

SENATE BILL NO. 250

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR KIEHL BY REQUEST

Introduced: 2/21/24

Referred: Health & Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to guardianships, conservatorships, and other protective
2 arrangements; relating to the public guardian; relating to the crime of violating a
3 protective order; amending Rules 6, 6.1, 12(e), and 37.7(a), Alaska Rules of
4 Administration; repealing Rule 9(b)(2)(G)(ii), Alaska Rules of Administration;
5 amending the Alaska Rules of Probate Procedure; and amending Rule 77(c), Alaska
6 Rules of Civil Procedure."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** AS 04.16.051(b) is amended to read:

9 (b) This section does not prohibit the furnishing or delivery of an alcoholic
10 beverage

11 (1) by a parent to the parent's child, by a guardian to the **individual**
12 **subject to guardianship** [GUARDIAN'S WARD], or by a person to the legal spouse
13 of that person if the furnishing or delivery occurs off licensed premises; or

(2) by a licensed physician or nurse to a patient in the course of administering medical treatment.

* **Sec. 2.** AS 06.26.020(a) is amended to read:

(a) Notwithstanding any other provision of this chapter, a person does not act as a fiduciary under this chapter if the person

(1) is licensed to practice law in this state, the person is acting within the scope of the license, and the person and any law firm of the person are not trustees of more trusts than the number established for the person and law firm by the department by regulation or order; in this paragraph, "law firm" means a partnership, a professional corporation organized under AS 10.45, or another association organized for the practice of law and in which the person practices law;

(2) acts as trustee under a deed of trust delivered only as security for the payment of money or for the performance of another act;

(3) receives and distributes on behalf of a principal rents and proceeds of sales as a real estate broker or other licensee under AS 08.88;

(4) engages in securities business activity as a registered broker-dealer, a broker-dealer agent, an investment adviser, or an investment adviser representative, or as a federal covered investment adviser who has made a notice filing under AS 45.56.360(c), the person is acting within the scope of the person's registration or notice filing, and the activity is regulated by the department under AS 45.56 or by the United States Securities and Exchange Commission; in this paragraph, "agent," "broker-dealer," "federal covered investment adviser," "investment adviser," "investment adviser representative," and "securities business" have the meanings given in AS 45.56.900;

(5) engages in the sale and administration of an insurance product as an insurance company licensed under AS 21 or an insurance producer licensed under AS 21 and is acting within the scope of that license;

(6) handles escrow transactions and is a title insurance company that has a certificate of authority issued under AS 21.09, a title insurance limited producer that is licensed as required by AS 21.66.270, or an employee of the title insurance company or title insurance producer when acting in the scope of the employee's

1 employment; in this paragraph,

2 (A) "escrow transaction" has the meaning given in
3 AS 34.80.090;

4 (B) "title insurance company" has the meaning given in
5 AS 21.66.480;

6 (C) "title insurance limited producer" has the meaning given in
7 AS 21.66.480;

8 (7) is a cemetery association organized and acting under AS 10.30;

9 (8) is a trustee for a voting trust under AS 10.06 and is acting in that
10 capacity;

11 (9) has a certified public accountant license issued under AS 08.04.105
12 or 08.04.195, the person is acting within the scope of the license, and the person and
13 any accounting firm of the person are not trustees of more trusts than the number
14 established for the person and accounting firm by the department by regulation or
15 order; in this paragraph, "accounting firm" means a partnership, a professional
16 corporation organized under AS 10.45, or another association organized for the
17 practice of public accounting and in which the person practices public accounting;

18 (10) holds real property in trust for the primary purpose of subdivision,
19 development, or sale or to facilitate a business transaction with respect to the real
20 property;

21 (11) serves as a trustee of a trust created by the person's family
22 members;

23 (12) holds money or other assets as a homeowners' association or
24 similar organization to pay maintenance and other related costs for commonly owned
25 property; in this paragraph, "homeowners' association" includes an association of
26 apartment owners under AS 34.07.450 and a unit owners' association or master
27 association under AS 34.08.990;

28 (13) holds money or other assets in connection with the collection of
29 debts or payments on loans by a person acting solely as the agent or representative at
30 the sole direction of the person to whom the debt or payment is owed, including
31 engaging in the business of an escrow agent;

(14) acts as a conservator if the person is appointed by a court of this or another state or is qualified to act as a conservator under **AS 13.27.310** [AS 13.26.580];

(15) acts as a personal representative if the person is appointed a personal representative by a court of this or another state or is qualified to act as a personal representative under AS 13.21.035;

(16) acts as a guardian or receiver if the person is appointed as a guardian or receiver by a court of this or another state;

(17) is a business partner acting with regard to the business, or a co-owner of property acting with regard to the co-owned property;

(18) serves as a trustee of one or more trusts in which the settlor is not a family member of the person, except that the person may not at any one time serve as a trustee for trusts that cumulatively have more than 10 different settlors; however, the department may change by regulation or order the maximum number of settlors allowed for this exemption; in this paragraph, a husband and wife who create a joint trust are considered to be one settlor.

* **Sec. 3.** AS 06.26.050(a) is amended to read:

(a) A trust company may perform any act as a fiduciary that a state financial institution, or a national bank exclusively exercising trust powers, may perform, including

(1) acting as trustee under a written agreement;

(2) receiving money and other property as trustee for investment in real or personal property;

(3) acting as a trustee and performing the fiduciary duties committed or transferred to it by a court;

(4) receiving money or other assets under AS 06.35;

(5) acting as an executor, an administrator, or a trustee of the estate of a deceased person;

(6) acting as a custodian, guardian, conservator, or trustee for a minor or an **individual subject to guardianship or conservatorship** [INCAPACITATED PERSON];

- 1 (7) acting as a successor fiduciary to a depository;
- 2 (8) receiving for safekeeping any type of personal property;
- 3 (9) acting as a custodian, an assignee, a transfer agent, an escrow
- 4 agent, a registrar, or a receiver;
- 5 (10) acting as an investment adviser, an agent, or an attorney-in-fact in
- 6 any agreed upon capacity;
- 7 (11) exercising additional powers expressly authorized by a regulation
- 8 adopted under this chapter; and
- 9 (12) exercising an incidental power that is reasonably necessary to
- 10 enable it to fully exercise the powers expressly conferred according to commonly
- 11 accepted fiduciary customs and usage.

12 * **Sec. 4.** AS 06.65.110(a) is amended to read:

13 (a) A person may act as the representative of an eligible individual under this

14 chapter if the eligible individual is a minor or lacks decision-making capacity and if

15 the person is

16 (1) a parent, guardian, or conservator of the eligible individual; in this

17 paragraph,

18 (A) "conservator" has the meaning given in AS 13.29.520

19 [AS 13.06.050];

20 (B) "guardian" has the meaning given in AS 13.29.520

21 [AS 13.06.050];

22 (C) "parent" includes a stepparent; or

23 (2) a trustee of the property of the eligible individual.

24 * **Sec. 5.** AS 08.26.020(a) is amended to read:

25 (a) The department shall issue a private professional full guardian license to an

26 individual

27 (1) who is at least 21 years of age;

28 (2) who has two or more years of professional client casework

29 experience or at least an associate degree in human services, social work, psychology,

30 sociology, gerontology, special education, or a closely related field;

31 (3) who is certified as a guardian by a nationally recognized

1 organization in the field of guardianships;

2 (4) whose criminal history record checks under AS 08.26.070 show
3 that the individual has not been convicted of a felony or of a misdemeanor offense in
4 the state or in any other jurisdiction involving fraud, misrepresentation, material
5 omission, misappropriation, theft, conversion, or any other crime the department
6 determines would affect the individual's ability to provide the services of a guardian
7 competently and safely for the individual subject to guardianship [PROTECTED
8 PERSON] within 10 years before the application;

9 (5) who satisfies the application requirements of AS 08.26.060; and

10 (6) who satisfies the requirements for obtaining a private professional
11 conservator license under AS 08.26.030.

12 * **Sec. 6.** AS 08.26.030 is amended to read:

13 **Sec. 08.26.030. Requirements for private professional conservator license.**

14 The department shall issue a private professional conservator license to an individual

15 (1) who is at least 21 years of age;

16 (2) who has obtained a high school diploma, or a general education
17 development diploma or its equivalent;

18 (3) who has six months' employment experience in a position
19 involving financial management, or has at least an associate degree in accounting or a
20 closely related field;

21 (4) who is certified as a guardian by a nationally recognized
22 organization in the field of guardianships;

23 (5) whose criminal history record checks under AS 08.26.070 show
24 that the individual has not been convicted of a felony or of a misdemeanor offense in
25 the state or in any other jurisdiction involving fraud, misrepresentation, material
26 omission, misappropriation, theft, conversion, or any other crime that the department
27 determines would affect the individual's ability to provide the services of a conservator
28 competently and safely for the individual subject to conservatorship [PROTECTED
29 PERSON] within 10 years before the application; and

30 (6) who satisfies the application requirements of AS 08.26.060.

31 * **Sec. 7.** AS 08.26.060 is amended to read:

1 **Sec. 08.26.060. Application requirements.** To apply for a license under this
 2 chapter, a person shall submit an application on a form provided by the department
 3 and submit

4 (1) two complete fingerprint cards containing fingerprints and other
 5 information required by the Department of Public Safety to obtain state and national
 6 criminal history record information under AS 12.62 and AS 12.64;

7 (2) a written waiver of confidentiality signed by the applicant allowing
 8 the department to access at any time relevant complaint information made about the
 9 applicant to adult protective services, the designated protection and advocacy agency,
 10 the long term care ombudsman, or an entity that certifies or licenses private
 11 professional guardians or private professional conservators;

12 (3) a written statement signed by the applicant that the applicant will
 13 allow immediate access at any time to the department to the file of **an individual**
 14 **subject to guardianship or conservatorship** [A WARD OR PROTECTED
 15 PERSON] and to financial information regarding the applicant, including corporate or
 16 other business records; and

17 (4) payment of the application fee, any criminal history record
 18 information checks fee charged under AS 12.62.160(d), and any other fees required by
 19 the department.

20 * **Sec. 8.** AS 08.26.080(a) is amended to read:

21 (a) Within 30 days following the end of each calendar year, a licensee shall
 22 submit to the office of public advocacy, Department of Administration

23 (1) evidence of the continuing existence of a court ordered bond, if
 24 any, required by a court to be maintained by the guardian or conservator;

25 (2) a list, including case numbers, of the **individuals subject to**
 26 **guardianship or conservatorship** [WARDS AND PROTECTED PERSONS] for
 27 whom the licensee is acting as a private professional guardian or private professional
 28 conservator;

29 (3) an accurate financial statement of the licensee, including total fees
 30 collected from the **individual subject to conservatorship** [PROTECTED PERSON],
 31 total business expenses, and documents necessary to establish financial solvency of

1 the licensee;

2 (4) a letter stating that the licensee has filed all required court reports
3 in the previous calendar year; and

4 (5) a copy of all of the licensee's federal tax documents filed with the
5 Internal Revenue Service and all of the licensee's correspondence with the Internal
6 Revenue Service for the calendar year.

7 * **Sec. 9.** AS 08.26.110(a) is amended to read:

8 (a) A licensee may not receive a payment for services rendered to an
9 individual subject to guardianship or conservatorship [A WARD OR A
10 PROTECTED PERSON] until the licensee obtains court approval of a proposed fee
11 schedule. The fee schedule must include a statement of the hourly fee for professional
12 and administrative services and a monthly maximum amount that the licensee can
13 charge the individual subject to guardianship or conservatorship [WARD OR
14 PROTECTED PERSON].

15 * **Sec. 10.** AS 08.26.120 is amended to read:

16 **Sec. 08.26.120. Required notification.** A licensee shall notify the department
17 immediately if

18 (1) the licensee fails to file a report to the court required by this
19 chapter;

20 (2) the licensee has been removed as a guardian or conservator for an
21 individual subject to guardianship or conservatorship [A WARD OR
22 PROTECTED PERSON];

23 (3) the licensee has received a gift with a value of more than \$100
24 from an individual subject to guardianship or conservatorship [A WARD OR
25 PROTECTED PERSON] during the two years before the appointment;

26 (4) the licensee has an interest in an enterprise that provides services to
27 the individual subject to guardianship or conservatorship [WARD OR
28 PROTECTED PERSON];

29 (5) an employee or contractor of the licensee is arrested for any
30 offense; or

31 (6) the licensee has filed for bankruptcy.

1 * **Sec. 11.** AS 08.26.130 is amended to read:

2 **Sec. 08.26.130. Grounds for disciplinary action.** The department may take
3 disciplinary action against an individual under AS 08.01.075 or refuse to issue or
4 renew a license if the department determines that the individual

5 (1) obtained or attempted to obtain a license under this chapter through
6 deceit, fraud, or intentional misrepresentation;

7 (2) has not complied with the standards of conduct established by the
8 department under AS 13.26.001;

9 (3) forfeited a license in this or another jurisdiction as a result of
10 deceit, fraud, intentional misrepresentation, or professional incompetence;

11 (4) has been found by a court in this state to have engaged in
12 professional misconduct or incompetence;

13 (5) has advertised the individual's services in a false or misleading
14 manner;

15 (6) has been convicted, including a conviction based on a guilty plea or
16 plea of nolo contendere, of a felony or other crime that affects the individual's ability
17 to provide services competently and safely for the **individual subject to**
18 **guardianship or conservatorship** [WARD OR PROTECTED PERSON];

19 (7) has been found to have abandoned, exploited, abused, or neglected
20 a vulnerable adult; in this paragraph, "vulnerable adult" has the meaning given in
21 AS 47.24.900;

22 (8) has failed to comply with this chapter or with a regulation adopted
23 under this chapter;

24 (9) has continued or attempted to practice after becoming unfit due to
25 professional incompetence;

26 (10) has failed to maintain certification by a nationally recognized
27 organization in the field of

28 (A) guardianships, if the individual was issued a private
29 professional guardian license; or

30 (B) conservatorships, if the individual was issued a private
31 professional conservator license; or

(11) fails to maintain a bond or other surety as required by a court order.

* **Sec. 12.** AS 08.26.140 is amended to read:

Sec. 08.26.140. Petition by department. In addition to the disciplinary actions allowed under AS 08.01.075, the department may petition a court to review the conduct of a licensee if the department determines that the conduct of the licensee may not be in the best interests of the individual subject to guardianship or conservatorship [WARD OR PROTECTED PERSON].

* **Sec. 13.** AS 08.26.190(1) is amended to read:

(1) "conservator" has the meaning given in AS 13.29.520 [AS 13.06.050];

* **Sec. 14.** AS 08.26.190(3) is amended to read:

(3) "guardian" has the meaning given in AS 13.29.520 [AS 13.06.050];

* **Sec. 15.** AS 08.26.190(5) is amended to read:

(5) "private professional conservator" means an individual who acts as a conservator under AS 13.29.155 - 13.29.310 [13.26.401 - 13.26.580] and receives compensation for acting in that capacity;

* **Sec. 16.** AS 08.26.190(7) is amended to read:

(7) "private professional guardian" means an individual who acts as a guardian under AS 13.29.005 - 13.29.150 [13.26.101 - 13.26.316] and receives compensation for acting in that capacity;

* **Sec. 17.** AS 08.26.190 is amended by adding new paragraphs to read:

(11) "individual subject to conservatorship" has the meaning given in AS 13.29.520;

(12) "individual subject to guardianship" has the meaning given in AS 13.29.520.

* **Sec. 18.** AS 09.15.010 is amended to read:

Sec. 09.15.010. Parents or guardian may sue for injuries or death to child.

A parent may maintain an action as plaintiff for the injury or death of a child below the age of majority. A guardian may maintain an action as plaintiff for the injury or death of an individual subject to guardianship [A WARD].

1 * **Sec. 19.** AS 09.15.020 is amended to read:

2 **Sec. 09.15.020. Parents or guardian may sue for seduction of child.** A
 3 parent may maintain an action as plaintiff for the seduction of a child below the age of
 4 majority. The guardian may maintain an action as plaintiff for the seduction of **an**
 5 **individual subject to guardianship** [A WARD]. The action may be maintained even
 6 though the child or **individual subject to guardianship** [WARD] is not living with or
 7 in the service of the plaintiff at the time of the seduction or afterwards and there is no
 8 loss of service.

9 * **Sec. 20.** AS 11.56.740(a) is amended to read:

10 (a) A person commits the crime of violating a protective order if the person is
 11 subject to a protective order

12 (1) issued, filed, or recognized under AS 18.66 and containing a
 13 provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to
 14 commit an act with reckless disregard that the act violates or would violate a provision
 15 of the protective order;

16 (2) issued or recognized under AS 18.65.850, 18.65.855, 18.65.860, or
 17 18.65.867 and knowingly commits or attempts to commit an act that violates or would
 18 violate a provision listed in AS 18.65.850(c)(1) - (3); or

19 (3) issued under **AS 13.29.320(b)(2) or 13.29.325(c)(2) or (d)**
 20 [AS 13.26.450 - 13.26.460] and knowingly commits or attempts to commit an act with
 21 reckless disregard that the act violates or would violate a provision of the protective
 22 order.

23 * **Sec. 21.** AS 11.56.740(c) is amended to read:

24 (c) In this section, "protective order" means an order issued, filed, or
 25 recognized under **AS 13.29.320(b)(2), 13.29.325(c)(2) or (d)** [AS 13.26.450 -
 26 13.26.460], AS 18.65.850 - 18.65.870, or AS 18.66.100 - 18.66.180.

27 * **Sec. 22.** AS 13.06.010(b) is amended to read:

28 (b) The underlying purposes and policies of AS 13.06 - AS 13.36 are to

29 (1) simplify and clarify the law concerning the affairs of decedents,
 30 missing persons, [PROTECTED PERSONS,] minors, and **individuals subject to**
 31 **guardianship or conservatorship** [INCAPACITATED PERSONS];

(2) discover and make effective the intent of a decedent in distribution of the decedent's property;

(3) promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to the decedent's successors;

(4) facilitate use and enforcement of certain trusts; and

(5) make uniform the law among the various jurisdictions.

