservator has all of the powers~~
2 ~~conferred in this section. In addition, a conservator of the~~
3 ~~estate of an unmarried minor as to whom no person has parental~~
4 ~~rights, has the duties and powers of a guardian of a minor~~
5 ~~described in section 431 until the minor marries but the parental~~
6 ~~rights so conferred on a conservator do not preclude appointment~~
7 ~~of a guardian as provided by sections 421 to 437. (2) A conser-~~
8 ~~vator without court authorization or confirmation, may invest~~
9 EXCEPT AS LIMITED BY THIS ACT OR BY COURT ORDER, A CONSERVATOR,
10 ACTING REASONABLY TO ACCOMPLISH THE PURPOSE FOR WHICH HE OR SHE
11 WAS APPOINTED, MAY EXERCISE THE FOLLOWING POWERS WITHOUT COURT
12 AUTHORIZATION OR CONFIRMATION:

13 (A) INVEST and reinvest funds of the estate as would a
14 trustee.

15 ~~(3) A conservator, acting reasonably in efforts to accom-~~
16 ~~plish the purpose for which he or she was appointed, may act~~
17 ~~without court authorization or confirmation to.~~

18 (B) ~~(a)~~ Collect, hold, and retain assets of the estate
19 including land in another state, until in the conservator's judg-
20 ment, disposition of the assets should be made which assets may
21 be retained even though they include an asset in which the con-
22 servator is personally interested.

23 (C) ~~(b)~~ Receive additions to the estate.

24 (D) ~~(c)~~ Continue or participate in the operation of a
25 business or other enterprise.

1 (E) ~~(d)~~ Acquire an undivided interest in an estate asset
2 in which the conservator, in any fiduciary capacity, holds an
3 undivided interest.

4 ~~(e) Invest and reinvest estate assets pursuant to subsec-~~
5 ~~tion (2).~~

6 (f) Deposit estate funds in a bank including a bank operated
7 by the conservator.

8 (g) Acquire or dispose of an estate asset including land in
9 another state for cash or on credit, at public or private sale;
10 and ~~to~~ manage, develop, improve, exchange, partition, change
11 the character of, or abandon an estate asset.

12 (h) Make ordinary or extraordinary repairs or alterations in
13 buildings or other structures, ~~to~~ demolish any improvements,
14 and ~~to~~ raze existing or erect new party walls or buildings.

15 (i) Subdivide, develop, or dedicate land to public use; ~~to~~
16 make or obtain the vacation of plats; ~~and~~ adjust boundaries;
17 ~~to~~ adjust differences in valuation on exchange; ~~, or to~~ par-
18 tition by giving or receiving consideration; and ~~to~~ dedicate
19 easements to public use without consideration.

20 (j) Enter for any purpose into a lease as lessor or lessee
21 with or without option to purchase or renew for a term within ~~or~~
22 ~~extending beyond~~ the EXPECTED term of the conservatorship.

23 (k) Enter into a lease or arrangement for exploration and
24 removal of minerals or other natural resources, or enter into a
25 pooling or unitization agreement.

26 (l) Grant an option involving disposition of an estate asset
27 or ~~to~~ take an option for the acquisition of any asset.

1 (m) Vote a security, in person or by general or limited
2 proxy.

3 (n) Pay calls, assessments, and any other sums chargeable or
4 accruing against or on account of securities.

5 (o) Sell or exercise stock subscription or conversion
6 rights; ~~to~~ consent, directly or through a committee or other
7 agent, to the reorganization, consolidation, merger, dissolution,
8 or liquidation of a corporation or other business enterprise.

9 (p) Hold a security in the name of a nominee or in other
10 form without disclosure of the conservatorship so that title to
11 the security may pass by delivery. The conservator is liable for
12 any act of the nominee in connection with the stock so held.

13 (q) Insure the assets of the estate against damage or loss,
14 and the conservator against liability with respect to third
15 persons.

16 (r) Borrow money to be repaid from estate assets or other-
17 wise; ~~to~~ advance money for the protection of the estate or the
18 protected person and for all expenses, losses, and liability sus-
19 tained in the administration of the estate or because of the
20 holding or ownership of any estate assets. The conservator has a
21 lien on the estate as against the protected person for advances
22 made under this subdivision.