* **Sec. 23.** AS 13.06.050(6) is amended to read:

(6) "claims," in respect to estates of decedents and **individuals subject to conservatorship** [PROTECTED PERSONS], includes liabilities of the decedent or **individual subject to conservatorship** [PROTECTED PERSON], whether arising in contract, in tort, or in another way, and liabilities of the estate that arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration; "claims" does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or **individual subject to conservatorship** [PROTECTED PERSON] to specific assets alleged to be included in the estate;

* **Sec. 24.** AS 13.06.050(7) is amended to read:

(7) "conservator" **has the meaning given in AS 13.29.520** [MEANS A PERSON WHO IS APPOINTED BY A COURT TO MANAGE THE ESTATE OF A PROTECTED PERSON];

* **Sec. 25.** AS 13.06.050(12) is amended to read:

(12) "disability" means a cause for a **conservatorship under AS 13.29** [PROTECTIVE ORDER AS DESCRIBED IN AS 13.26.401];

* **Sec. 26.** AS 13.06.050(22) is amended to read:

(22) "guardian" **has the meaning given in AS 13.29.520** [MEANS A PERSON WHO HAS QUALIFIED AS A GUARDIAN OF A MINOR OR INCAPACITATED PERSON IN ACCORDANCE WITH TESTAMENTARY OR COURT APPOINTMENT, BUT EXCLUDES A PERSON WHO IS MERELY A GUARDIAN AD LITEM];

* **Sec. 27.** AS 13.06.050(26) is amended to read:

(26) "interested person" includes heirs, devisees, children, spouses,

creditors, beneficiaries, and other persons having property rights in or claims against a trust estate or the estate of a decedent or individual subject to guardianship or conservatorship [, WARD, OR PROTECTED PERSON]; "interested person" also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons; "interested person," as it relates to particular persons, may vary from time to time and its meaning shall be determined according to the particular purposes of, and matter involved in, a proceeding;

* **Sec. 28.** AS 13.06.050(59) is amended to read:

(59) "trust" includes an express trust, private or charitable, with additions to the trust, wherever and however created; "trust" also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust; "trust" excludes other constructive trusts, resulting trusts, conservatorships, personal representatives, trust accounts that are POD designation accounts under AS 13.33.201 - 13.33.227, custodial arrangements under AS 13.29 [AS 13.26] or AS 13.46, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another;

* **Sec. 29.** AS 13.06.050 is amended by adding new paragraphs to read:

(63) "individual subject to conservatorship" has the meaning given in AS 13.29.520;

(64) "individual subject to guardianship" has the meaning given in AS 13.29.520.

* **Sec. 30.** AS 13.06.060 is amended to read:

Sec. 13.06.060. Applicability. Except as otherwise provided in AS 13.06 - AS 13.36, AS 13.06 - AS 13.36 apply to

(1) the affairs and estates of decedents, missing persons, and persons to be protected, domiciled in this state;

(2) the property of nonresidents located in this state or property coming into the control of a fiduciary who is subject to the laws of this state;

(3) individuals subject to guardianship or conservatorship,
incapacitated persons, and minors in this state;

(4) survivorship and related accounts in this state; and

(5) trusts subject to administration in this state.

* **Sec. 31.** AS 13.06.065 is amended to read:

Sec. 13.06.065. Subject matter jurisdiction. To the full extent permitted by
the constitution, the court has jurisdiction over all subject matter relating to

(1) estates of decedents, including construction of wills and
determination of heirs and successors of decedents, and estates of individuals subject
to conservatorship [PROTECTED PERSONS];

(2) protection of minors, [AND] incapacitated persons, and
individuals subject to guardianship or conservatorship; and

(3) trusts.

* **Sec. 32.** AS 13.06.070(b) is amended to read:

(b) If proceedings concerning the same estate, individual subject to
guardianship or conservatorship [PROTECTED PERSON, WARD], or trust are
commenced in more than one court of this state, the court in which the proceeding was
first commenced shall continue to hear the matter, and the other courts shall hold the
matter in abeyance until the question of venue is decided, and if the ruling court
determines that venue is properly in another court, it shall transfer the proceeding to
the other court.

* **Sec. 33.** AS 13.06.080 is amended to read:

Sec. 13.06.080. Records and certified copies. The clerk of the court shall
keep a record for each decedent, individual subject to guardianship or
conservatorship [WARD, PROTECTED PERSON], or trust involved in any
document that may be filed with the court under AS 13.06 - AS 13.36, including
petitions and applications, demands for notices or bonds, trust registrations, and of any
orders or responses relating thereto by the registrar or court, and establish and
maintain a system for indexing, filing, or recording that is sufficient to enable users of
the records to obtain adequate information. Upon payment of the fees required by law,
the clerk shall issue certified copies of any probated wills, letters issued to personal

representatives, or any other record or paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. Certificates relating to letters must show the date of appointment.

* **Sec. 34.** AS 13.06.120(a) is amended to read:

(a) In any proceedings involving trusts, nonprobate assets, or estates of decedents, minors, [PROTECTED PERSONS, OR] incapacitated persons, **or individuals subject to guardianship or conservatorship** brought under AS 13.06 - AS 13.36 or AS 13.38, the following apply:

(1) interests to be affected shall be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner;

(2) persons are bound by orders binding others in the following cases:

(A) orders binding the sole holder or all co-holders of a power of revocation or a general or nongeneral power of appointment, including one in the form of a power of amendment, bind other persons to the extent their interests, as objects, takers in default, or otherwise, are subject to the power;

(B) to the extent there is no conflict of interest between them or among persons represented, orders binding a conservator bind the person whose estate the conservator controls; orders binding a guardian bind the **individual subject to guardianship** [WARD] if no conservator of the estate has been appointed; orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary, and in proceedings involving creditors or other third parties; orders binding a personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate; and orders binding an agent having authority to act with respect to the particular questions or dispute bind the principal; if there is no conflict of interest and no conservator or guardian has been appointed, a parent may represent the minor child;

(C) an unborn person, a minor, an incapacitated person,

1 **individual subject to guardianship or conservatorship**, or a person whose
 2 identity or location is unknown or not reasonably ascertainable who is not
 3 otherwise represented is bound by an order to the extent the interest is
 4 adequately represented by another party having a substantially identical
 5 interest in the proceeding;

6 (D) with regard to interests given upon the happening of a
 7 certain event to persons who comprise a certain class, orders binding the living
 8 persons who would constitute the class, if the event had happened immediately
 9 before the commencement of the proceeding, bind all members of the class;

10 (E) with regard to an interest given to a living person when the
 11 same interest or a share of the interest is to pass to the surviving spouse or to
 12 persons who are or might be the distributees, devisees, heirs, or issue of the
 13 living person upon the happening of a future event, orders binding the living
 14 person bind the surviving spouse, distributees, devisees, heirs, or issue of the
 15 living person;

16 (F) with regard to interests given to a person or a class of
 17 persons, or to both, upon the happening of a future event, if the same interest
 18 or a share of the interest is to pass to another person or class of persons, or to
 19 both, upon the happening of an additional future event, orders binding the
 20 living person or class of persons who would take the interest upon the
 21 happening of the first event bind the persons and classes of persons who might
 22 take on the happening of the additional future event;

23 (G) if a person is designated by a trust instrument to represent
 24 and bind a born or unborn beneficiary of the trust and receive a notice,
 25 information, accounting, or report for the beneficiary, then the beneficiary is
 26 bound by an order binding the designated person; in this subparagraph,

27 (i) the settlor may make the designation in the trust
 28 instrument, in a separate document, or by a trust protector authorized in
 29 the trust instrument to make the designation;

30 (ii) except as otherwise provided in this subparagraph, a
 31 person designated under (i) of this subparagraph may not represent and

1 bind a beneficiary while the designated person is serving as trustee;

2 (iii) except as otherwise provided in this subparagraph,
3 a person designated under (i) of this subparagraph may not represent
4 and bind another beneficiary if the designated person also is a
5 beneficiary, unless the designated person was named by the settlor, is
6 the beneficiary's spouse, or is a grandparent or descendant of a
7 grandparent of the beneficiary or the beneficiary's spouse; in this sub-
8 subparagraph, "spouse" means the individual to whom the beneficiary
9 is married and with whom the beneficiary is living, and a physical
10 separation primarily for education, business, health, and similar reasons
11 does not prevent the individual from being considered to be living with
12 the beneficiary;

13 (3) a person representing another person under (2)(A) - (F) of this
14 section and a person designated under (2)(G)(i) of this section are not liable to the
15 beneficiary whose interests are represented, or to a person claiming through that
16 beneficiary, for an action or omission to act made in good faith;

17 (4) notice is required as follows:

18 (A) notice as prescribed by AS 13.06.110 shall be given to
19 every interested person or to one person who can bind an interested person as
20 described in (2)(A), (B), or (D) - (G) of this section; notice may be given both
21 to a person and to another person who may bind the person;

22 (B) notice is given to unborn persons, a minor, an incapacitated
23 person, **individual subject to guardianship or conservatorship**, or a person
24 whose identity or location is unknown or not reasonably ascertainable, and
25 persons who are not represented under (2)(A), (B), or (D) - (G) of this section,
26 by giving notice to all known persons whose interests in the proceedings are
27 substantially identical to those of the unborn persons, [THE] minor, [THE]
28 incapacitated person, **individual subject to guardianship or**
29 **conservatorship**, or the person whose identity or location is unknown or not
30 reasonably ascertainable;

31 (5) at any point in a proceeding, a court may appoint a guardian ad

litem to represent the interest of an unborn person, a minor, incapacitated person, **individual subject to guardianship or conservatorship**, or a person whose identity or address is unknown or not reasonably ascertainable, if the court determines that representation of the interest otherwise would be inadequate; if not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests; the court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.

* **Sec. 35.** AS 13.16.040(a) is amended to read:

(a) An informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may not be commenced more than three years after the decedent's death, except

(1) if a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment, or testacy proceedings may be maintained at any time after the dismissal upon a finding that the decedent's death occurred before the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding;

(2) appropriate probate, appointment, or testacy proceedings may be maintained in relation to the estate of an absent, disappeared, or missing person for whose estate a conservator has been appointed, at any time within three years after the conservator becomes able to establish the death of the **individual subject to conservatorship** [PROTECTED PERSON];

(3) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or three years from the decedent's death;

(4) an informal appointment or a formal testacy or appointment proceeding may be commenced after the three years if proceedings concerning the succession or estate administration have not occurred within the three-year period after the decedent's death, but the personal representative may not possess estate assets as

provided in AS 13.16.380 beyond that necessary to confirm title to the assets in the successors to the estate and claims other than expenses of administration may not be presented against the estate; and

(5) a formal testacy proceeding may be commenced at any time after three years from the decedent's death for the purpose of establishing an instrument to direct or control the ownership of property passing or distributable after the decedent's death from a person other than the decedent when the property is to be appointed by the terms of the decedent's will or is to pass or be distributed as a part of the decedent's estate or its transfer is otherwise to be controlled by the terms of the decedent's will.

* **Sec. 36.** AS 13.16.065(d) is amended to read:

(d) Conservators of the estates of **individuals subject to conservatorship** [PROTECTED PERSONS], or if there is no conservator, any guardian except a guardian ad litem of **an individual subject to guardianship or conservatorship** [A MINOR OR INCAPACITATED PERSON], may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the **individual subject to guardianship or conservatorship** [PROTECTED PERSON OR WARD] would have if qualified for appointment.

* **Sec. 37.** AS 13.16.285 is amended to read:

Sec. 13.16.285. Termination of appointment; death or disability. The death of a personal representative or the appointment of a conservator for the estate of a personal representative, terminates the personal representative's appointment. Until appointment and qualification of a successor or special representative to replace the deceased **personal representative** or **personal** [PROTECTED] representative **subject to guardianship or conservatorship**, the representative of the estate of the deceased **representative** or [PROTECTED] personal representative **subject to guardianship or conservatorship**, if any, has the duty to protect the estate possessed and being administered by the decedent or **personal representative subject to guardianship or conservatorship** [WARD] at the time the appointment terminates, has the power to perform acts necessary for protection, and shall account for and deliver the estate assets to a successor or special personal representative upon appointment and

1 qualification.

2 * **Sec. 38.** AS 13.26.001 is amended to read:

3 **Sec. 13.26.001. Adoption of standards of practice.** It is the policy of the state
4 that all guardians and conservators, when making decisions for an individual subject
5 to guardianship or conservatorship [THEIR WARDS OR PROTECTED
6 PERSONS], shall abide by the highest ethical standards of decision making and shall
7 consider the standards of practice adopted by the department by regulation. The
8 department shall adopt standards of practice for guardians and conservators and,
9 before doing so, shall review the standards of practice adopted by a national
10 organization with expertise in the area of standards of practice for guardians and
11 conservators, such as the National Guardianship Association.

12 * **Sec. 39.** AS 13.26.005(3) is amended to read:

13 (3) "full guardian" has the meaning given in AS 13.29.520 [MEANS
14 A GUARDIAN WHO POSSESSES THE LEGAL DUTIES AND POWERS
15 ENUMERATED IN AS 13.26.316(c)];

16 * **Sec. 40.** AS 13.26.005(4) is amended to read:

17 (4) "guardian" has the meaning given in AS 13.29.520 [INCLUDES
18 FULL GUARDIAN AND PARTIAL GUARDIAN];

19 * **Sec. 41.** AS 13.26.005(10) is amended to read:

20 (10) a "protective proceeding" is a proceeding under the provisions of
21 AS 13.29.155 [AS 13.26.401] to determine that a person cannot effectively manage or
22 apply the person's estate to necessary ends, either because the person lacks the ability
23 or is otherwise inconvenienced, or because the person is a minor, and to secure
24 administration of the estate by a conservator or other appropriate relief;

25 * **Sec. 42.** AS 13.26.005(11) is amended to read:

26 (11) "respondent" has the meaning given in AS 13.29.520 [MEANS
27 A PERSON WHO, IN A GUARDIANSHIP PROCEEDING UNDER THIS
28 CHAPTER, IS ALLEGED TO BE AN INCAPACITATED PERSON AND FOR
29 WHOM THE APPOINTMENT OF A GUARDIAN OR ALTERNATIVE
30 ASSISTANCE IS SOUGHT; "RESPONDENT" INCLUDES A PERSON SEEKING
31 THE APPOINTMENT OF A GUARDIAN OR ALTERNATIVE ASSISTANCE FOR

1 ONESELF];

2 * **Sec. 43.** AS 13.26.005 is amended by adding new paragraphs to read:

3 (14) "conservator" has the meaning given in AS 13.29.520;

4 (15) "full conservatorship" has the meaning given in AS 13.29.520;

5 (16) "individual subject to conservatorship" has the meaning given in
6 AS 13.29.520;

7 (17) "individual subject to guardianship" has the meaning given in
8 AS 13.29.520;

9 (18) "limited conservatorship" has the meaning given in AS 13.29.520;

10 (19) "limited guardianship" has the meaning given in AS 13.29.520.

11 * **Sec. 44.** AS 13.26.066(a) is amended to read:

12 (a) A parent [OR A GUARDIAN] of a minor child, by a properly executed
13 power of attorney that is substantially in the form provided in (f) of this section, may
14 delegate to another person one or more powers regarding the care or custody of the
15 minor child, except the power to consent to

16 (1) the marriage or adoption of the minor child;

17 (2) the performance or inducement of an abortion on or for the minor
18 child; or

19 (3) the termination of parental rights to the minor child.

20 * **Sec. 45.** AS 13.26.066(b) is amended to read:

21 (b) A parent [OR GUARDIAN] of a minor child may revoke the power of
22 attorney made by the parent [OR GUARDIAN] under (a) of this section at any time. A
23 parent of a minor child may revoke a power of attorney that another parent of the
24 minor child has made under (a) of this section. [A GUARDIAN OF A MINOR
25 CHILD MAY REVOKE A POWER OF ATTORNEY THAT ANOTHER
26 GUARDIAN OF THE MINOR CHILD HAS MADE UNDER (a) OF THIS
27 SECTION.] If a parent [OR GUARDIAN] revokes a power of attorney, the attorney-
28 in-fact shall return the minor child to the custody of the parent [OR THE
29 GUARDIAN] as soon as reasonably possible after the revocation.

30 * **Sec. 46.** AS 13.26.066(c) is amended to read:

31 (c) Except as provided in (d) of this section, a power of attorney under this

section is not effective for a period that exceeds one year. However, after a power of attorney expires under this subsection, a parent [OR GUARDIAN] may enter into a new power of attorney.

* **Sec. 47.** AS 13.26.066(d) is amended to read:

(d) A power of attorney made by a military parent [OR GUARDIAN] may be effective for a period that exceeds one year if the military parent [OR GUARDIAN] is on active duty, but the power of attorney is not effective for a period that exceeds the length of the active duty plus 30 days.

* **Sec. 48.** AS 13.26.066(e) is amended to read:

(e) Unless a parent [OR GUARDIAN] revokes a power of attorney, the attorney-in-fact shall exercise the power in the power of attorney without compensation for the duration of the power of attorney.

* **Sec. 49.** AS 13.26.066(f) is amended to read:

(f) To designate an attorney-in-fact, a parent [OR GUARDIAN] shall execute a power of attorney that is in substantially the following form:

STATUTORY FORM FOR POWER OF ATTORNEY

TO DELEGATE THE POWERS OF A PARENT [OR GUARDIAN]

Section 1. I certify that I am the parent [OR GUARDIAN] of

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

who is/are minor children.

Section 2. I designate _____ (Full name of attorney-in-fact), _____

(Street address, city, state, and zip code of attorney-in-fact)

(Home telephone of attorney-in-fact)

(Work telephone of attorney-in-fact)

as the attorney-in-fact of each minor child named above.

Section 3. I delegate to the attorney-in-fact all of my power and authority regarding the care and custody of each minor child named above, including the right to enroll the child in school, the right to inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical treatment, dental treatment, and other activity, function, or treatment that may concern the minor child. This delegation does not include the power or authority to consent to the marriage or adoption of the minor child, the performance or inducement of an abortion on or for the minor child, or the termination of parental rights to the minor child.

OR

Section 4. I delegate to my attorney-in-fact the following specific powers and responsibilities (write in):

Delegation under this section does not include the power or authority to consent to the marriage or adoption of the minor child, the performance or inducement of an abortion on or for the minor child, or the termination of parental rights to the minor child.

(If you complete Section 4, Section 3 does not apply).

Section 5. This power of attorney is effective for a period not to exceed one year, beginning _____, 20 ____, and ending _____, 20 _____. I reserve the right to revoke this authority at any time.

OR

Section 6. I am a military parent [OR GUARDIAN] under AS 13.26.066(d). My active duty is scheduled to begin on _____, 20 ____, and is estimated to end on _____, 20 _____. I acknowledge that this power of attorney will not last more than one year, or the term of my active duty service plus 30 days, whichever period is longer.

By: _____
(Parent [PARENT/GUARDIAN]

signature)

Section 7. I hereby accept my designation as attorney-in-fact for the minor child/children identified in this power of attorney.

 (Attorney-in-fact signature)

State of _____
 _____ Judicial District

ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public, in and for the Judicial District and State identified above, on this ____ day of _____, 20 ____, personally appeared _____ (name of **parent** [PARENT/GUARDIAN]) and _____ (name of attorney-in-fact), to me known to be the persons who executed this power of attorney, and each acknowledged to me that each executed the same as the person's free and voluntary act and deed for the uses and purposes set out in this power of attorney.

Witness my hand and official seal the day and year written above.

 (Signature of notary public)

(Seal, if any)

 (Title and rank)

My commission expires: _____

* **Sec. 50.** AS 13.26.066(g) is amended to read:

(g) A power of attorney does not change parental rights, legal rights, obligations, or other authority established by an existing court order and does not deprive the parent [OR GUARDIAN] of rights, obligations, or other authority relating to the custody, visitation, or support of the minor child.

* **Sec. 51.** AS 13.26.066(h) is amended to read:

(h) Except as otherwise determined under another statute, the execution of a power of attorney by a parent [OR GUARDIAN] does not constitute abandonment, neglect, or abuse of the minor child or ward under AS 47.10.013 - 47.10.015, unless the parent [OR GUARDIAN] fails, after the power of attorney terminates, to retake custody of the child and does not execute a new power of attorney.

* **Sec. 52.** AS 13.26.066(j)(2) is amended to read:

(2) "attorney-in-fact" means the individual to whom a parent [OR GUARDIAN] gives a power under a power of attorney;

* **Sec. 53.** AS 13.26.066(j)(5) is amended to read:

(5) "military parent [OR GUARDIAN]" means a person who is a parent [OR GUARDIAN] of a minor and who is a member of

(A) the armed forces of the United States;

(B) a reserve component of the armed forces of the United States;

(C) the National Oceanic and Atmospheric Administration Commissioned Officer Corps or the United States Public Health Service Commissioned Corps, if the member is

(i) assigned by proper authority to duty with the armed forces of the United States; or

(ii) required to serve on active duty with the armed forces of the United States under a call or order of the President of the United States, or to serve on active duty with the military forces of the state;

* **Sec. 54.** AS 13.26.153 is amended to read:

Sec. 13.26.153. Subsidized guardianship; procedure. Notwithstanding the provisions of AS 13.29.005 - 13.29.055, procedures [PROCEDURES] relating to subsidized guardianships for hard-to-place children are governed by AS 25.23.200 - 25.23.240.

* **Sec. 55.** AS 13.26.157 is amended to read:

Sec. 13.26.157. Guardianship after voluntary relinquishment; procedure.

In addition to the applicable procedures under **AS 13.29** [THIS CHAPTER], a

guardianship decree and review of a guardianship decree are governed by the procedures established under AS 25.23.180 and, for a **child in need of aid** [CHILD-IN-NEED-OF-AID], AS 47.10.089, pertaining to voluntary relinquishment of parental rights and retaining of parental privileges in a guardianship decree.

* **Sec. 56.** AS 13.26.256 is amended to read:

Sec. 13.26.256. Psychotropic medication influencing individuals subject to guardianship [WARDS] or respondents at judicial hearings. (a) **An individual subject to guardianship** [A WARD] or respondent has a right to participate to the maximum extent possible in all judicial proceedings concerning the **individual subject to guardianship** [WARD] or respondent and to be free from the influence of psychotropic medication during the proceedings.

(b) It is the responsibility of the attorney for the **individual subject to guardianship** [WARD] or respondent to determine if the **individual subject to guardianship** [WARD] or respondent is being treated with psychotropic medication the effects of which would continue during the judicial proceedings and, if so, to inform the court in writing a reasonable time before the hearing.

(c) The court, upon receipt of the information provided under (b) of this section, shall require a medical examination of the **individual subject to guardianship** [WARD] or respondent, if the court determines that the medical examination is necessary, and shall determine the advisability of continuation or suspension of the treatment for the duration of the judicial proceedings. The court may make any appropriate order it considers necessary. The court in making its determination shall balance the interest of maximum participation of the **individual subject to guardianship** [WARD] or respondent in the hearings against the medical and rehabilitative needs of the **individual subject to guardianship** [WARD] or respondent.

(d) If the **individual subject to guardianship** [WARD] or respondent is under the influence of psychotropic medication during the judicial proceeding determining capacity, the trier of fact shall take that fact into consideration in making its determination.

* **Sec. 57.** AS 13.26.301(f) is amended to read:

(f) If no guardianship petition is pending under AS 13.29.005 - 13.29.150 but the court is informed of a person who is apparently incapacitated and in need of emergency life-saving services, the court may authorize the services upon determining that delay until a guardianship hearing can be held would entail a life-threatening risk to the person.

* **Sec. 58.** AS 13.26.545(e) is amended to read:

(e) If an individual subject to conservatorship [A PROTECTED PERSON] dies, the conservator shall deliver to the court for safekeeping any will of the deceased individual subject to conservatorship [PROTECTED PERSON] that may have come into the conservator's possession and inform the executor or a beneficiary named in the will that the will has been so delivered. Once a conservator knows that the individual subject to conservatorship [PROTECTED PERSON] has died, the conservator may not exercise authority over the [PROTECTED PERSON'S] affairs and estate of the individual subject to conservatorship except to pay reasonable burial expenses and to preserve, account for, and transfer control of assets to a personal representative, a temporary property custodian appointed by the court, or a person authorized to take custody of personal property by affidavit under AS 13.16.680. If, after 40 days from the death of the individual subject to conservatorship [PROTECTED PERSON], no other person has been appointed personal representative and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative in order to proceed with administering and distributing the decedent's estate without additional or further appointment. Upon application for an order granting the powers of a personal representative to a conservator, after notice to any person demanding notice under AS 13.16.070 and to any person nominated executor in any will of which the applicant is aware, the court may order the conferral of the power upon determining that there is no objection, and endorse the letters of the conservator to note that the individual formerly subject to conservatorship [PROTECTED PERSON] is deceased and that the conservator has acquired all of the powers and duties of a personal representative. The making and entry of an order under this section has the effect of an order of appointment of a personal

representative as provided in AS 13.16.115 and 13.16.245 - 13.16.655 except that estate in the name of the conservator, after administration, may be distributed to the decedent's successors without prior retransfer to the conservator as personal representative.

* **Sec. 59.** AS 13.26.575(a) is amended to read:

(a) Any person indebted to [A PROTECTED PERSON,] or having possession of property or of an instrument evidencing a debt, stock, or chose in action belonging to **an individual subject to conservatorship under the law of another state** [A PROTECTED PERSON] may pay or deliver to a conservator, guardian of the estate, or other like fiduciary appointed by a court of the state of residence of the **individual** [PROTECTED PERSON], upon being presented with proof of the fiduciary's appointment and an affidavit made by the fiduciary or on the fiduciary's behalf stating:

(1) that no protective proceeding relating to the **individual** [PROTECTED PERSON] is pending in this state; and

(2) that the foreign conservator is entitled to payment or to receive delivery.

* **Sec. 60.** AS 13.26.635(a) is amended to read:

(a) The following persons may petition a court in accordance with the provisions of **AS 13.29** [AS 13.26.401 - 13.26.595] to construe a power of attorney, review the agent's conduct, and grant appropriate relief:

(1) the principal or the agent;
 (2) the principal's attorney or other legal representative;
 (3) a guardian, conservator, or other fiduciary acting for the principal;
 (4) a person authorized to make health care decisions for the principal;
 (5) the principal's spouse, parent, or descendant;
 (6) an individual who would qualify as a presumptive heir of the principal;

(7) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(8) the Department of Health, the Department of Administration, the

1 office of the long term care ombudsman, or other governmental agency having
 2 statutory authority to protect the welfare of the principal;

3 (9) the principal's caregiver, custodian, or another person that
 4 demonstrates sufficient interest in the principal's welfare; and

5 (10) a person asked to accept the power of attorney.

6 * **Sec. 61.** AS 13.26.700 is amended to read:

7 **Sec. 13.26.700. Purpose.** The legislature recognizes that many Alaskans [,
 8 FOR REASONS OF INCAPACITY OR MINORITY,] are in need of a guardian or
 9 conservator and [. OFTEN THESE PERSONS] cannot find a person able and willing
 10 to serve as guardian or conservator. The legislature intends through AS 13.26.700 -
 11 13.26.750 to establish the function of public guardian for the purpose of furnishing
 12 guardianship and conservatorship services. It further intends by establishing this
 13 function to provide assistance to guardians throughout the state in securing necessary
 14 services for individuals subject to guardianship [THEIR WARDS] and to assist the
 15 courts, attorneys, visitors, respondents, and proposed guardians in the orderly and
 16 expeditious handling of guardianship proceedings.

17 * **Sec. 62.** AS 13.26.710(b) is amended to read:

18 (b) A court may order the public guardian to provide a [ACT AS] full
 19 guardianship [GUARDIAN], limited guardianship [PARTIAL GUARDIAN], full
 20 conservatorship [CONSERVATOR], or limited conservatorship [SPECIAL
 21 CONSERVATOR] for a person who is determined under this chapter to be in need of
 22 guardianship or conservatorship service if no person or private guardianship
 23 association is willing and qualified to perform the function.

24 * **Sec. 63.** AS 13.26.720(a) is amended to read:

25 (a) The public guardian has the same powers and duties when acting as a
 26 guardian or conservator for an individual subject to guardianship or
 27 conservatorship [WITH RESPECT TO THE PUBLIC GUARDIAN'S WARDS AND
 28 PROTECTED PERSONS] as a private guardian or conservator.

29 * **Sec. 64.** AS 13.26.720(b) is amended to read:

30 (b) The public guardian, when appointed as guardian or conservator, shall
 31 endeavor, for as long as practical, to find a suitable private guardian or conservator for

the individual subject to guardianship or conservatorship [PUBLIC GUARDIAN'S WARD OR PROTECTED PERSON]. For each individual subject to guardianship or conservatorship [WARD AND PROTECTED PERSON], the public guardian shall include in its annual reports [REPORT] under AS 13.29.140 and 13.29.265 [AS 13.26.276(a)] to the court having jurisdiction of the individual subject to guardianship or conservatorship [WARD OR PROTECTED PERSON] information on the availability of a private guardian or conservator.

* **Sec. 65.** AS 13.26.720(c) is amended to read:

(c) The public guardian shall

(1) establish and maintain relationships with governmental, public, and private agencies, institutions, and organizations to assure the most effective guardianship or conservatorship program for each individual subject to guardianship or conservatorship [WARD AND PROTECTED PERSON];

(2) visit each of the public guardian's individuals subject to guardianship or conservatorship [WARDS AND PROTECTED PERSONS] at least once every quarter to monitor their welfare;

(3) keep and maintain financial and statistical records of all cases in which the public guardian provides guardianship or conservatorship services;

(4) provide information and referrals to the public regarding guardianship and conservatorship proceedings, but not information that would identify a particular case;

(5) assist guardians and court-appointed visitors of individuals subject to guardianship [WARDS] and respondents in the preparation and revision of guardianship plans and reports;

(6) assist guardians to understand the disabilities of individuals subject to guardianship [WARDS] and to foster the increased independence of individuals subject to guardianship [WARDS];

(7) assist guardians in securing the rights, benefits, and services to which their individuals subject to guardianship [WARDS] are entitled;

(8) develop and maintain a current listing of public and private medical, mental health, social advocacy, educational, rehabilitative, counseling,

therapeutic, homemaking, recreational, and financial services and programs available to assist individuals subject to guardianship or conservatorship [WARDS AND PROTECTED PERSONS] and their families.

* **Sec. 66.** AS 13.26.730 is amended to read:

Sec. 13.26.730. Intervention by public guardian. The public guardian may, on the public guardian's own motion or at the request of the court, intervene in a guardianship or conservatorship proceeding if the public guardian or the court considers the intervention to be justified because

- (1) an appointed guardian or conservator is not fulfilling duties;
- (2) the estate is subject to waste as a result of the costs of the guardianship or conservatorship;
- (3) a willing and qualified guardian or conservator is not available; or
- (4) the best interests of the individual subject to guardianship or conservatorship [WARD], respondent, [PROTECTED PERSON,] or person who is the subject of a conservatorship proceeding require the intervention.

* **Sec. 67.** AS 13.26.740 is amended to read:

Sec. 13.26.740. Staff; delegation of powers and duties. The public guardian may employ staff and delegate to members of the staff or to volunteers the powers and duties as guardian or conservator and other powers and duties under this chapter. However, the public guardian retains responsibility for the proper performance of the delegated powers and duties. The public guardian may only delegate powers and duties under this chapter to an individual who is not prohibited from being a guardian under AS 13.29.100(d) or (e) or conservator under AS 13.29.200(d) or (e) [MEETS THE ELIGIBILITY REQUIREMENTS OF AS 13.26.311] and has passed the criminal history record information check under AS 08.26.070. In addition, the individual must either hold a current certification as a guardian from a nationally recognized organization at the time of the delegation or apply for and receive that certification within one year of the delegation.

* **Sec. 68.** AS 13.26.750(a) is amended to read:

- (a) The commissioner of administration may establish by regulation a schedule of reasonable fees for the costs of the public guardian's services. The fee

schedule established may be based on [UPON] the ability of the individual subject to guardianship or conservatorship [WARD OR PROTECTED PERSON] to pay for guardian services but may not exceed the actual cost of providing public guardian services. The office of public advocacy shall charge and collect the fees established under this subsection, but may waive collection of a fee upon a finding that collection is not economically feasible or in the public interest.

* **Sec. 69.** AS 13.26.750(c) is amended to read:

(c) The public guardian may investigate the financial status of (1) a person who requests the appointment of the public guardian as the person's guardian or conservator; and (2) an individual subject to guardianship [A WARD] for whom a court has appointed the public guardian.

* **Sec. 70.** AS 13.26.750(e) is amended to read:

(e) Before the office of public advocacy releases the [A WARD'S] funds of an individual subject to guardianship following the termination of the public guardian's appointment, the office may collect from the [WARD'S] funds of the individual subject to guardianship held by the office the reasonable value of the services rendered without cost to the individual subject to guardianship or conservatorship [WARD OR PROTECTED PERSON].

* **Sec. 71.** AS 13.27.030 is amended to read:

Sec. 13.27.030. Cooperation between courts. (a) In a guardianship or conservatorship [PROTECTIVE] proceeding in this state, a court may request the appropriate court of another state to

- (1) hold an evidentiary hearing;
- (2) order a person in that state to produce evidence or give testimony under procedures of that state;
- (3) order that an evaluation or assessment be made of the respondent;
- (4) order any appropriate investigation of a person involved in a proceeding;
- (5) forward to the court a certified copy of the transcript or other record of a hearing under (1) of this subsection or any other proceeding, any evidence otherwise produced under (2) of this subsection, and any evaluation or assessment

1 prepared in compliance with an order under (3) or (4) of this subsection;

2 (6) issue any order necessary to assure the appearance in the
 3 proceeding of a person whose presence is necessary for the court to make a
 4 determination, including the respondent or the **adult subject to guardianship or**
 5 **conservatorship** [INCAPACITATED OR PROTECTED PERSON];

6 (7) issue an order authorizing the release of medical, financial,
 7 criminal, or other relevant information in that state, including protected health
 8 information as defined in 45 C.F.R. 160.103, as amended.

9 (b) If a court of another state in which a guardianship or **conservatorship**
 10 [PROTECTIVE PROCEEDING] is pending requests assistance of the kind provided
 11 in (a) of this section, a court of this state has jurisdiction for the limited purpose of
 12 granting the request or making reasonable efforts to comply with the request.

13 * **Sec. 72.** AS 13.27.120(a) is amended to read:

14 (a) A court of this state lacking jurisdiction under AS 13.27.110 has special
 15 jurisdiction to

16 (1) appoint a guardian in an emergency for a term not exceeding 90
 17 days for a respondent who is physically present in this state;

18 (2) issue a protective order with respect to real or tangible personal
 19 property located in this state;

20 (3) appoint a guardian or conservator for an **adult subject to**
 21 **guardianship or conservatorship** [INCAPACITATED OR PROTECTED PERSON]
 22 for whom a provisional order to transfer the proceeding from another state has been
 23 issued under procedures similar to AS 13.27.200.

24 * **Sec. 73.** AS 13.27.200(c) is amended to read:

25 (c) On the court's own motion or on request of the guardian or conservator, the
 26 **adult subject to guardianship or conservatorship** [INCAPACITATED OR
 27 PROTECTED PERSON], or other person required to be notified of the petition, the
 28 court shall hold a hearing on a petition filed under (a) of this section.

29 * **Sec. 74.** AS 13.27.200(d) is amended to read:

30 (d) The court shall issue an order provisionally granting a petition to transfer a
 31 guardianship and shall direct the guardian to petition for guardianship in the other state

1 if the court is satisfied that the guardianship will be accepted by the court in the other
2 state and the court finds that

3 (1) the adult subject to guardianship or conservatorship
4 [INCAPACITATED PERSON] is physically present in or is reasonably expected to
5 move permanently to the other state;

6 (2) an objection to the transfer has not been made or, if an objection
7 has been made, the objector has not established that the transfer would be contrary to
8 the interests of the adult subject to guardianship or conservatorship
9 [INCAPACITATED PERSON]; and

10 (3) plans for care and services for the adult subject to guardianship
11 or conservatorship [INCAPACITATED PERSON] in the other state are reasonable
12 and sufficient.

13 * **Sec. 75.** AS 13.27.200(e) is amended to read:

14 (e) The court shall issue a provisional order granting a petition to transfer a
15 conservatorship and shall direct the conservator to petition for conservatorship in the
16 other state if the court is satisfied that the conservatorship will be accepted by the
17 court of the other state and the court finds that

18 (1) the adult subject to conservatorship [PROTECTED PERSON] is
19 physically present in or is reasonably expected to move permanently to the other state,
20 or the adult subject to conservatorship [PROTECTED PERSON] has a significant
21 connection to the other state considering the factors set out in AS 13.27.180(3);

22 (2) an objection to the transfer has not been made or, if an objection
23 has been made, the objector has not established that the transfer would be contrary to
24 the interests of the adult subject to conservatorship [PROTECTED PERSON]; and

25 (3) adequate arrangements will be made for management of the
26 [PROTECTED PERSON'S] property of the adult subject to conservatorship.

27 * **Sec. 76.** AS 13.27.210(c) is amended to read:

28 (c) On the court's own motion or on request of the guardian or conservator, the
29 adult subject to guardianship or conservatorship [INCAPACITATED OR
30 PROTECTED PERSON,] or other person required to be notified of the proceeding,
31 the court may hold a hearing on a petition filed under (a) of this section.

1 * **Sec. 77.** AS 13.27.210(d) is amended to read:

2 (d) The court shall issue a provisional order granting a petition filed under (a)
3 of this section unless

4 (1) an objection is made and the objector establishes that transfer of the
5 proceeding would be contrary to the interests of the **adult subject to guardianship or**
6 **conservatorship** [INCAPACITATED OR PROTECTED PERSON]; or

7 (2) the guardian or conservator is ineligible for an appointment in this
8 state.

9 * **Sec. 78.** AS 13.27.210(g) is amended to read:

10 (g) In granting a petition under this section, the court shall recognize a
11 guardianship or conservatorship order from the other state, including the determination
12 of the **adult subject to guardianship or conservatorship's** [INCAPACITATED OR
13 PROTECTED PERSON'S] incapacity and the appointment of the guardian or
14 conservator.

15 * **Sec. 79.** AS 13.27.210(h) is amended to read:

16 (h) The denial by a court of this state of a petition to accept a guardianship or
17 conservatorship transferred from another state does not affect the ability of the
18 guardian or conservator to seek appointment as guardian or conservator in this state
19 under **AS 13.29.060 or 13.29.155** [AS 13.26.266 OR 13.26.401] if the court has
20 jurisdiction to make an appointment other than by reason of the provisional order of
21 transfer.