23 (s) Pay or contest a claim; ~~to~~ settle a claim by or
24 against the estate or the protected person by compromise, arbi-
25 tration, or otherwise; and ~~to~~ release, in whole or in part, a
26 claim belonging to the estate to the extent that the claim is
27 uncollectible.

1 (t) Pay taxes, assessments, reasonable compensation of the
2 conservator, and other expenses incurred in the collection, care,
3 administration, and protection of the estate.

4 (u) Allocate items of income or expense to estate income or
5 principal, as provided by law, including creation of reserves out
6 of income for depreciation, obsolescence, or amortization, or for
7 depletion in mineral or timber properties.

8 (v) Pay any sum distributable to a protected person or that
9 person's dependent without liability to the conservator, by
10 paying the sum to the distributee or by paying the sum for the
11 use of the distributee to his or her guardian or if none, to a
12 relative or other person with custody of his or her person.

13 (w) Employ persons, including attorneys, auditors, invest-
14 ment advisors, or agents, even though they are associated with
15 the conservator, to advise or assist the conservator in the per-
16 formance of his or her administrative duties; ~~to~~ act upon their
17 recommendation without independent investigation; and instead of
18 acting personally, ~~to~~ employ 1 or more agents to perform any
19 act of administration, whether or not discretionary.

20 (x) Prosecute or defend actions, claims, or proceedings in
21 any jurisdiction for the protection of estate assets and of the
22 conservator in the performance of his or her duties.

23 (y) Execute and deliver any instrument ~~which~~ THAT will
24 accomplish or facilitate the exercise of the powers vested in the
25 conservator.

26 Sec. 485. (1) THE GENERAL DUTY OF A CONSERVATOR IS TO
27 MANAGE THE ESTATE AND FINANCIAL AFFAIRS OF THE PROTECTED PERSON

1 FOR THE BENEFIT OF THAT PERSON AND HIS OR HER DEPENDENTS. A
2 conservator may expend or distribute income or principal of the
3 estate without court authorization or confirmation for the sup-
4 port, education, care, or benefit of the protected person and
5 that person's dependents pursuant to the following principles:

6 (a) The conservator shall consider recommendations relating
7 to the appropriate standard of support, education, and benefit
8 for the protected person made by a parent, ~~or~~ guardian, OR THE
9 PROTECTED PERSON. The conservator may not be surcharged for
10 ~~sums~~ MONEY paid to persons or organizations actually furnishing
11 support, education, or care to the protected person pursuant to
12 the recommendations of a parent or guardian of the protected
13 person unless the conservator knows that the parent or guardian
14 is deriving personal financial benefit therefrom, including
15 relief from any personal duty of support, or unless the recommen-
16 dations are clearly not in the best interests of the protected
17 person.

18 (b) The conservator shall expend or distribute ~~sums~~ MONEY
19 reasonably necessary for the support, education, care, or benefit
20 of the protected person with due regard to the size of the
21 estate, the probable duration of the conservatorship, and the
22 likelihood that the protected person, at some future time, may be
23 fully able to manage his or her affairs and the estate ~~which~~
24 THAT is conserved for the person; TO the accustomed standard of
25 living of the protected person and members of the person's house-
26 hold; and TO other ~~funds~~ MONEY or sources used for the support
27 of the protected person.

1 (c) The conservator may expend ~~funds~~ MONEY of the estate
2 for the support of persons legally dependent on the protected
3 person and others who are members of the protected person's
4 household who are unable to support themselves, and who are in
5 need of support.

6 (d) ~~Funds~~ MONEY expended under this subsection may be paid
7 by the conservator to any person, including the protected person,
8 to reimburse for expenditures ~~which~~ THAT the conservator might
9 have made, or in advance for services to be rendered to the pro-
10 tected person ~~when~~ IF it is reasonable to expect that they will
11 be performed and ~~where~~ IF advance payments are customary or
12 reasonably necessary under the circumstances.

13 (2) If the estate is ample to provide for the purposes
14 implicit in the distributions authorized by ~~the preceding~~
15 ~~subsections~~ SUBSECTION (1), a conservator for a protected person
16 other than a minor may make gifts to charity and other objects as
17 the protected person might have been expected to make, in amounts
18 ~~which~~ THAT do not exceed in total for any year 20% of the
19 income from the estate.

20 (3) When a minor who is not adjudged disabled under section
21 461(b) attains majority ~~the conservator,~~ AND after meeting
22 all prior claims and expenses of administration, THE CONSERVATOR
23 shall pay over and distribute all ~~funds~~ MONEY and properties to
24 the former protected person as soon as possible.

25 (4) ~~When~~ IF the conservator is satisfied that a protected
26 person's disability other than minority has ceased ~~the~~
27 ~~conservator,~~ AND after meeting all prior claims and expenses of

1 administration, THE CONSERVATOR shall pay over and distribute all
2 ~~funds~~ MONEY and properties to the former protected person as
3 soon as possible.

4 (5) If a protected person dies, the conservator shall do all
5 of the following:

6 (a) Deliver to the court for safekeeping any will of the
7 deceased protected person ~~which~~ THAT may have come into the
8 conservator's possession.

9 (b) Inform the executor, an heir at law or if there is not a
10 known heir, the attorney general, or a beneficiary named in the
11 will that he or she has ~~done so~~ DELIVERED THE WILL TO THE
12 COURT.

13 (c) Retain the estate for delivery to a duly appointed per-
14 sonal representative of the decedent or other persons entitled
15 ~~thereto~~ TO THE ESTATE.

16 Sec. 486. ~~Subject to the restrictions in section~~
17 ~~468(1)(d), the court may confer on a conservator at the time of~~
18 ~~appointment or later, in addition to the powers conferred by sec-~~
19 ~~tions 484 and 485, any power which the court itself could exer-~~
20 ~~cise under section 468(1)(b) and (c). The court may, at the time~~
21 ~~of appointment or later, limit the powers of a conservator other-~~
22 ~~wise conferred by sections 484 and 485, or previously conferred~~
23 ~~by the court, and may at any time relieve the conservator of any~~
24 ~~limitation. If the court limits any power conferred on the con-~~
25 ~~servator by sections 484 or 485, the limitation shall be indorsed~~
26 ~~upon the letters of appointment.~~

1 (1) IN ADDITION TO THE POWERS CONFERRED BY SECTIONS 484 AND
2 485, THE COURT MAY CONFER ON A CONSERVATOR OR SPECIAL CONSERVATOR
3 THE FOLLOWING POWERS UNDER A PROTECTIVE ORDER:

4 (A) FOR A MINOR, ALL POWERS OVER HIS OR HER ESTATE AND
5 FINANCIAL AFFAIRS THAT ARE OR MAY BE NECESSARY FOR THE BEST
6 INTERESTS OF THE MINOR, THE MINOR'S FAMILY, AND MEMBERS OF THE
7 MINOR'S HOUSEHOLD.

8 (B) FOR AN ADULT, ALL POWERS OVER HIS OR HER ESTATE AND
9 FINANCIAL AFFAIRS THAT THE PERSON COULD EXERCISE IF PRESENT AND
10 NOT UNDER DISABILITY, EXCEPT THE POWER TO MAKE A WILL.

11 (2) A CONSERVATOR SHALL NOT ENGAGE IN THE FOLLOWING TRANSAC-
12 TIONS WITHOUT SPECIFIC AUTHORIZATION FROM THE COURT:

13 (A) SELL OR LEASE A RESIDENCE OF THE PROTECTED PERSON.

14 (B) EXERCISE OR RELEASE POWER OF APPOINTMENT OF WHICH THE
15 PROTECTED PERSON IS DONEE.

16 (C) RENOUNCE INTERESTS.

17 (D) MAKE GIFTS IN TRUST OR OTHERWISE EXCEEDING 20% OF ANY
18 YEAR'S INCOME OF THE ESTATE.

19 (E) CHANGE BENEFICIARIES UNDER INSURANCE AND ANNUITY
20 POLICIES.