22 * **Sec. 80.** AS 13.27.310 is amended to read:

23 **Sec. 13.27.310. Registration of protective orders.** If a conservator has been
24 appointed in another state and a petition for a protective order is not pending in this
25 state, the conservator appointed in the other state, after giving notice to the appointing
26 court of an intent to register, may register the protective order in this state by filing as
27 a foreign judgment in a court of this state, in any judicial district in which property
28 belonging to the **adult subject to conservatorship** [PROTECTED PERSON] is
29 located, certified copies of the order and letters of office and of any bond.

30 * **Sec. 81.** AS 13.27.420 is amended to read:

31 **Sec. 13.27.420. Relation to AS 13.29** [AS 13.26]. Nothing in this chapter

limits the rights of an **adult subject to guardianship or conservatorship** [INCAPACITATED PERSON] available in a guardianship or conservatorship proceeding in this state under **AS 13.29.155** [AS 13.26].

* **Sec. 82.** AS 13.27.490(2) is amended to read:

(2) "conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under **AS 13.29.155** [AS 13.26.401];

* **Sec. 83.** AS 13.27.490(3) is amended to read:

(3) "guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under **AS 13.29.060** [AS 13.26.266]; however, if the person was appointed as a full guardian under **AS 13.29** [AS 13.26], the person has the powers and duties set out **for a guardian of an adult** under **AS 13.29** [AS 13.26.316];

* **Sec. 84.** AS 13.27.490(8) is amended to read:

(8) "person" means [, EXCEPT IN THE TERMS INCAPACITATED PERSON OR PROTECTED PERSON,] an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

* **Sec. 85.** AS 13.27.490 is amended by adding new paragraphs to read:

(15) "adult subject to conservatorship" means an adult for whom a protective order has been issued;

(16) "adult subject to guardianship" means an adult for whom a guardian has been appointed.

* **Sec. 86.** AS 13 is amended by adding a new chapter to read:

Chapter 29. Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act.

Article 1. Guardianship of Minor.

Sec. 13.29.005. Basis for appointment of guardian for minor. (a) A person becomes a guardian for a minor only on appointment by the court.

(b) The court may appoint a guardian for a minor who does not have a

guardian if the court finds the appointment is in the best interest of the minor and

(1) each parent of the minor, after being fully informed of the nature and consequences of guardianship, consents;

(2) all parental rights have been terminated; or

(3) there is clear and convincing evidence that no parent of the minor is willing or able to exercise the powers the court is granting the guardian.

Sec. 13.29.010. Petition for appointment of guardian for minor. (a) A person interested in the welfare of a minor, including the minor, may petition for appointment of a guardian for the minor.

(b) A petition under (a) of this section must state the petitioner's name, principal residence and, if different, current street address, relationship to the minor, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(1) the minor's name, age, principal residence and, if different, current street address, and, if different, address of the dwelling in which it is proposed the minor will reside if the appointment is made;

(2) the name and current street address of the minor's parents;

(3) the name and address, if known, of each person that had primary care or custody of the minor for at least 60 days during the two years immediately before the filing of the petition or for at least 730 days during the five years immediately before the filing of the petition;

(4) the name and address of any attorney for the minor and any attorney for each parent of the minor;

(5) the reason guardianship is sought and would be in the best interest of the minor;

(6) the name and address of any proposed guardian and the reason the proposed guardian should be selected;

(7) if the minor has property other than personal effects, a general statement of the minor's property with an estimate of its value;

(8) whether the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;

(9) whether any parent of the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings; and

(10) whether any other proceeding concerning the care or custody of the minor is pending in any court in this state or another jurisdiction.

Sec. 13.29.015. Notice of hearing for appointment of guardian for minor.

(a) If a petition is filed under AS 13.29.010, the court shall schedule a hearing and the petitioner shall

(1) serve notice of the date, time, and place of the hearing, together with a copy of the petition, personally on each of the following that is not the petitioner:

(A) the minor, if the minor will be 12 years of age or older at the time of the hearing;

(B) each parent of the minor or, if there is none, the adult nearest in kinship who can be found with reasonable diligence;

(C) any adult with whom the minor resides;

(D) each person that had primary care or custody of the minor for at least 60 days during the two years immediately before the filing of the petition or for at least 730 days during the five years immediately before the filing of the petition; and

(E) any other person the court determines should receive personal service of notice; and

(2) give notice under AS 13.29.450 of the date, time, and place of the hearing, together with a copy of the petition, to

(A) any person nominated as guardian by the minor, if the minor is 12 years of age or older;

(B) any nominee of a parent;

(C) each grandparent and adult sibling of the minor;

(D) any guardian or conservator acting for the minor in any jurisdiction; and

(E) any other person the court determines should receive

1 notice.

2 (b) Notice required by (a) of this section must include a statement of the right
3 to request appointment of an attorney for the minor or object to appointment of a
4 guardian and a description of the nature, purpose, and consequences of the
5 appointment of a guardian.

6 (c) The court may not grant a petition for guardianship of a minor if notice
7 substantially complying with (a)(1) of this section is not served on

8 (1) the minor, if the minor is 12 years of age or older; and

9 (2) each parent of the minor, unless the court finds by clear and
10 convincing evidence that the parent cannot with due diligence be located and served or
11 the parent waived, in a record, the right to notice.

12 (d) If a petitioner is unable to serve notice under (a)(1) of this section on a
13 parent of a minor or alleges that the parent waived, in a record, the right to notice
14 under this section, the court shall appoint a visitor who shall

15 (1) interview the petitioner and the minor;

16 (2) if the petitioner alleges the parent cannot be located, ascertain
17 whether the parent cannot be located with due diligence; and

18 (3) investigate any other matter relating to the petition the court
19 directs.

20 **Sec. 13.29.020. Attorney for minor or parent.** (a) The court shall appoint an
21 attorney to represent a minor who is the subject of a proceeding under AS 13.29.010 if

22 (1) requested by the minor and the minor is 12 years of age or older;

23 (2) recommended by a guardian ad litem; or

24 (3) the court determines the minor needs representation.

25 (b) An attorney appointed under (a) of this section shall

26 (1) make a reasonable effort to ascertain the minor's wishes;

27 (2) advocate for the minor's wishes to the extent reasonably
28 ascertainable; and

29 (3) if the minor's wishes are not reasonably ascertainable, advocate for
30 the best interest of the minor.

31 (c) A minor who is the subject of a proceeding under AS 13.29.010 may retain

1 an attorney to represent the minor in the proceeding.

2 (d) A parent of a minor who is the subject of a proceeding under AS 13.29.010
3 may retain an attorney to represent the parent in the proceeding.

4 **Sec. 13.29.025. Attendance and participation at hearing for appointment**
5 **of guardian for minor.** (a) The court shall require a minor who is the subject of a
6 hearing under AS 13.29.015 to attend the hearing and allow the minor to participate in
7 the hearing unless the court determines, by clear and convincing evidence presented at
8 the hearing or a separate hearing, that

9 (1) the minor consistently and repeatedly refused to attend the hearing
10 after being fully informed of the right to attend and, if the minor is 12 years of age or
11 older, the potential consequences of failing to do so;

12 (2) there is no practicable way for the minor to attend the hearing;

13 (3) the minor lacks the ability or maturity to participate meaningfully
14 in the hearing; or

15 (4) attendance would be harmful to the minor.

16 (b) Unless excused by the court for good cause, the person proposed to be
17 appointed as guardian for a minor shall attend a hearing under AS 13.29.015.

18 (c) Each parent of a minor who is the subject of a hearing under AS 13.29.015
19 has the right to attend the hearing.

20 (d) A person may request permission to participate in a hearing under
21 13.29.015. The court may grant the request, with or without hearing, on determining
22 that it is in the best interest of the minor who is the subject of the hearing. The court
23 may impose appropriate conditions on the person's participation.

24 **Sec. 13.29.030. Order of appointment; priority of nominee; limited**
25 **guardianship for minor.** (a) After a hearing under AS 13.29.015, the court may
26 appoint a guardian for a minor if appointment is proper under AS 13.29.005, dismiss
27 the proceeding, or take other appropriate action consistent with this chapter or a law of
28 this state other than this chapter.

29 (b) In appointing a guardian under (a) of this section, the following rules
30 apply:

31 (1) the court shall appoint a person nominated as guardian by a parent

1 of the minor in a will or other record unless the court finds the appointment is contrary
2 to the best interest of the minor;

3 (2) if multiple parents have nominated different persons to serve as
4 guardian, the court shall appoint the nominee whose appointment is in the best interest
5 of the minor, unless the court finds that appointment of the nominees is not in the best
6 interest of the minor;

7 (3) if a guardian is not appointed under (1) or (2) of this subsection, the
8 court shall appoint the person nominated by the minor if the minor is 12 years of age
9 or older unless the court finds that appointment is contrary to the best interest of the
10 minor; in that case, the court shall appoint as guardian a person whose appointment is
11 in the best interest of the minor.

12 (c) In the interest of maintaining or encouraging involvement by a minor's
13 parent in the minor's life, developing self-reliance of the minor, or for other good
14 cause, the court, at the time of appointment of a guardian for the minor or later, on its
15 own or on motion of the minor or another interested person, may create a limited
16 guardianship by limiting the powers otherwise granted under AS 13.29.005 -
17 13.29.055 to the guardian. Following the same procedure, the court may grant
18 additional powers or withdraw powers previously granted.

19 (d) The court, as part of an order appointing a guardian for a minor, shall state
20 rights retained by any parent of the minor, which may include contact or visitation
21 with the minor; decision making regarding the minor's health care, education, or other
22 matters; or access to a record regarding the minor.

23 (e) An order granting a guardianship for a minor must state that each parent of
24 the minor is entitled to notice that

25 (1) the guardian has delegated custody of the minor subject to
26 guardianship;

27 (2) the court has modified or limited the powers of the guardian; or

28 (3) the court has removed the guardian.

29 (f) An order granting guardianship for a minor must identify any person in
30 addition to a parent of the minor who is entitled to notice of the events listed in (e) of
31 this section.

1 **Sec. 13.29.035. Standby guardian for minor.** (a) A standby guardian
 2 appointed under this section may act as guardian, with all duties and powers of a
 3 guardian under AS 13.29.045 and 13.29.050, if the minor does not have a parent
 4 willing or able to exercise the duties and powers granted to the guardian.

5 (b) A parent of a minor, in a signed record, may nominate a person to be
 6 appointed by the court as standby guardian for the minor. The parent, in a signed
 7 record, may state desired limitations on the powers to be granted to the standby
 8 guardian. The parent, in a signed record, may revoke or amend the nomination at any
 9 time before the court appoints a standby guardian.

10 (c) The court may appoint a standby guardian for a minor on

11 (1) petition by a parent of the minor or a person nominated under (b) of
 12 this section; and

13 (2) finding that the minor does not have a parent who will likely be
 14 able or willing to care for or make decisions with respect to the minor not later than
 15 two years after the appointment.

16 (d) A petition under (c)(1) of this section must include the same information
 17 required under AS 13.29.010 for the appointment of a guardian for a minor.

18 (e) On filing a petition under (c)(1) of this section, the petitioner shall

19 (1) serve a copy of the petition personally on

20 (A) the minor, if the minor is 12 years of age or older, and the
 21 minor's attorney, if any;

22 (B) each parent of the minor;

23 (C) the person nominated as standby guardian; and

24 (D) any other person the court determines should receive a
 25 copy; and

26 (2) include with the copy of the petition served under (1) of this
 27 subsection a statement of the right to request appointment of an attorney for the minor
 28 or to object to appointment of the standby guardian, and a description of the nature,
 29 purpose, and consequences of appointment of a standby guardian.

30 (f) A person entitled to notice under (e) of this section, not later than 60 days
 31 after service of the petition and statement, may object to appointment of the standby

1 guardian by filing an objection with the court and giving notice of the objection to any
 2 other person entitled to notice under (e) of this section.

3 (g) If an objection is filed under (f) of this section, the court shall hold a
 4 hearing to determine whether a standby guardian should be appointed and, if so, the
 5 person that should be appointed. If no objection is filed, the court may make the
 6 appointment.

7 (h) The court may not grant a petition for a standby guardian of the minor if
 8 notice substantially complying with (e) of this section is not served on

9 (1) the minor, if the minor is 12 years of age or older; and

10 (2) each parent of the minor, unless the court finds by clear and
 11 convincing evidence that the parent, in a record, waived the right to notice or cannot
 12 be located and served with due diligence.

13 (i) If a petitioner is unable to serve notice under (e) of this section on a parent
 14 of the minor or alleges that a parent of the minor waived the right to notice under this
 15 section, the court shall appoint a visitor who shall

16 (1) interview the petitioner and the minor;

17 (2) if the petitioner alleges the parent cannot be located and served,
 18 ascertain whether the parent cannot be located with due diligence; and

19 (3) investigate any other matter relating to the petition the court
 20 directs.

21 (j) If the court finds under (c) of this section that a standby guardian should be
 22 appointed, the following rules apply:

23 (1) the court shall appoint the person nominated under (b) of this
 24 section unless the court finds the appointment is contrary to the best interest of the
 25 minor;

26 (2) if the parents have nominated different persons to serve as standby
 27 guardian, the court shall appoint the nominee whose appointment is in the best interest
 28 of the minor, unless the court finds that appointment of the nominees is not in the best
 29 interest of the minor.

30 (k) An order appointing a standby guardian under this section must state that
 31 each parent of the minor is entitled to notice, and identify any other person entitled to

1 notice, if

2 (1) the standby guardian assumes the duties and powers of the
3 guardian;

4 (2) the guardian delegates custody of the minor;

5 (3) the court modifies or limits the powers of the guardian; or

6 (4) the court removes the guardian.

7 (l) Before assuming the duties and powers of a guardian, a standby guardian
8 must file with the court an acceptance of appointment as guardian and give notice of
9 the acceptance to

10 (1) each parent of the minor, unless the parent, in a record, waived the
11 right to notice or cannot be located and served with due diligence;

12 (2) the minor, if the minor is 12 years of age or older; and

13 (3) any person, other than the parent, having care or custody of the
14 minor.

15 (m) A person that receives notice under (l) of this section or any other person
16 interested in the welfare of the minor may file with the court an objection to the
17 standby guardian's assumption of duties and powers of a guardian. The court shall
18 hold a hearing if the objection supports a reasonable belief that the conditions for
19 assumption of duties and powers have not been satisfied.

20 **Sec. 13.29.040. Emergency guardian for minor.** (a) On its own, or on
21 petition by a person interested in a minor's welfare, the court may appoint an
22 emergency guardian for the minor if the court finds

23 (1) appointment of an emergency guardian is likely to prevent
24 substantial harm to the minor's health, safety, or welfare; and

25 (2) no other person appears to have authority and willingness to act in
26 the circumstances.

27 (b) The duration of authority of an emergency guardian for a minor may not
28 exceed 60 days and the emergency guardian may exercise only the powers specified in
29 the order of appointment. The emergency guardian's authority may be extended once
30 for not more than 60 days if the court finds that the conditions for appointment of an
31 emergency guardian in (a) of this section continue.

1 (c) Except as otherwise provided in (d) of this section, reasonable notice of the
 2 date, time, and place of a hearing on a petition for appointment of an emergency
 3 guardian for a minor must be given to

- 4 (1) the minor, if the minor is 12 years of age or older;
 5 (2) any attorney appointed under AS 13.29.020;
 6 (3) each parent of the minor;
 7 (4) any person, other than a parent, having care or custody of the
 8 minor; and

- 9 (5) any other person the court determines should receive notice.

10 (d) The court may appoint an emergency guardian for a minor without notice
 11 under (c) of this section and without a hearing only if the court finds from an affidavit
 12 or testimony that the minor's health, safety, or welfare will be substantially harmed
 13 before a hearing with notice on the appointment can be held. If the court appoints an
 14 emergency guardian without notice to an unrepresented minor or the attorney for a
 15 represented minor, notice of the appointment must be given not later than 48 hours
 16 after the appointment to the individuals listed in (c) of this section. Not later than five
 17 days after the appointment, the court shall hold a hearing on the appropriateness of the
 18 appointment.

19 (e) Appointment of an emergency guardian under this section, with or without
 20 notice, is not a determination that a basis exists for appointment of a guardian under
 21 AS 13.29.005.

22 (f) The court may remove an emergency guardian appointed under this section
 23 at any time. The emergency guardian shall make any report the court requires.

24 **Sec. 13.29.045. Duties of guardian for minor.** (a) A guardian for a minor is a
 25 fiduciary. Except as otherwise limited by the court, a guardian for a minor has the
 26 duties and responsibilities of a parent regarding the minor's support, care, education,
 27 health, safety, and welfare. A guardian shall act in the best interest of the minor and
 28 exercise reasonable care, diligence, and prudence.

29 (b) A guardian for a minor shall

- 30 (1) be personally acquainted with the minor and maintain sufficient
 31 contact with the minor to know the minor's abilities, limitations, needs, opportunities,

1 and physical and mental health;

2 (2) take reasonable care of the personal effects of the minor and bring
3 a proceeding for a conservatorship or protective arrangement instead of
4 conservatorship if necessary to protect other property of the minor;

5 (3) expend funds of the minor that have been received by the guardian
6 for the minor's current needs for support, care, education, health, safety, and welfare;

7 (4) conserve any funds of the minor not expended under (3) of this
8 subsection for the future needs of the minor, but if a conservator is appointed for the
9 minor, pay the funds at least quarterly to the conservator to be conserved for the future
10 needs of the minor;

11 (5) report the condition of the minor and account for funds and other
12 property of the minor in the possession or subject to the control of the guardian, as
13 required by court rule or ordered by the court on application of a person interested in
14 the welfare of the minor;

15 (6) inform the court of any change in the dwelling or address of the
16 minor; and

17 (7) in determining what is in the best interest of the minor, take into
18 account the preferences of the minor to the extent actually known or reasonably
19 ascertainable by the guardian.

20 **Sec. 13.29.050. Powers of guardian for minor.** (a) Except as otherwise
21 limited by court order, a guardian of a minor has the powers a parent otherwise would
22 have regarding the support, care, education, health, safety, and welfare of the minor.

23 (b) Except as otherwise limited by court order, a guardian for a minor may

24 (1) apply for and receive funds and benefits otherwise payable for the
25 support of the minor to the parent, guardian, or custodian of the minor under a
26 statutory system of benefits or insurance or any private contract, devise, trust,
27 conservatorship, or custodianship;

28 (2) unless inconsistent with a court order entitled to recognition in this
29 state, take custody of the minor and establish the place of dwelling of the minor and,
30 on authorization of the court, establish or move the dwelling of the minor outside this
31 state;

(3) if the minor is not subject to conservatorship, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the minor or make a payment for the benefit of the minor;

(4) consent to health or other care, treatment, or service for the minor; or

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

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

(d) A guardian for a minor may give consent to the marriage of the minor under AS 25.05.171(b).

Sec. 13.29.055. Removal of guardian for minor; termination of a guardianship; appointment of successor. (a) Guardianship under this chapter for a minor terminates

(1) on the minor's

(A) except as provided under AS 13.16.065(d), death;

(B) adoption;

(C) emancipation; or

(D) attainment of majority; or

(2) when the court finds that the standard for appointment of a guardian under AS 13.29.005 is not satisfied, unless the court finds that

(A) termination of the guardianship would be harmful to the minor; and

(B) the interest of the minor in the continuation of the guardianship outweighs the interest of any parent of the minor in restoration of the parent's right to make decisions for the minor.

(b) A minor subject to guardianship or a person interested in the welfare of the minor may petition the court to terminate the guardianship, modify the guardianship, remove the guardian and appoint a successor guardian, or remove a standby guardian and appoint a different standby guardian.

(c) A petitioner under (b) of this section shall give notice of the hearing on the

petition to the minor, if the minor is 12 years of age or older and is not the petitioner, the guardian, each parent of the minor, and any other person the court determines.

(d) The court shall follow the priorities under AS 13.29.030(b) when selecting a successor guardian for a minor.

(e) Not later than 30 days after appointment of a successor guardian for a minor, the court shall give notice of the appointment to the minor subject to guardianship, if the minor is 12 years of age or older, each parent of the minor, and any other person the court determines.

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

(g) A guardian for a minor that is removed shall cooperate with a successor guardian to facilitate transition of the guardian's responsibilities and protect the best interest of the minor.

Article 2. Guardianship of Adult.

Sec. 13.29.060. Basis for appointment of guardian for adult. (a) On petition and after notice and hearing, the court may

(1) appoint a guardian for an adult if the court finds by clear and convincing evidence that

(A) the respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(B) the respondent's identified needs cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative; or

(2) with appropriate findings, treat the petition as one for a conservatorship under AS 13.29.155 - 13.29.310 or protective arrangement under AS 13.29.315 - 13.29.368, issue any appropriate order, or dismiss the proceeding.

(b) The court shall grant a guardian appointed under (a) of this section only

those powers necessitated by the demonstrated needs and limitations of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full guardianship if a limited guardianship, protective arrangement instead of guardianship, or other less restrictive alternatives would meet the needs of the respondent.

Sec. 13.29.065. Petition for appointment of guardian for adult. (a) A person interested in an adult's welfare, including the adult for whom the order is sought, may petition for appointment of a guardian for the adult.

(b) A petition under (a) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known,

(1) the respondent's name, age, principal residence, and, if different, current street address, and, if different, address of the dwelling in which it is proposed the respondent will reside if the petition is granted;

(2) the name and address of the respondent's

(A) spouse or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the 12-month period immediately before the filing of the petition;

(B) adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(C) adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship in the two-year period immediately before the filing of the petition;

(3) the name and current address of each of the following, if applicable:

(A) a person responsible for care of the respondent;

(B) any attorney currently representing the respondent;

(C) any representative payee appointed by the United States

1 Social Security Administration for the respondent;

2 (D) a guardian or conservator acting for the respondent in this
3 state or in another jurisdiction;

4 (E) a trustee or custodian of a trust or custodianship of which
5 the respondent is a beneficiary;

6 (F) any fiduciary for the respondent appointed by the United
7 States Department of Veterans Affairs;

8 (G) an agent designated under a durable power of attorney for
9 health care under AS 13.52 in which the respondent is identified as the
10 principal;

11 (H) an agent designated under a power of attorney under
12 AS 13.26 in which the respondent is identified as the principal;

13 (I) a person nominated as guardian by the respondent;

14 (J) a person nominated as guardian by the parent or spouse of
15 the respondent in a will or other signed record;

16 (K) a proposed guardian and the reason the proposed guardian
17 should be selected; and

18 (L) a person known to have routinely assisted the respondent
19 with decision making during the six months immediately before the filing of
20 the petition;

21 (4) the reason a guardianship is necessary, including a brief description

22 of

23 (A) the nature and extent of the alleged need of the respondent;

24 (B) any protective arrangement instead of guardianship or other
25 less restrictive alternatives for meeting the alleged need of the respondent that
26 have been considered or implemented;

27 (C) if no protective arrangement instead of guardianship or
28 other less restrictive alternatives have been considered or implemented, the
29 reason they have not been considered or implemented; and

30 (D) the reason a protective arrangement instead of guardianship
31 or other less restrictive alternative is insufficient to meet the alleged need of

1 the respondent;

2 (5) whether the petitioner seeks a limited guardianship or full
3 guardianship;

4 (6) if the petitioner seeks a full guardianship, the reason a limited
5 guardianship or protective arrangement instead of guardianship is not appropriate;

6 (7) if a limited guardianship is requested, the powers to be granted to
7 the guardian;

8 (8) the name and current address, if known, of any person with whom
9 the petitioner seeks to limit the respondent's contact;

10 (9) if the respondent has property other than personal effects, a general
11 statement of the property of the respondent, with an estimate of its value, including
12 any insurance or pension, and the source and amount of other anticipated income or
13 receipts; and

14 (10) whether the respondent needs an interpreter, translator, or other
15 form of support to communicate effectively with the court or understand court
16 proceedings.

17 **Sec. 13.29.070. Notice of hearing for appointment of guardian for adult.**

18 (a) On filing of a petition for appointment of a guardian for an adult under
19 AS 13.29.065, the court shall set a date, time, and place for hearing the petition.

20 (b) A copy of a petition under AS 13.29.065 and notice of a hearing on the
21 petition must be served personally on the respondent. The notice must inform the
22 respondent of the respondent's rights at the hearing, including the right to an attorney
23 and to attend the hearing. The notice must include a description of the nature, purpose,
24 and consequences of granting the petition. The court may not grant the petition if
25 notice substantially complying with this subsection is not served on the respondent.

26 (c) In a proceeding on a petition under AS 13.29.065, the notice required
27 under (b) of this section must be given to the persons required to be listed in the
28 petition under AS 13.29.065(b)(1) - (3) and any other person the court determines is
29 interested in the welfare of the respondent. Failure to give notice under this subsection
30 does not preclude the court from appointing a guardian.

31 (d) After the appointment of a guardian, notice of a hearing on a petition for

1 an order under AS 13.29.060 - 13.29.150, together with a copy of the petition, must be
2 given to

- 3 (1) the adult subject to guardianship;
- 4 (2) the guardian; and
- 5 (3) any other person the court determines.

6 **Sec. 13.29.075. Appointment and role of visitor.** (a) On receipt of a petition
7 under AS 13.29.065 for appointment of a guardian for an adult, the court shall appoint
8 a visitor. The visitor must be an individual with training or experience in the type of
9 abilities, limitations, and needs alleged in the petition.

10 (b) A visitor appointed under (a) of this section shall interview the respondent
11 in person and, in a manner the respondent is best able to understand,

12 (1) explain to the respondent the substance of the petition; the nature,
13 purpose, and effect of the proceeding; the rights of the respondent at the hearing on the
14 petition; and the general powers and duties of a guardian;

15 (2) determine the views of the respondent about the appointment
16 sought by the petitioner, including views about a proposed guardian, the proposed
17 powers and duties of the guardian, and the scope and duration of the proposed
18 guardianship;

19 (3) inform the respondent of the respondent's right to employ and
20 consult with an attorney at the respondent's expense and the right to request a court-
21 appointed attorney; and

22 (4) inform the respondent that all costs and expenses of the proceeding,
23 including the respondent's attorney fees, may be paid from the respondent's assets.

24 (c) The visitor appointed under (a) of this section shall

25 (1) interview the petitioner and proposed guardian, if any;

26 (2) visit the present dwelling of the respondent and any dwelling in
27 which it is reasonably believed the respondent will live if the appointment is made;

28 (3) obtain information from any physician or other person known to
29 have treated, advised, or assessed the relevant physical or mental condition of the
30 respondent; and

31 (4) investigate the allegations in the petition and any other matter

1 relating to the petition the court directs.

2 (d) A visitor appointed under (a) of this section shall promptly file a report in
3 a record with the court, which must include

4 (1) a recommendation of whether an attorney should be appointed to
5 represent the respondent;

6 (2) a summary of self-care and independent-living tasks the respondent
7 can manage without assistance or with existing supports, could manage with the
8 assistance of appropriate supportive services, technological assistance, or supported
9 decision making, and cannot manage;

10 (3) a recommendation regarding the appropriateness of guardianship,
11 including whether a protective arrangement instead of guardianship or other less
12 restrictive alternative for meeting the needs of the respondent is available and

13 (A) if a guardianship is recommended, whether it should be full
14 or limited; and

15 (B) if a limited guardianship is recommended, the powers to be
16 granted to the guardian;

17 (4) a statement of the qualifications of the proposed guardian and
18 whether the respondent approves or disapproves of the proposed guardian;

19 (5) a statement of whether the proposed dwelling meets the
20 respondent's needs and whether the respondent has expressed a preference as to
21 residence;

22 (6) a recommendation of whether a professional evaluation under
23 AS 13.29.085 is necessary;

24 (7) a statement of whether the respondent is able to attend a hearing at
25 the location where court proceedings typically are held;

26 (8) a statement of whether the respondent is able to participate in a
27 hearing and that identifies any technology or other form of support that would enhance
28 the ability of the respondent to participate; and

29 (9) any other matter the court directs.

30 **Sec. 13.29.080. Appointment and role of attorney for adult.** (a) The court
31 shall appoint an attorney to represent the respondent in a proceeding for appointment

1 of a guardian for an adult if

- 2 (1) the respondent requests an appointment;
- 3 (2) the visitor recommends an appointment; or
- 4 (3) the court determines the respondent needs representation.

5 (b) An attorney representing the respondent in a proceeding for appointment
6 of a guardian for an adult shall

- 7 (1) make reasonable efforts to ascertain the wishes of the respondent;
- 8 (2) advocate for the wishes of the respondent to the extent reasonably
9 ascertainable; and
- 10 (3) if the wishes of the respondent are not reasonably ascertainable,
11 advocate for the result that is the least restrictive in type, duration, and scope,
12 consistent with the interests of the respondent.

13 **Sec. 13.29.085. Professional evaluation.** (a) At or before a hearing on a
14 petition for a guardianship for an adult, the court shall order a professional evaluation
15 of the respondent

- 16 (1) if the respondent requests the evaluation; or
- 17 (2) in other cases, unless the court finds that it has sufficient
18 information to determine the needs and abilities of the respondent without the
19 evaluation.

20 (b) If the court orders an evaluation under (a) of this section, the respondent
21 must be examined by a licensed physician, psychologist, social worker, or other
22 individual appointed by the court who is qualified to evaluate the alleged cognitive
23 and functional abilities and limitations of the respondent and will not be advantaged or
24 disadvantaged by a decision to grant the petition or otherwise have a conflict of
25 interest. The individual conducting the evaluation shall promptly file a report in a
26 record with the court. Unless otherwise directed by the court, the report must contain

- 27 (1) a description of the nature, type, and extent of the cognitive and
28 functional abilities and limitations of the respondent;
- 29 (2) an evaluation of the respondent's mental and physical condition
30 and, if appropriate, educational potential, adaptive behavior, and social skills;
- 31 (3) a prognosis for improvement and recommendation for the

1 appropriate treatment, support, or habilitation plan; and

2 (4) the date of the examination on which the report is based.

3 (c) The respondent may decline to participate in an evaluation ordered under
4 (a) of this section.

5 **Sec. 13.29.090. Attendance and rights at hearing.** (a) Except as otherwise
6 provided in (b) of this section, a hearing under AS 13.29.070 may not proceed unless
7 the respondent attends the hearing. If it is not reasonably feasible for the respondent to
8 attend a hearing at the location where court proceedings typically are held, the court
9 shall make reasonable efforts to hold the hearing at an alternative location convenient
10 to the respondent or allow the respondent to attend the hearing using real-time
11 audiovisual technology.

12 (b) A hearing under AS 13.29.070 may proceed without the respondent in
13 attendance if the court finds by clear and convincing evidence that

14 (1) the respondent consistently and repeatedly has refused to attend the
15 hearing after having been fully informed of the right to attend and the potential
16 consequences of failing to do so; or

17 (2) there is no practicable way for the respondent to attend and
18 participate in the hearing even with appropriate supportive services and technological
19 assistance.

20 (c) The respondent may be assisted in a hearing under AS 13.29.070 by a
21 person or persons chosen by the respondent, assistive technology, or an interpreter or
22 translator, or a combination of these supports. If assistance would facilitate the ability
23 of the respondent to participate in the hearing, but is not otherwise available to the
24 respondent, the court shall make reasonable efforts to provide it.

25 (d) The respondent has a right to choose an attorney to represent the
26 respondent at a hearing under AS 13.29.070.

27 (e) At a hearing held under AS 13.29.070, the respondent may

28 (1) present evidence and subpoena witnesses and documents;

29 (2) examine witnesses, including any court-appointed evaluator and
30 the visitor; and

31 (3) otherwise participate in the hearing.

1 (f) Unless excused by the court for good cause, a proposed guardian shall
2 attend a hearing under AS 13.29.070.

3 (g) The court shall close a hearing under AS 13.29.070 upon the respondent's
4 request and showing of good cause.

5 (h) Any person may request to participate in a hearing under AS 13.29.070.
6 The court may grant the request, with or without a hearing, on determining that the
7 best interest of the respondent will be served. The court may impose appropriate
8 conditions on the participation of the person.

9 **Sec. 13.29.095. Confidentiality of records.** (a) The existence of a proceeding
10 for or the existence of a guardianship for an adult is a matter of public record unless
11 the court seals the record after

12 (1) the respondent or individual subject to guardianship requests that
13 the record be sealed; and

14 (2) either

15 (A) the petition for guardianship is dismissed; or

16 (B) the guardianship is terminated.

17 (b) An adult subject to a proceeding for a guardianship, whether or not a
18 guardian is appointed, an attorney designated by the adult, and a person entitled to
19 notice under AS 13.29.105(e) or a subsequent order are entitled to access court records
20 of the proceeding and resulting guardianship, including the guardian's plan under
21 AS 13.29.135 and report under AS 13.29.140. A person not otherwise entitled to
22 access court records under this subsection for good cause may petition the court for
23 access to court records of the guardianship, including the report and plan of the
24 guardian. The court shall grant access if access is in the best interest of the respondent
25 or adult subject to guardianship or furthers the public interest and does not endanger
26 the welfare or financial interests of the adult.

27 (c) A report under AS 13.29.075 of a visitor or a professional evaluation under
28 AS 13.29.085 is confidential and must be sealed on filing, but is available to

29 (1) the court;

30 (2) the individual who is the subject of the report or evaluation,
31 without limitation as to use;

(3) the petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(4) unless the court orders otherwise, an agent appointed under a durable power of attorney for health care under AS 13.52 or power of attorney under AS 13.26 in which the respondent is the principal; and

(5) any other person if it is in the public interest or for a purpose the court orders for good cause.

Sec. 13.29.100. Who may be guardian for adult; order of priority. (a) Except as otherwise provided in (c) of this section, the court in appointing a guardian for an adult shall consider persons qualified to be guardian in the following order of priority:

(1) a guardian, other than a temporary or emergency guardian, currently acting for the respondent in another jurisdiction;

(2) a person nominated as guardian by the respondent, including the respondent's most recent nomination made in a power of attorney under AS 13.26;

(3) an agent appointed by the respondent under a durable power of attorney for health care under AS 13.52;

(4) a spouse of the respondent;

(5) a family member or other individual who has shown special care and concern for the respondent;

(6) a private professional guardian; and

(7) the public guardian.

(b) If two or more persons have equal priority under (a) of this section, the court shall select as guardian the person the court considers best qualified. In determining the best qualified person, the court shall consider the relationship of the person with the respondent, the skills of the person, the expressed wishes of the respondent, the extent to which the person and the respondent have similar values and preferences, and the likelihood the person will be able to perform the duties of a guardian successfully.

(c) If it is in the best interest of the respondent, the court may decline to appoint as guardian a person having priority under (a) of this section and appoint a

1 person having a lower priority or no priority.

2 (d) A person that provides paid services to the respondent, or an individual
3 who is employed by a person that provides paid services to the respondent or is the
4 spouse, parent, or child of an individual who provides or is employed to provide paid
5 services to the respondent, may not be appointed as guardian unless

6 (1) the individual is related to the respondent by blood, marriage, or
7 adoption; or

8 (2) the court finds by clear and convincing evidence that the person is
9 the best qualified person available for appointment and the appointment is in the best
10 interest of the respondent.

11 (e) An owner, operator, or employee of a long-term care facility at which the
12 respondent is receiving care may not be appointed as guardian unless the owner,
13 operator, or employee is related to the respondent by blood, marriage, or adoption.

14 **Sec. 13.29.105. Order of appointment for guardian.** (a) A court order
15 appointing a guardian for an adult must

16 (1) include a specific finding that clear and convincing evidence
17 established that the identified needs of the respondent cannot be met by a protective
18 arrangement instead of guardianship or other less restrictive alternative, including use
19 of appropriate supportive services, technological assistance, or supported decision
20 making;

21 (2) include a specific finding that clear and convincing evidence
22 established that the respondent was given proper notice of the hearing on the petition;

23 (3) state whether the adult subject to guardianship retains the right to
24 vote and, if the adult does not retain the right to vote, include findings that support
25 removing that right, which must include a finding that the adult cannot communicate,
26 with or without support, a specific desire to participate in the voting process; and

27 (4) state whether the adult subject to guardianship retains the right to
28 marry and, if the adult does not retain the right to marry, include findings that support
29 removing that right.

30 (b) An adult subject to guardianship retains the right to vote unless the order
31 under (a) of this section includes the statement required under (a)(3) of this section.

1 An adult subject to guardianship retains the right to marry unless the order under (a) of
2 this section includes the findings required under (a)(4) of this section.

3 (c) A court order establishing a full guardianship for an adult must state the
4 basis for granting a full guardianship and include specific findings that support the
5 conclusion that a limited guardianship would not meet the functional needs of the
6 adult subject to guardianship.

7 (d) A court order establishing a limited guardianship for an adult must state
8 the specific powers granted to the guardian.

9 (e) The court, as part of an order establishing a guardianship for an adult, shall
10 identify any person that is entitled to

11 (1) notice of the rights of the adult under AS 13.29.110(b);

12 (2) notice of a change in the primary dwelling of the adult;

13 (3) notice that the guardian has delegated

14 (A) the power to manage the care of the adult;

15 (B) the power to make decisions about where the adult lives;

16 (C) the power to make major medical decisions on behalf of the

17 adult;

18 (D) a power that requires court approval under AS 13.29.130;

19 or

20 (E) substantially all powers of the guardian;

21 (4) notice that the guardian will be unavailable to visit the adult for
22 more than two months or unavailable to perform the guardian's duties for more than
23 one month;

24 (5) a copy of the plan of the guardian under AS 13.29.135 and the
25 report of the guardian under AS 13.29.140;

26 (6) access to court records relating to the guardianship;

27 (7) notice of the death or significant change in the condition of the
28 adult;

29 (8) notice that the court has limited or modified the powers of the
30 guardian; and

31 (9) notice of the removal of the guardian.