21 (3) THE COURT SHALL PROVIDE AUTHORIZATION UNDER
22 SUBSECTION (2) ONLY IF SATISFIED, AFTER NOTICE AND HEARING, THAT
23 IT IS IN THE BEST INTERESTS OF THE PROTECTED PERSON, AND THAT THE
24 PERSON IS INCAPABLE OF CONSENTING, OR HAS CONSENTED, TO THE PRO-
25 POSED TRANSACTION.

26 Sec. 487. ~~In investing the estate, and in selecting assets~~
27 ~~of the estate for distribution under subsections (1) and (2) of~~

~~1 section 485, in utilizing powers of revocation or withdrawal~~
~~2 available for the support of the protected person, and exercis-~~
~~3 able by the conservator or the court, the~~

4 (1) A CONSERVATOR SHALL ALLOW AND ENCOURAGE THE PROTECTED
5 PERSON TO DO ALL OF THE FOLLOWING:

6 (A) PARTICIPATE, TO THE MAXIMUM EXTENT OF HIS OR HER ABILI-
7 TIES, IN ALL DECISIONS THAT AFFECT HIM OR HER.

8 (B) DEVELOP OR REGAIN, TO THE MAXIMUM EXTENT POSSIBLE, HIS
9 OR HER CAPACITY TO MANAGE HIS OR HER ESTATE AND FINANCIAL
10 AFFAIRS.

11 (2) IN EXERCISING ANY POWER OVER THE ESTATE AND FINANCIAL
12 AFFAIRS OF A PROTECTED PERSON, THE conservator and the court
13 ~~should~~ SHALL take into account any KNOWN WISHES OF THE PRO-
14 TECTED PERSON AND ANY known estate plan of the protected person,
15 including the person's will, any revocable trust of which he or
16 she is settlor, and any contract, transfer, or joint ownership
17 arrangement with provisions for payment or transfer of benefits
18 or interests at his OR HER death to another or others ~~which he~~
19 THAT THE PROTECTED PERSON may have originated. The conservator
20 may examine the will of the protected person.

21 Sec. 488. (1) A conservator may pay or secure from the
22 estate claims against the estate or against the protected person
23 arising before or after the conservatorship upon their presenta-
24 tion and allowance and in accordance with the priorities listed
25 in subsection (4). A claim may be presented by either of the
26 following methods:

1 (a) The claimant may deliver or mail to the conservator a
2 written statement of the claim indicating its basis, the name and
3 mailing address of the claimant, and the amount claimed.

4 (b) The claimant may file a written statement of the claim,
5 in the form prescribed by supreme court rule, with the court and
6 deliver or mail a copy of the statement to the conservator.

7 (2) A claim shall be considered presented on receipt of the
8 written statement of claim by the conservator or on the filing of
9 the claim with the court, whichever occurs first. A presented
10 claim shall be allowed if it is not disallowed by written state-
11 ment mailed by the conservator to the claimant within 63 days
12 after its presentation. The presentation of a claim tolls any
13 statute of limitation relating to the claim until 28 days after
14 its disallowance.

15 (3) A claimant whose claim is not paid may petition the
16 court for determination of the claim at any time before it is
17 barred by the applicable statute of limitation and, upon due
18 proof, procure an order for its allowance, payment, or security
19 from the estate. If a proceeding is pending against a protected
20 person at the time of appointment of a conservator or is initi-
21 ated against the protected person ~~thereafter~~ AFTER THE
22 APPOINTMENT, the moving party shall give notice of the proceeding
23 to the conservator if the proceeding may result in creating a
24 claim against the estate.

25 (4) If it appears that the estate in conservatorship is
26 likely to be exhausted before all existing claims are paid, the

1 conservator shall distribute the estate in money or in kind in
2 payment of claims in the following order of priority:

3 (a) Costs and expenses of administration, SUBJECT TO SECTION
4 474.

5 (b) Claims of the federal or state government having prior-
6 ity under law.

7 (c) Claims incurred by the conservator for care, mainte-
8 nance, and education previously provided to the protected person
9 or the protected person's dependents.

10 (d) Claims arising prior to the conservatorship.

11 (e) All other claims.

12 (5) Preference shall not be given in the payment of a claim
13 over another claim of the same class, and a claim due and payable
14 shall not be entitled to a preference over a claim not due. If
15 it appears that the assets of the conservatorship are adequate to
16 meet all existing claims, the court, acting in the best interest
17 of the protected person, may order the conservator to give a
18 mortgage or other security on the conservatorship estate to
19 secure payment at some future date of any or all claims under
20 subsection (4)(e).

21 (6) If a protected person dies while under conservatorship,
22 ~~the court may,~~ upon petition of the conservator and with or
23 without notice, THE COURT MAY hear a claim for burial expense or
24 any other claim as the court considers advisable. Upon hearing
25 the claim, the court may enter an order allowing or disallowing
26 the claim or any part of it and provide in the order of allowance
27 that the claim or any part of it shall be paid immediately if

1 payment can be made without injury or serious inconvenience to
2 the protected person's estate.

3 Sec. 490. ~~The protected person, the protected person's~~
4 ~~personal representative, the conservator or any other interested~~
5 ~~person may petition the court to terminate the conservatorship.~~

6 A- (1) ON PETITION OF THE CONSERVATOR AND SUBJECT TO THE FILING
7 AND APPROVAL OF A FINAL ACCOUNT, THE COURT SHALL ACCEPT THE
8 CONSERVATOR'S RESIGNATION AND MAKE ANY OTHER ORDER THAT MAY BE
9 APPROPRIATE. AFTER THE CONSERVATOR'S RESIGNATION OR DEATH, THE
10 COURT MAY APPOINT ANOTHER CONSERVATOR. A CONSERVATOR SO
11 APPOINTED SUCCEEDS TO THE TITLE AND POWERS OF HIS OR HER
12 PREDECESSOR.

13 (2) THE PROTECTED PERSON, THE CONSERVATOR, OR ANY OTHER
14 INTERESTED PERSON MAY PETITION THE COURT FOR AN ORDER REMOVING
15 THE CONSERVATOR, MODIFYING THE TERMS OF THE CONSERVATORSHIP, OR
16 TERMINATING THE CONSERVATORSHIP. A REQUEST FOR THIS ORDER MAY BE
17 MADE BY INFORMAL LETTER TO THE COURT OR JUDGE. A PERSON WHO
18 KNOWINGLY INTERFERES WITH TRANSMISSION OF THIS TYPE OF REQUEST TO
19 THE COURT OR JUDGE IS SUBJECT TO A FINDING OF CONTEMPT OF COURT.

20 (3) IN A PROCEEDING TO REMOVE THE CONSERVATOR, OR MODIFY OR
21 TERMINATE A CONSERVATORSHIP, THE protected person ~~seeking~~
22 ~~termination~~ is entitled to the same rights and procedures as in
23 an original proceeding for a protective order. ~~The court, upon~~
24 ~~determining after notice and hearing that the minority or dis-~~
25 ~~ability of the protected person has ceased, may~~

26 (4) FOR JUST CAUSE, THE COURT SHALL REMOVE A CONSERVATOR,
27 MODIFY THE CONSERVATORSHIP, OR MAKE OTHER APPROPRIATE ORDERS.

1 (5) IF THERE IS NOT CLEAR AND CONVINCING EVIDENCE THAT THE
2 CONDITIONS OF SECTION 461 EXIST, THE COURT SHALL terminate the
3 conservatorship. Upon termination, title to assets of the estate
4 passes to the former protected person or to his or her successors
5 subject to provision in the order for expenses of administration.
6 ~~or to conveyances from the conservator to the former protected~~
7 ~~persons or his successors, to evidence the transfer.~~ THE ORDER
8 OF TERMINATION SHALL DIRECT THE CONSERVATOR TO EXECUTE APPROPRI-
9 ATE INSTRUMENTS TO EVIDENCE THE TRANSFER.

10 Section 2. Section 475 of Act No. 642 of the Public Acts of
11 1978, being section 700.475 of the Michigan Compiled Laws, is
12 repealed.