1 (f) A spouse and adult children of an adult subject to guardianship are entitled
 2 to notice under (e) of this section unless the court determines notice would be contrary
 3 to the preferences or prior directions of the adult subject to guardianship or not in the
 4 best interest of the adult.

5 **Sec. 13.29.110. Notice of order of appointment; rights.** (a) A guardian
 6 appointed under AS 13.29.100 shall give the adult subject to guardianship and all
 7 other persons given notice under AS 13.29.070 a copy of the order of appointment,
 8 together with notice of the right to request termination or modification. The order and
 9 notice must be given not later than 14 days after the appointment.

10 (b) Not later than 30 days after appointment of a guardian under
 11 AS 13.29.100, the court shall give to the adult subject to guardianship, the guardian,
 12 and any other person entitled to notice under AS 13.29.105(e) or a subsequent order a
 13 statement of the rights of the adult subject to guardianship and procedures to seek
 14 relief if the adult is denied those rights. The statement must be in at least 16-point font,
 15 in plain language, and, to the extent feasible, in a language in which the adult subject
 16 to guardianship is proficient. The statement must notify the adult subject to
 17 guardianship of the right to

18 (1) seek termination or modification of the guardianship or removal of
 19 the guardian, and choose an attorney to represent the adult in these matters;

20 (2) be involved in decisions affecting the adult, including decisions
 21 about the adult's care, dwelling, activities, or social interactions, to the extent
 22 reasonably feasible;

23 (3) be involved in health care decision making to the extent reasonably
 24 feasible;

25 (4) be supported in understanding the risks and benefits of health care
 26 options to the extent reasonably feasible;

27 (5) be notified at least 14 days before a change in the adult's primary
 28 dwelling or permanent move to a nursing home, mental health facility, or other facility
 29 that places restrictions on the individual's ability to leave or have visitors unless the
 30 change or move is proposed in the plan of the guardian under AS 13.29.135 or
 31 authorized by the court by specific order;

1 (6) object to a change or move described in (5) of this subsection and
2 the process for objecting;

3 (7) communicate, visit, or interact with others, including receiving
4 visitors, and making or receiving telephone calls, personal mail, or electronic
5 communications, including through social media, unless

6 (A) the guardian has been authorized by the court by specific
7 order to restrict communications, visits, or interactions;

8 (B) a protective order or protective arrangement instead of
9 guardianship is in effect that limits contact between the adult and a person; or

10 (C) the guardian has good cause to believe restriction is
11 necessary because interaction with a specified person poses a risk of significant
12 physical, psychological, or financial harm to the adult, and the restriction is

13 (i) for a period of not more than seven business days if
14 the person has a family or pre-existing social relationship with the
15 adult; or

16 (ii) for a period of not more than 60 days if the person
17 does not have a family or pre-existing social relationship with the adult;

18 (8) receive a copy of the plan of the guardian under AS 13.29.135 and
19 the report of the guardian under AS 13.29.140; and

20 (9) object to the plan or report of the guardian.

21 **Sec. 13.29.115. Emergency guardian for adult.** (a) On its own after a petition
22 has been filed under AS 13.29.065, or on petition by a person interested in an adult's
23 welfare, the court may appoint an emergency guardian for the adult if the court finds

24 (1) appointment of an emergency guardian is likely to prevent
25 substantial harm to the adult's physical health, safety, or welfare;

26 (2) no other person appears to have authority and willingness to act in
27 the circumstances; and

28 (3) there is reason to believe that a basis for appointment of a guardian
29 under AS 13.29.060 exists.

30 (b) The duration of authority of an emergency guardian for an adult may not
31 exceed 60 days, and the emergency guardian may exercise only the powers specified

1 in the order of appointment. The authority of the emergency guardian may be
 2 extended once for not more than 60 days if the court finds that the conditions for
 3 appointment of an emergency guardian under (a) of this section continue.

4 (c) Immediately on filing of a petition for appointment of an emergency
 5 guardian for an adult, the court shall appoint an attorney to represent the respondent in
 6 the proceeding. Except as otherwise provided in (d) of this section, reasonable notice
 7 of the date, time, and place of a hearing on the petition must be given to the
 8 respondent, the respondent's attorney, and any other person the court determines.

9 (d) The court may appoint an emergency guardian for an adult without notice
 10 to the adult and any attorney for the adult only if the court finds from an affidavit or
 11 testimony that the respondent's physical health, safety, or welfare will be substantially
 12 harmed before a hearing with notice on the appointment can be held. If the court
 13 appoints an emergency guardian without giving notice under (c) of this section, the
 14 court must

15 (1) give notice of the appointment, not later than 48 hours after the
 16 appointment, to

17 (A) the respondent;

18 (B) the respondent's attorney; and

19 (C) any other person the court determines; and

20 (2) hold a hearing on the appropriateness of the appointment not later
 21 than five days after the appointment.

22 (e) Appointment of an emergency guardian under this section is not a
 23 determination that a basis exists for appointment of a guardian under AS 13.29.060.

24 (f) The court may remove an emergency guardian appointed under this section
 25 at any time. The emergency guardian shall make any report the court requires.

26 **Sec. 13.29.120. Duties of guardian for adult.** (a) A guardian for an adult is a
 27 fiduciary. Except as otherwise limited by the court, a guardian for an adult shall make
 28 decisions regarding the support, care, education, health, and welfare of the adult
 29 subject to guardianship to the extent necessitated by the limitations of the adult.

30 (b) A guardian for an adult shall promote the self-determination of the adult
 31 and, to the extent reasonably feasible, encourage the adult to participate in decisions,

1 act on the adult's own behalf, and develop or regain the capacity to manage the adult's
2 personal affairs. In furtherance of this duty, the guardian shall

3 (1) become or remain personally acquainted with the adult and
4 maintain sufficient contact with the adult, including through regular visitation, to
5 know the adult's abilities, limitations, needs, opportunities, and physical and mental
6 health;

7 (2) to the extent reasonably feasible, identify the values and
8 preferences of the adult and involve the adult in decisions affecting the adult,
9 including decisions about the adult's care, dwelling, activities, or social interactions;
10 and

11 (3) make reasonable efforts to identify and facilitate supportive
12 relationships and services for the adult.

13 (c) A guardian for an adult at all times shall exercise reasonable care,
14 diligence, and prudence when acting on behalf of or making decisions for the adult. In
15 furtherance of this duty, the guardian shall

16 (1) take reasonable care of the personal effects, pets, and service or
17 support animals of the adult and bring a proceeding for a conservatorship or protective
18 arrangement instead of conservatorship if necessary to protect the property of the
19 adult;

20 (2) expend funds and other property of the adult received by the
21 guardian for the adult's current needs for support, care, education, health, and welfare;

22 (3) conserve any funds and other property of the adult not expended
23 under (2) of this subsection for the future needs of the adult, but if a conservator has
24 been appointed for the adult, pay the funds and other property at least quarterly to the
25 conservator to be conserved for the future needs of the adult; and

26 (4) monitor the quality of services, including long-term care services,
27 provided to the adult.

28 (d) In making a decision for an adult subject to guardianship, the guardian
29 shall make the decision the guardian reasonably believes the adult would make if the
30 adult were able unless doing so would unreasonably harm or endanger the welfare or
31 personal or financial interests of the adult. To determine the decision the adult subject

1 to guardianship would make if able, the guardian shall consider the adult's previous or
 2 current directions, preferences, opinions, values, and actions, to the extent actually
 3 known or reasonably ascertainable by the guardian.

4 (e) If a guardian for an adult cannot make a decision under (d) of this section
 5 because the guardian does not know and cannot reasonably determine the decision the
 6 adult likely would make if able, or the guardian reasonably believes the decision the
 7 adult would make would unreasonably harm or endanger the welfare or personal or
 8 financial interests of the adult, the guardian shall act in accordance with the best
 9 interest of the adult. In determining the best interest of the adult, the guardian shall
 10 consider

11 (1) information received from professionals and persons that
 12 demonstrate sufficient interest in the welfare of the adult;

13 (2) other information the guardian believes the adult would have
 14 considered if the adult were able to act; and

15 (3) other factors a reasonable person in the circumstances of the adult
 16 would consider, including consequences for others.

17 (f) A guardian for an adult shall immediately notify the court if the condition
 18 of the adult has changed so that the adult is capable of exercising rights previously
 19 removed.

20 **Sec. 13.29.125. Powers of guardian for adult.** (a) Except as limited by court
 21 order, a guardian for an adult may

22 (1) apply for and receive funds and benefits for the support of the
 23 adult, unless a conservator is appointed for the adult and the application or receipt is
 24 within the powers of the conservator;

25 (2) unless inconsistent with a court order, establish the adult's place of
 26 dwelling;

27 (3) consent to health or other care, treatment, or service for the adult;

28 (4) if a conservator for the adult has not been appointed, commence a
 29 proceeding, including an administrative proceeding, or take other appropriate action to
 30 compel another person to support the adult or pay funds for the benefit of the adult;

31 (5) to the extent reasonable, delegate to the adult responsibility for a

1 decision affecting the adult's well-being; and

2 (6) receive personally identifiable health care information regarding
3 the adult.

4 (b) The court by specific order may authorize a guardian for an adult to
5 consent to the adoption of the adult.

6 (c) In determining whether to authorize a power under (b) of this section, the
7 court shall consider whether the underlying act would be in accordance with the
8 preferences, values, and prior directions of the adult and whether the underlying act
9 would be in the best interest of the adult.

10 (d) In exercising a guardian's power to establish the place of dwelling of the
11 adult under (a)(2) of this section, the guardian shall

12 (1) select a residential setting the guardian believes the adult would
13 select if the adult were able, in accordance with the decision-making standard under
14 AS 13.29.120(d) and (e). If the guardian does not know and cannot reasonably
15 determine what setting the adult subject to guardianship would likely choose if able, or
16 the guardian reasonably believes the decision the adult would make would
17 unreasonably harm or endanger the welfare or personal or financial interests of the
18 adult, the guardian shall choose a residential setting that is consistent with the best
19 interest of the adult in accordance with AS 13.29.120(e);

20 (2) in selecting among residential settings, give priority to a residential
21 setting in a location that will allow the adult to interact with persons important to the
22 adult and meet the needs of the adult in the least restrictive manner reasonably feasible
23 unless to do so would be inconsistent with the decision-making standard in
24 AS 13.29.120(d) and (e);

25 (3) not later than 30 days after a change in the dwelling of the adult,

26 (A) give notice of the change to the court, the adult, and any
27 person identified as entitled to the notice in the court order appointing the
28 guardian or a subsequent order; and

29 (B) include in the notice the address and nature of the new
30 dwelling and state whether the adult received advance notice of the change and
31 whether the adult objected to the change;

1 (4) establish or move the permanent place of dwelling of the adult to a
 2 nursing home, mental health facility, or other facility that places restrictions on the
 3 adult's ability to leave or have visitors only if

4 (A) the establishment or move is in the plan of the guardian
 5 under AS 13.29.135;

6 (B) the court authorizes the establishment or move; or

7 (C) the guardian gives notice of the establishment or move at
 8 least 14 days before the establishment or move to the adult and all persons
 9 entitled to notice under AS 13.29.105(e)(2) or a subsequent order, and no
 10 objection is filed;

11 (5) establish or move the place of dwelling of the adult outside this
 12 state only if consistent with the plan of the guardian and authorized by the court by
 13 specific order; and

14 (6) take action that would result in the sale of the primary dwelling or
 15 surrender of the rental agreement or lease to the primary dwelling of the adult only if

16 (A) the action is specifically included in the plan of the
 17 guardian under AS 13.29.135;

18 (B) the court authorizes the action by specific order; or

19 (C) notice of the action was given at least 14 days before the
 20 action to the adult and all persons entitled to the notice under
 21 AS 13.29.105(e)(2) or a subsequent order and no objection has been filed.

22 (e) In exercising a guardian's power under (a)(3) of this section to make health
 23 care decisions, the guardian shall

24 (1) involve the adult in decision making to the extent reasonably
 25 feasible, including, when practicable, by encouraging and supporting the adult in
 26 understanding the risks and benefits of health care options;

27 (2) defer to a decision by an agent under a durable power of attorney
 28 for health care under AS 13.52 executed by the adult and cooperate to the extent
 29 feasible with the agent making the decision; and

30 (3) take into account

31 (A) the risks and benefits of treatment options; and

(B) the current and previous wishes and values of the adult if known or reasonably ascertainable by the guardian.

Sec. 13.29.130. Special limitations on guardian's power. (a) Unless authorized by the court by specific order, a guardian for an adult does not have the power to revoke or amend a durable power of attorney for health care under AS 13.52 or durable power of attorney under AS 13.26 executed by the adult. If a durable power of attorney for health care under AS 13.52 is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible. If a durable power of attorney under AS 13.26 is in effect, unless there is a court order to the contrary, a decision by the agent that the agent is authorized to make under the power of attorney takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible.

(b) A guardian for an adult may not initiate the commitment of the adult to a mental health facility except in accordance with the procedure for involuntary commitment under AS 47.30.

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

(1) authorized by the court by specific order;

(2) a protective order or protective arrangement instead of guardianship is in effect that limits contact between the adult and a person; or

(3) the guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological, or financial harm to the adult and the restriction is

(A) for a period of not more than seven business days if the person has a family or pre-existing social relationship with the adult; or

(B) for a period of not more than 60 days if the person does not have a family or pre-existing social relationship with the adult.

(d) A guardian for an adult may not prohibit the marriage or divorce of the

adult if the adult retains the right to marry under AS 13.29.105.

Sec. 13.29.135. Guardian's plan. (a) A guardian for an adult shall file with the court a plan for the care of the adult not later than 60 days after appointment, when there is a significant change in circumstances, or when the guardian seeks to deviate significantly from the guardian's plan. The plan must be based on the needs of the adult and take into account the best interest of the adult as well as the adult's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the guardian. The guardian shall include in the plan

(1) the living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult;

(2) social and educational activities the guardian expects to facilitate on behalf of the adult;

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

(4) the anticipated nature and frequency of the guardian's visits and communication with the adult;

(5) goals for the adult, including goals related to the restoration of the rights of the adult and how the guardian anticipates achieving the goals;

(6) whether the adult has an existing plan and, if so, whether the plan of the guardian is consistent with the plan of the adult; and

(7) a statement or list of the amount the guardian proposes to charge for each service the guardian anticipates providing to the adult.

(b) A guardian shall give notice of the filing of the guardian's plan under (a) of this section, together with a copy of the plan, to the adult subject to guardianship, a person entitled to notice under AS 13.29.105(e) or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and be given not later than 14 days after the filing.

(c) An adult subject to guardianship and any person entitled under (b) of this section to receive notice and a copy of the plan of the guardian may object to the plan.

(d) The court shall review the plan of the guardian filed under (a) of this

1 section and determine whether to approve the plan or require a new plan. In deciding
 2 whether to approve the plan, the court shall consider an objection under (c) of this
 3 section and whether the plan is consistent with the guardian's duties and powers under
 4 AS 13.29.120 and 13.29.125. The court may not approve the plan until 30 days after
 5 its filing.

6 (e) After the plan of the guardian filed under this section is approved by the
 7 court, the guardian shall provide a copy of the plan to the adult subject to
 8 guardianship, a person entitled to notice under AS 13.29.105(e) or a subsequent order,
 9 and any other person the court determines.

10 **Sec. 13.29.140. Guardian's report; monitoring of guardianship.** (a) A
 11 guardian for an adult, not later than 60 days after appointment and at least annually
 12 thereafter, shall file with the court a report in a record regarding the condition of the
 13 adult and accounting for funds and other property in the possession or subject to the
 14 control of the guardian.

15 (b) A report under (a) of this section must state or contain

- 16 (1) the mental, physical, and social condition of the adult;
- 17 (2) the living arrangements of the adult during the reporting period;
- 18 (3) a summary of the supported decision making, technological
 19 assistance, medical services, educational and vocational services, and other supports
 20 and services provided to the adult and the guardian's opinion as to the adequacy of the
 21 adult's care;
- 22 (4) a summary of the guardian's visits with the adult, including the
 23 dates of the visits;
- 24 (5) action taken on behalf of the adult;
- 25 (6) the extent to which the adult has participated in decision making;
- 26 (7) if the adult is living in a mental health facility or living in a facility
 27 that provides the adult with health care or other personal services, whether the
 28 guardian considers the facility's current plan for support, care, treatment, or
 29 habilitation consistent with the adult's preferences, values, prior directions, and best
 30 interest;
- 31 (8) anything of more than minimal value that the guardian, any

individual who resides with the guardian, or the spouse, parent, child, or sibling of the guardian has received from an individual providing goods or services to the adult;

(9) if the guardian delegated a power to an agent, the power delegated and the reason for the delegation;

(10) any business relation the guardian has with a person the guardian has paid or that has benefited from the property of the adult;

(11) a copy of the guardian's most recently approved plan under AS 13.29.135 and a statement whether the guardian has deviated from the plan and, if so, how the guardian has deviated and why;

(12) plans for future care and support of the adult;

(13) a recommendation as to the need for continued guardianship and any recommended change in the scope of the guardianship; and

(14) whether any co-guardian or successor guardian appointed to serve when a designated event occurs is alive and able to serve.

(c) The court may appoint a visitor to review a report submitted under this section or a plan of a guardian submitted under AS 13.29.135, interview the guardian or adult subject to guardianship, or investigate any other matter involving the guardianship.

(d) Notice of the filing under this section of a guardian's report, together with a copy of the report, must be given to the adult subject to guardianship, a person entitled to notice under AS 13.29.105(e) or a subsequent order, and any other person the court determines. The notice and report must be given not later than 14 days after the filing.

(e) The court shall establish procedures for monitoring a report submitted under this section and review each report at least annually to determine whether

(1) the report provides sufficient information to establish the guardian has complied with the duties of the guardian;

(2) the guardianship should continue; and

(3) the guardian's requested fees, if any, should be approved.

(f) If the court determines there is reason to believe a guardian for an adult has not complied with the duties of the guardian or the guardianship should be modified or

1 terminated, the court

2 (1) shall notify the adult, the guardian, and any other person entitled to
3 notice under AS 13.29.105(e) or a subsequent order;

4 (2) may require additional information from the guardian;

5 (3) may appoint a visitor to interview the adult or guardian or
6 investigate any matter involving the guardianship; and

7 (4) consistent with AS 13.29.145 and 13.29.150, may hold a hearing to
8 consider removal of the guardian, termination of the guardianship, or a change in the
9 powers granted to the guardian or terms of the guardianship.

10 (g) If the court has reason to believe fees requested by a guardian for an adult
11 are not reasonable, the court shall hold a hearing to determine whether to adjust the
12 requested fees.

13 (h) A guardian for an adult may petition the court for approval of a report filed
14 under this section. The court after review may approve the report. If the court
15 approves the report, there is a rebuttable presumption the report is accurate as to a
16 matter adequately disclosed in the report.

17 **Sec. 13.29.145. Removal of guardian for adult; appointment of successor.**

18 (a) The court may remove a guardian for an adult for failure to perform the duties of
19 the guardian or for other good cause and appoint a successor guardian to assume the
20 duties of guardian.

21 (b) The court shall hold a hearing to determine whether to remove a guardian
22 for an adult and appoint a successor guardian on

23 (1) petition of the adult, guardian, or person interested in the welfare of
24 the adult, which contains allegations that, if true, would support a reasonable belief
25 that removal of the guardian and appointment of a successor guardian may be
26 appropriate, but the court may decline to hold a hearing if a petition based on the same
27 or substantially similar facts was filed during the preceding six months;

28 (2) communication from the adult, guardian, or person interested in the
29 welfare of the adult which supports a reasonable belief that removal of the guardian
30 and appointment of a successor guardian may be appropriate; or

31 (3) determination by the court that a hearing would be in the best

1 interest of the adult.

2 (c) Notice of a petition under (b)(1) of this section must be given to the adult
3 subject to guardianship, the guardian, and any other person the court determines.

4 (d) An adult subject to guardianship who seeks to remove the guardian and
5 have a successor guardian appointed has the right to choose an attorney to represent
6 the adult in this matter. If the adult is not represented by an attorney, the court shall
7 appoint an attorney under the same conditions in AS 13.29.080. The court shall award
8 reasonable attorney fees to the attorney for the adult as provided in AS 13.29.480.

9 (e) In selecting a successor guardian for an adult, the court shall follow the
10 priorities under AS 13.29.100.

11 (f) Not later than 30 days after appointing a successor guardian, the court shall
12 give notice of the appointment to the adult subject to guardianship and any person
13 entitled to notice under AS 13.29.105(e) or a subsequent order.

14 **Sec. 13.29.150. Termination or modification of guardianship for adult. (a)**

15 An adult subject to guardianship, the guardian for the adult, or a person interested in
16 the welfare of the adult may petition for

17 (1) termination of the guardianship on the ground that a basis for
18 appointment under AS 13.29.060 does not exist or termination would be in the best
19 interest of the adult or for other good cause; or

20 (2) modification of the guardianship on the ground that the extent of
21 protection or assistance granted is not appropriate or for other good cause.

22 (b) The court shall hold a hearing to determine whether termination or
23 modification of a guardianship for an adult is appropriate on

24 (1) petition under (a) of this section which contains allegations that, if
25 true, would support a reasonable belief that termination or modification of the
26 guardianship may be appropriate, but the court may decline to hold a hearing if a
27 petition based on the same or substantially similar facts was filed during the preceding
28 six months;

29 (2) communication from the adult, guardian, or person interested in the
30 welfare of the adult which supports a reasonable belief that termination or
31 modification of the guardianship may be appropriate, including because the functional

1 needs of the adult or supports or services available to the adult have changed;

2 (3) a report from a guardian or conservator which indicates that
3 termination or modification may be appropriate because the functional needs of the
4 adult or supports or services available to the adult have changed or a protective
5 arrangement instead of guardianship or other less restrictive alternative for meeting the
6 needs of the adult is available; or

7 (4) a determination by the court that a hearing would be in the best
8 interest of the adult.

9 (c) Notice of a petition under (b)(1) of this section must be given to the adult
10 subject to guardianship, the guardian, and any other person the court determines.

11 (d) On presentation of prima facie evidence for termination of a guardianship
12 for an adult, the court shall order termination unless it is proven that a basis for
13 appointment of a guardian under AS 13.29.060 exists.

14 (e) The court shall modify the powers granted to a guardian for an adult if the
15 powers are excessive or inadequate because of a change in the abilities or limitations
16 of the adult, the supports of the adult, or other circumstances.

17 (f) Unless the court otherwise orders for good cause, before terminating or
18 modifying a guardianship for an adult, the court shall follow the same procedures that
19 apply to a petition for guardianship to safeguard the rights of the adult.

20 (g) An adult subject to guardianship who seeks to terminate or modify the
21 terms of the guardianship has the right to choose an attorney to represent the adult in
22 the matter. If the adult is not represented by an attorney, the court shall appoint an
23 attorney under the same conditions as in AS 13.29.080. The court shall award
24 reasonable attorney fees to the attorney for the adult as provided in AS 13.29.480.

25 **Article 3. Conservatorship.**

26 **Sec. 13.29.155. Basis for appointment of conservator.** (a) On petition and
27 after notice and hearing, the court may appoint a conservator for the property or
28 financial affairs of a minor if the court finds by a preponderance of evidence that

29 (1) appointment of a conservator is in the best interest of the minor; if
30 the minor has a parent, the court shall give weight to any recommendation of the
31 parent on whether an appointment is in the best interest of the minor; and

1 (2) one of the following applies:

2 (A) the minor owns funds or other property requiring
3 management or protection that otherwise cannot be provided;

4 (B) the minor has or may have financial affairs that may be put
5 at unreasonable risk or hindered because of the age of the minor; or

6 (C) appointment is necessary or desirable to obtain or provide
7 funds or other property needed for the support, care, education, health, or
8 welfare of the minor.

9 (b) On petition and after notice and hearing, the court may appoint a
10 conservator for the property or financial affairs of an adult if the court finds by clear
11 and convincing evidence that

12 (1) the adult is unable to manage property or financial affairs because

13 (A) of a limitation in the ability of the adult to receive and
14 evaluate information or make or communicate decisions, even with the use of
15 appropriate supportive services, technological assistance, or supported decision
16 making; or

17 (B) the adult is missing, detained, or unable to return to the
18 United States;

19 (2) appointment is necessary to

20 (A) avoid harm to the adult or significant dissipation of the
21 property of the adult; or

22 (B) obtain or provide funds or other property needed for the
23 support, care, education, health, or welfare of the adult or of an individual
24 entitled to the support of the adult; and

25 (3) the respondent's identified needs cannot be met by a protective
26 arrangement instead of conservatorship or other less restrictive alternative.

27 (c) The court shall grant a conservator only those powers necessitated by
28 demonstrated limitations and needs of the respondent and issue orders that will
29 encourage development of the maximum self-determination and independence of the
30 respondent. The court may not establish a full conservatorship if a limited
31 conservatorship, protective arrangement instead of conservatorship, or other less

1 restrictive alternative would meet the needs of the respondent.

2 **Sec. 13.29.160. Petition for appointment of conservator.** (a) The following
3 may petition for the appointment of a conservator:

4 (1) the individual for whom the order is sought;

5 (2) a person interested in the estate, financial affairs, or welfare of the
6 individual, including a person that would be adversely affected by lack of effective
7 management of property or financial affairs of the individual; or

8 (3) the guardian for the individual.

9 (b) A petition under (a) of this section must state the petitioner's name,
10 principal residence, current street address, if different, relationship to the respondent,
11 interest in the appointment, the name and address of any attorney representing the
12 petitioner, and, to the extent known, the following:

13 (1) the respondent's name, age, principal residence, current street
14 address, if different, and, if different, address of the dwelling in which it is proposed
15 the respondent will reside if the petition is granted;

16 (2) the name and address of the respondent's

17 (A) spouse or, if the respondent has none, an adult with whom
18 the respondent has shared household responsibilities for more than six months
19 in the 12-month period before the filing of the petition;

20 (B) adult children or, if none, each parent and adult sibling of
21 the respondent, or, if none, at least one adult nearest in kinship to the
22 respondent who can be found with reasonable diligence; and

23 (C) adult stepchildren whom the respondent actively parented
24 during the stepchildren's minor years and with whom the respondent had an
25 ongoing relationship during the two years immediately before the filing of the
26 petition;

27 (3) the name and current address of each of the following, if
28 applicable:

29 (A) a person responsible for the care or custody of the
30 respondent;

31 (B) any attorney currently representing the respondent;

1 (C) the representative payee appointed by the United States
2 Social Security Administration for the respondent;

3 (D) a guardian or conservator acting for the respondent in this
4 state or another jurisdiction;

5 (E) a trustee or custodian of a trust or custodianship of which
6 the respondent is a beneficiary;

7 (F) the fiduciary appointed for the respondent by the United
8 States Department of Veterans Affairs;

9 (G) an agent designated under a durable power of attorney for
10 health care under AS 13.52 in which the respondent is identified as the
11 principal;

12 (H) an agent designated under a power of attorney under
13 AS 13.26 in which the respondent is identified as the principal;

14 (I) a person known to have routinely assisted the respondent
15 with decision making in the six-month period immediately before the filing of
16 the petition;

17 (J) any proposed conservator, including a person nominated by
18 the respondent, if the respondent is 12 years of age or older; and

19 (K) if the individual for whom a conservator is sought is a
20 minor

21 (i) an adult not otherwise listed with whom the minor
22 resides; and

23 (ii) each person not otherwise listed that had primary
24 care or custody of the minor for at least 60 days during the two years
25 immediately before the filing of the petition or for at least 730 days
26 during the five years immediately before the filing of the petition;

27 (4) a general statement of the property of the respondent with an
28 estimate of its value, including any insurance or pension, and the source and amount
29 of other anticipated income or receipts;

30 (5) the reason conservatorship is necessary, including a brief
31 description of

- 1 (A) the nature and extent of the alleged need of the respondent;
- 2 (B) if the petition alleges the respondent is missing, detained,
- 3 or unable to return to the United States, the relevant circumstances, including
- 4 the time and nature of the disappearance or detention and any search or inquiry
- 5 concerning the whereabouts of the respondent;
- 6 (C) any protective arrangement instead of conservatorship or
- 7 other less restrictive alternative for meeting the alleged need of the respondent
- 8 which has been considered or implemented;
- 9 (D) if no protective arrangement or other less restrictive
- 10 alternatives have been considered or implemented, the reason it has not been
- 11 considered or implemented; and
- 12 (E) the reason a protective arrangement or other less restrictive
- 13 alternative is insufficient to meet the need of the respondent;
- 14 (6) whether the petitioner seeks a limited conservatorship or a full
- 15 conservatorship;
- 16 (7) if the petitioner seeks a full conservatorship, the reason a limited
- 17 conservatorship or protective arrangement instead of conservatorship is not
- 18 appropriate;
- 19 (8) if the petition includes the name of a proposed conservator, the
- 20 reason the proposed conservator should be appointed;
- 21 (9) if the petition is for a limited conservatorship, a description of the
- 22 property to be placed under the control of the conservator and any requested limitation
- 23 on the authority of the conservator;
- 24 (10) whether the respondent needs an interpreter, translator, or other
- 25 form of support to communicate effectively with the court or understand court
- 26 proceedings; and
- 27 (11) the name and address of an attorney representing the petitioner, if
- 28 any.

29 **Sec. 13.29.165. Notice and hearing for appointment of conservator.** (a) On
 30 filing of a petition under AS 13.29.160 for appointment of a conservator, the court
 31 shall set a date, time, and place for a hearing on the petition.

(b) A copy of a petition under AS 13.29.160 and notice of a hearing on the petition must be served personally on the respondent. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant a petition for appointment of a conservator if notice substantially complying with this subsection is not served on the respondent. For good cause shown, the court may also authorize alternative methods of service.

(c) In a proceeding on a petition under AS 13.29.160, the notice required under (b) of this section must be given to the persons required to be listed in the petition under AS 13.29.160(b)(1) - (3) and any other person the court determines is interested in the welfare of the respondent. Failure to give notice under this subsection does not preclude the court from appointing a conservator.

(d) After the appointment of a conservator, notice of a hearing on a petition for an order under AS 13.29.155 - 13.29.310, together with a copy of the petition, must be given to

(1) the individual subject to conservatorship, if the individual is 12 years of age or older and not missing, detained, or unable to return to the United States;

(2) the conservator; and

(3) any other person the court determines.

Sec. 13.29.170. Order to preserve or apply property while proceeding pending. While a petition under AS 13.29.160 is pending, after preliminary hearing and without notice to others, the court may issue an order to preserve and apply property of the respondent as required for the support of the respondent or an individual who is in fact dependent on the respondent. The court may appoint a master to assist in implementing the order.

Sec. 13.29.175. Appointment and role of visitor. (a) If the respondent in a proceeding to appoint a conservator is a minor, the court may appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

1 (b) If the respondent in a proceeding to appoint a conservator is an adult, the
 2 court shall appoint a visitor. The duties and reporting requirements of the visitor are
 3 limited to the relief requested in the petition. The visitor must be an individual with
 4 training or experience in the type of abilities, limitations, and needs alleged in the
 5 petition.

6 (c) A visitor appointed under (b) of this section for an adult shall interview the
 7 respondent in person and, in a manner the respondent is best able to understand,

8 (1) explain to the respondent the substance of the petition, the nature,
 9 purpose, and effect of the proceeding, the rights of the respondent at the hearing on the
 10 petition, and the general powers and duties of a conservator;

11 (2) determine the respondent's views about the appointment sought by
 12 the petitioner, including views about a proposed conservator, the conservator's
 13 proposed powers and duties, and the scope and duration of the proposed
 14 conservatorship;

15 (3) inform the respondent of the respondent's right to employ and
 16 consult with an attorney at the respondent's expense and the right to request a court-
 17 appointed attorney; and

18 (4) inform the respondent that all costs and expenses of the proceeding,
 19 including attorney fees of the respondent, may be paid from the respondent's assets.

20 (d) A visitor appointed under (b) of this section for an adult shall

21 (1) interview the petitioner and proposed conservator, if any;

22 (2) review financial records of the respondent, if relevant to the
 23 recommendation of the visitor under (e)(2) of this section;

24 (3) investigate whether the needs of the respondent could be met by a
 25 protective arrangement instead of conservatorship or other less restrictive alternative
 26 and, if so, identify the arrangement or other less restrictive alternative; and

27 (4) investigate the allegations in the petition and any other matter
 28 relating to the petition the court directs.

29 (e) A visitor appointed under (b) of this section for an adult shall promptly file
 30 a report in a record with the court, which must include

31 (1) a recommendation whether an attorney should be appointed to

1 represent the respondent;

2 (2) a recommendation

3 (A) regarding the appropriateness of conservatorship, or
4 whether a protective arrangement instead of conservatorship or other less
5 restrictive alternative for meeting the needs of the respondent is available;

6 (B) if a conservatorship is recommended, whether it should be
7 full or limited; and

8 (C) if a limited conservatorship is recommended, the powers to
9 be granted to the conservator, and the property that should be placed under the
10 control of the conservator;

11 (3) a statement of the qualifications of the proposed conservator and
12 whether the respondent approves or disapproves of the proposed conservator;

13 (4) a recommendation whether a professional evaluation under
14 AS 13.29.185 is necessary;

15 (5) a statement whether the respondent is able to attend a hearing at the
16 location where court proceedings typically are held;

17 (6) a statement whether the respondent is able to participate in a
18 hearing and which identifies any technology or other form of support that would
19 enhance the ability of the respondent to participate; and

20 (7) any other matter the court directs.

21 **Sec. 13.29.180. Appointment and role of attorney.** (a) The court shall
22 appoint an attorney to represent the respondent in a proceeding to appoint a
23 conservator if

24 (1) the respondent requests an appointment;

25 (2) the visitor recommends an appointment; or

26 (3) the court determines the respondent needs representation.

27 (b) An attorney representing the respondent in a proceeding for appointment
28 of a conservator shall

29 (1) make reasonable efforts to ascertain the wishes of the respondent;

30 (2) advocate for the wishes of the respondent to the extent reasonably
31 ascertainable; and

1 (3) if the wishes of the respondent are not reasonably ascertainable,
 2 advocate for the result that is the least restrictive in type, duration, and scope,
 3 consistent with the respondent's interests.

4 **Sec. 13.29.185. Professional evaluation.** (a) At or before a hearing on a
 5 petition for conservatorship for an adult, the court shall order a professional evaluation
 6 of the respondent

7 (1) if the respondent requests the evaluation; or

8 (2) in other cases, unless the court finds it has sufficient information to
 9 determine the needs and abilities of the respondent without the evaluation.

10 (b) If the court orders an evaluation under (a) of this section, the respondent
 11 must be examined by a licensed physician, psychologist, social worker, or other
 12 individual appointed by the court who is qualified to evaluate the respondent's alleged
 13 cognitive and functional abilities and limitations and will not be advantaged or
 14 disadvantaged by a decision to grant the petition or otherwise have a conflict of
 15 interest. The individual conducting the evaluation promptly shall file a report in a
 16 record with the court. Unless otherwise directed by the court, the report must contain

17 (1) a description of the nature, type, and extent of the respondent's
 18 cognitive and functional abilities and limitations with regard to the management of the
 19 property and financial affairs of the respondent;

20 (2) an evaluation of the respondent's mental and physical condition
 21 and, if appropriate, educational potential, adaptive behavior, and social skills;

22 (3) a prognosis for improvement with regard to the ability to manage
 23 the respondent's property and financial affairs; and

24 (4) the date of the examination on which the report is based.

25 (c) A respondent may decline to participate in an evaluation ordered under (a)
 26 of this section.

27 **Sec. 13.29.190. Attendance and rights at hearing.** (a) Except as otherwise
 28 provided in (b) of this section, a hearing under AS 13.29.165 may not proceed unless
 29 the respondent attends the hearing. If it is not reasonably feasible for the respondent to
 30 attend a hearing at the location where court proceedings typically are held, the court
 31 shall make reasonable efforts to hold the hearing at an alternative location convenient

1 to the respondent or allow the respondent to attend the hearing using real-time
2 audiovisual technology.

3 (b) A hearing under AS 13.29.165 may proceed without the respondent in
4 attendance if the court finds by clear and convincing evidence that

5 (1) the respondent consistently and repeatedly has refused to attend the
6 hearing after having been fully informed of the right to attend and the potential
7 consequences of failing to do so;

8 (2) there is no practicable way for the respondent to attend and
9 participate in the hearing even with appropriate supportive services or technological
10 assistance; or

11 (3) the respondent is a minor who has received proper notice and
12 attendance would be harmful to the minor.

13 (c) The respondent may be assisted in a hearing under AS 13.29.165 by a
14 person or persons chosen by the respondent, assistive technology, or an interpreter or
15 translator, or a combination of these supports. If assistance would facilitate the ability
16 of the respondent to participate in the hearing, but is not otherwise available to the
17 respondent, the court shall make reasonable efforts to provide it.

18 (d) The respondent has a right to choose an attorney to represent the
19 respondent at a hearing under AS 13.29.165.

20 (e) At a hearing under AS 13.29.165, the respondent may

21 (1) present evidence and subpoena witnesses and documents;

22 (2) examine witnesses, including any court-appointed evaluator and
23 the visitor; and

24 (3) otherwise participate in the hearing.

25 (f) Unless excused by the court for good cause, a proposed conservator shall
26 attend a hearing under AS 13.29.165.

27 (g) A hearing under AS 13.29.165 must be closed on request of the respondent
28 and a showing of good cause.

29 (h) Any person may request to participate in a hearing under AS 13.29.165.
30 The court may grant the request, with or without a hearing, on determining that the
31 best interest of the respondent will be served. The court may impose appropriate

1 conditions on the person's participation.

2 **Sec. 13.29.195. Confidentiality of records.** (a) The existence of a proceeding
3 for or the existence of conservatorship is a matter of public record unless the court
4 seals the record after

5 (1) the respondent, the individual subject to conservatorship, or the
6 parent of a minor subject to conservatorship requests that the record be sealed; and

7 (2) either

8 (A) the petition for conservatorship is dismissed; or

9 (B) the conservatorship is terminated.

10 (b) An individual subject to a proceeding for a conservatorship, whether or not
11 a conservator is appointed, an attorney designated by the individual, and a person
12 entitled to notice under AS 13.29.205(e) or a subsequent order may access court
13 records of the proceeding and resulting conservatorship, including the plan of the
14 conservator under AS 13.29.245 and the report of the conservator under AS 13.29.265.
15 A person not otherwise entitled to access court records under this section for good
16 cause may petition the court for access to court records of the conservatorship,
17 including the plan and report of the conservator. The court shall grant access if access
18 is in the best interest of the respondent or individual subject to conservatorship or
19 furthers the public interest and does not endanger the welfare or financial interests of
20 the respondent or individual.

21 (c) A report under AS 13.29.175 of a visitor or professional evaluation under
22 AS 13.29.185 is confidential and must be sealed on filing, but is available to

23 (1) the court;

24 (2) the individual who is the subject of the report or evaluation,
25 without limitation as to use;

26 (3) the petitioner, visitor, and petitioner's and respondent's attorneys,
27 for purposes of the proceeding;

28 (4) unless the court directs otherwise, an agent appointed under a
29 power of attorney under AS 13.26 in which the respondent is identified as the
30 principal; and

31 (5) any other person if it is in the public interest or for a purpose the

1 court orders for good cause.

2 **Sec. 13.29.200. Who may be conservator; order of priority.** (a) Except as
3 otherwise provided in (c) of this section, the court in appointing a conservator shall
4 consider persons qualified to be a conservator in the following order of priority:

5 (1) a conservator, other than a temporary or emergency conservator,
6 currently acting for the respondent in another jurisdiction;

7 (2) a person nominated as conservator by the respondent, including the
8 respondent's most recent nomination made in a power of attorney under AS 13.26;

9 (3) an agent appointed by the respondent to manage the respondent's
10 property under a power of attorney under AS 13.26;

11 (4) a spouse of the respondent;

12 (5) a family member or other individual who has shown special care
13 and concern for the respondent;

14 (6) a private professional conservator; and

15 (7) the public guardian.

16 (b) If two or more persons have equal priority under (a) of this section, the
17 court shall select as conservator the person the court considers best qualified. In
18 determining the best qualified person, the court shall consider the person's relationship
19 with the respondent, the person's skills, the expressed wishes of the respondent, the
20 extent to which the person and the respondent have similar values and preferences,
21 and the likelihood the person will be able to perform the duties of a conservator
22 successfully.

23 (c) If it is in the best interest of the respondent, the court may decline to
24 appoint as conservator a person having priority under (a) of this section and appoint a
25 person having a lower priority or no priority.

26 (d) A person that provides paid services to the respondent, or an individual
27 who is employed by a person that provides paid services to the respondent or is the
28 spouse, parent, or child of an individual who provides or is employed to provide paid
29 services to the respondent, may not be appointed as conservator unless

30 (1) the individual is related to the respondent by blood, marriage, or
31 adoption; or

1 (2) the court finds by clear and convincing evidence that the person is
 2 the best qualified person available for appointment and the appointment is in the best
 3 interest of the respondent.

4 (e) An owner, operator, or employee of a long-term care facility at which the
 5 respondent is receiving care may not be appointed as conservator unless the owner,
 6 operator, or employee is related to the respondent by blood, marriage, or adoption.

7 **Sec. 13.29.205. Order of appointment of conservator.** (a) A court order
 8 appointing a conservator for a minor must include findings to support appointment of
 9 a conservator and, if a full conservatorship is granted, the reason a limited
 10 conservatorship would not meet the identified needs of the minor.

11 (b) A court order appointing a conservator for an adult must include a specific
 12 finding that clear and convincing evidence has established that

13 (1) the identified needs of the respondent cannot be met by a protective
 14 arrangement instead of conservatorship or other less restrictive alternative, including
 15 use of appropriate supportive services, technological assistance, or supported decision
 16 making; and

17 (2) the respondent was given proper notice of the hearing on the
 18 petition.

19 (c) A court order establishing a full conservatorship for an adult must state the
 20 basis for granting a full conservatorship and include specific findings to support the
 21 conclusion that a limited conservatorship would not meet the functional needs of the
 22 adult.

23 (d) A court order establishing a limited conservatorship must state the specific
 24 property placed under the control of the conservator and the powers granted to the
 25 conservator.

26 (e) The court, as part of an order establishing a conservatorship, shall identify
 27 any person that is entitled to

28 (1) notice of the rights of the individual subject to conservatorship
 29 under AS 13.29.210(b);

30 (2) notice of a sale of or surrender of a lease to the primary dwelling of
 31 the individual;

1 (3) notice that the conservator has delegated a power that requires
2 court approval under AS 13.29.220 or substantially all powers of the conservator;

3 (4) notice that the conservator will be unavailable to perform the duties
4 of the conservator for more than one month;

5 (5) a copy of the conservator's plan under AS 13.29.245 and the
6 conservator's report under AS 13.29.265;

7 (6) access to court records relating to the conservatorship;

8 (7) notice of a transaction involving a substantial conflict between the
9 fiduciary duties and personal interests of the conservator;

10 (8) notice of the death or significant change in the condition of the
11 individual;

12 (9) notice that the court has limited or modified the powers of the
13 conservator; and

14 (10) notice of the removal of the conservator.

15 (f) If an individual subject to conservatorship is an adult, the spouse and adult
16 children of the adult subject to conservatorship are entitled to notice under (e) of this
17 section unless the court determines notice would be contrary to the preferences or
18 prior directions of the adult subject to conservatorship or not in the best interest of the
19 adult.

20 (g) If an individual subject to conservatorship is a minor, each parent and adult
21 sibling of the minor is entitled to notice under (e) of this section unless the court
22 determines notice would not be in the best interest of the minor.

23 **Sec. 13.29.210. Notice of order of appointment; rights.** (a) A conservator
24 appointed under AS 13.29.205 shall give to the individual subject to conservatorship
25 and to all other persons given notice under AS 13.29.165 a copy of the order of
26 appointment, together with notice of the right to request termination or modification.
27 The order and notice must be given not later than 14 days after the appointment.

28 (b) Not later than 30 days after appointment of a conservator under
29 AS 13.29.205, the court shall give to the individual subject to conservatorship, the
30 conservator, and any other person entitled to notice under AS 13.29.205(e) a statement
31 of the rights of the individual subject to conservatorship and procedures to seek relief

1 if the individual is denied those rights. The statement must be in plain language, in at
 2 least 16-point font, and, to the extent feasible, in a language in which the individual
 3 subject to conservatorship is proficient. The statement must notify the individual
 4 subject to conservatorship of the right to

5 (1) seek termination or modification of the conservatorship, or removal
 6 of the conservator, and choose an attorney to represent the individual in these matters;

7 (2) participate in decision making to the extent reasonably feasible;

8 (3) receive a copy of the plan of the conservator under AS 13.29.245,
 9 the inventory of the conservator under AS 13.29.250, and the report of the conservator
 10 under AS 13.29.265; and

11 (4) object to the inventory, plan, or report of the conservator.

12 (c) If a conservator is appointed for the reasons stated in
 13 AS 13.29.155(b)(1)(B) and the individual subject to conservatorship is missing, notice
 14 under this section to the individual is not required.

15 **Sec. 13.29.215. Emergency conservator.** (a) On its own or on petition by a
 16 person interested in an individual's welfare after a petition has been filed under
 17 AS 13.29.160, the court may appoint an emergency conservator for the individual if
 18 the court finds

19 (1) appointment of an emergency conservator is likely to prevent
 20 substantial and irreparable harm to the property or financial interests of the individual;

21 (2) no other person appears to have authority and willingness to act in
 22 the circumstances; and

23 (3) there is reason to believe that a basis for appointment of a
 24 conservator under AS 13.29.155 exists.

25 (b) The duration of authority of an emergency conservator may not exceed 60
 26 days and the emergency conservator may exercise only the powers specified in the
 27 order of appointment. The emergency conservator's authority may be extended once
 28 for not more than 60 days if the court finds that the conditions for appointment of an
 29 emergency conservator under (a) of this section continue.

30 (c) Immediately upon filing of a petition for an emergency conservator, the
 31 court shall appoint an attorney to represent the respondent in the proceeding. Except as

1 otherwise provided in (d) of this section, reasonable notice of the date, time, and place
 2 of a hearing on the petition must be given to the respondent, the respondent's attorney,
 3 and any other person the court determines.

4 (d) The court may appoint an emergency conservator without notice to the
 5 respondent and any attorney for the respondent only if the court finds from an affidavit
 6 or testimony that the property or financial interests of the respondent will be
 7 substantially and irreparably harmed before a hearing with notice on the appointment
 8 can be held. If the court appoints an emergency conservator without giving notice
 9 under (c) of this section, the court must give notice of the appointment not later than
 10 48 hours after the appointment to

- 11 (1) the respondent;
- 12 (2) the respondent's attorney; and
- 13 (3) any other person the court determines.

14 (e) Not later than five days after the appointment, the court shall hold a
 15 hearing on the appropriateness of the appointment.

16 (f) Appointment of an emergency conservator under this section is not a
 17 determination that a basis exists for appointment of a conservator under AS 13.29.155.

18 (g) The court may remove an emergency conservator appointed under this
 19 section at any time. The emergency conservator shall make any report the court
 20 requires.

21 **Sec. 13.29.220. Powers of conservator requiring court approval.** (a) Except
 22 as otherwise ordered by the court, a conservator must give notice to persons entitled to
 23 notice under AS 13.29.165(d) and receive specific authorization by the court before
 24 the conservator may exercise with respect to the conservatorship the power to

- 25 (1) make a gift, except a gift of minimal value;
- 26 (2) sell, encumber an interest in, or surrender a rental agreement or
 27 lease to the primary dwelling of the individual subject to conservatorship;
- 28 (3) convey, release, or disclaim a contingent or expectant interest in
 29 property, including marital property and any right of survivorship incident to joint
 30 tenancy or tenancy by the entirety;
- 31 (4) exercise or release a power of appointment;

1 (5) create a revocable or irrevocable trust of property of the
 2 conservatorship estate, whether or not the trust extends beyond the duration of the
 3 conservatorship, or revoke or amend a trust revocable by the individual subject to
 4 conservatorship;

5 (6) exercise a right to elect an option or change a beneficiary under an
 6 insurance policy or annuity or surrender the policy or annuity for its cash value;

7 (7) exercise a right to an elective share in the estate of a deceased
 8 spouse of the individual subject to conservatorship or renounce or disclaim a property
 9 interest;

10 (8) grant a creditor priority for payment over creditors of the same or
 11 higher class if the creditor is providing property or services used to meet the basic
 12 living and care needs of the individual subject to conservatorship and preferential
 13 treatment otherwise would be impermissible under AS 13.29.290(e); and

14 (9) make, modify, amend, or revoke the will of the individual subject
 15 to conservatorship under AS 13.12.502.

16 (b) In approving a conservator's exercise of a power under (a) of this section,
 17 the court shall consider primarily the decision the individual subject to conservatorship
 18 would make if able, to the extent the decision can be ascertained.

19 (c) To determine the decision the individual subject to conservatorship would
 20 make if able under (b) of this section, the court shall consider the individual's prior or
 21 current directions, preferences, opinions, values, and actions, to the extent actually
 22 known or reasonably ascertainable by the conservator. The court also shall consider

23 (1) the financial needs of the individual subject to conservatorship and
 24 individuals who are in fact dependent on the individual subject to conservatorship for
 25 support and the interests of creditors of the individual;

26 (2) possible reduction of income, estate, inheritance, or other tax
 27 liabilities;

28 (3) eligibility for governmental assistance;

29 (4) the previous pattern of giving or level of support provided by the
 30 individual;

31 (5) any existing estate plan or lack of estate plan of the individual;

1 (6) the life expectancy of the individual and the probability the
 2 conservatorship will terminate before the individual's death; and

3 (7) any other relevant factor.

4 (d) A conservator may not revoke or amend a power of attorney under
 5 AS 13.26 executed by the individual subject to conservatorship. If a power of attorney
 6 under AS 13.26 is in effect, a decision of the agent takes precedence over that of the
 7 conservator, unless the court orders otherwise.

8 **Sec. 13.29.225. Petition for order after appointment.** An individual subject
 9 to conservatorship or a person interested in the welfare of the individual may petition
 10 for an order

11 (1) requiring the conservator to furnish a bond or collateral or
 12 additional bond or collateral or allowing a reduction in a bond or collateral previously
 13 furnished;

14 (2) requiring an accounting for the administration of the
 15 conservatorship estate;

16 (3) directing distribution;

17 (4) removing the conservator and appointing a temporary or successor
 18 conservator;

19 (5) modifying the type of appointment or powers granted to the
 20 conservator, if the extent of protection or management previously granted is excessive
 21 or insufficient to meet the needs of the individual, including because the individual's
 22 abilities or supports have changed;

23 (6) rejecting or modifying the plan of the conservator under
 24 AS 13.29.245, the inventory of the conservator under AS 13.29.250, or the report of
 25 the conservator under AS 13.29.265; or

26 (7) granting other appropriate relief.

27 **Sec. 13.29.230. Bond; alternative asset protection arrangement.** (a) Except
 28 as otherwise provided in (c) of this section, the court shall require a conservator to
 29 furnish a bond with a surety the court specifies, or require an alternative asset
 30 protection arrangement, conditioned on faithful discharge of all duties of the
 31 conservator. The court may waive the requirement only if the court finds that a bond

1 or other asset protection arrangement is not necessary to protect the interests of the
 2 individual subject to conservatorship. Except as otherwise provided in (c) of this
 3 section, the court may not waive the requirement if the conservator is in the business
 4 of serving as a conservator and is being paid for the conservator's service.

5 (b) Unless the court directs otherwise, the bond required under this section
 6 must be in the amount of the aggregate capital value of the conservatorship estate, plus
 7 one year's estimated income, less the value of property deposited under an
 8 arrangement requiring a court order for its removal and real property the conservator
 9 lacks power to sell or convey without specific court authorization. The court may
 10 accept collateral for the performance of the bond in place of surety on a bond,
 11 including a pledge of securities or a mortgage of real property.

12 (c) A trust company in this state is not required to give a bond under this
 13 section. In this subsection, "trust company" has the meaning given in AS 13.46.990.

14 **Sec. 13.29.235. Terms and requirements of bond.** (a) Except as otherwise
 15 provided by a bond, the surety and the conservator are jointly and severally liable.

16 (b) By executing a bond provided by a conservator, the surety submits to the
 17 personal jurisdiction of the court that issued letters of office to the conservator in a
 18 proceeding relating to the duties of the conservator in which the surety is named as a
 19 party. Notice of the proceeding must be given to the surety at the address shown in the
 20 records of the court in which the bond is filed and any other address of the surety
 21 known to the person required to provide the notice.

22 (c) On petition of a successor conservator or person affected by a breach of the
 23 obligation of a bond, a proceeding may be brought against the surety for breach of the
 24 obligation of the bond.

25 (d) A proceeding against a bond may be brought until liability under the bond
 26 is exhausted.

27 (e) A proceeding may not be brought under this section against a surety of a
 28 bond on a matter as to which a proceeding against the conservator is barred.

29 (f) If a bond is not renewed by the conservator, the surety or sureties shall
 30 immediately give notice to the court and the individual subject to conservatorship.

31 (g) In this section, "bond" means a bond required under AS 13.29.230.

1 **Sec. 13.29.240. Duties of conservator.** (a) A conservator is a fiduciary and has
 2 duties of prudence and loyalty to the individual subject to conservatorship.

3 (b) A conservator shall promote the self-determination of the individual
 4 subject to conservatorship and, to the extent feasible, encourage the individual to
 5 participate in decisions, act on the individual's own behalf, and develop or regain the
 6 capacity to manage the individual's personal affairs.

7 (c) In making a decision for an individual subject to conservatorship, the
 8 conservator shall make the decision the conservator reasonably believes the individual
 9 would make if able, unless doing so would fail to preserve the resources needed to
 10 maintain the individual's well-being and lifestyle or otherwise unreasonably harm or
 11 endanger the welfare or personal or financial interests of the individual. To determine
 12 the decision the individual would make if able, the conservator shall consider the
 13 individual's prior or current directions, preferences, opinions, values, and actions, to
 14 the extent actually known or reasonably ascertainable by the conservator.

15 (d) If a conservator cannot make a decision under (c) of this section because
 16 the conservator does not know and cannot reasonably determine the decision the
 17 individual subject to conservatorship likely would make if able, or the conservator
 18 reasonably believes the decision the individual would make would fail to preserve
 19 resources needed to maintain the well-being and lifestyle of the individual or
 20 otherwise unreasonably harm or endanger the welfare or personal or financial interests
 21 of the individual, the conservator shall act in accordance with the best interest of the
 22 individual. In determining the best interest of the individual, the conservator shall
 23 consider

24 (1) information received from professionals and persons that
 25 demonstrate sufficient interest in the welfare of the individual;

26 (2) other information the conservator believes the individual would
 27 have considered if the individual were able to act; and

28 (3) other factors a reasonable person in the circumstances of the
 29 individual would consider, including consequences for others.

30 (e) Except when inconsistent with the conservator's duties under (a) - (d) of
 31 this section, a conservator shall invest and manage the conservatorship estate as a

1 prudent investor would, by considering

2 (1) the circumstances of the individual subject to conservatorship and
3 the conservatorship estate;

4 (2) general economic conditions;

5 (3) the possible effect of inflation or deflation;

6 (4) the expected tax consequences of an investment decision or
7 strategy;

8 (5) the role of each investment or course of action in relation to the
9 conservatorship estate as a whole;

10 (6) the expected total return from income and appreciation of capital;

11 (7) the need for liquidity, regularity of income, and preservation or
12 appreciation of capital; and

13 (8) the special relationship or value, if any, of specific property to the
14 individual subject to conservatorship.

15 (f) The propriety of a conservator's investment and management of the
16 conservatorship estate is determined in light of the facts and circumstances existing
17 when the conservator decides or acts and not by hindsight.

18 (g) A conservator shall make a reasonable effort to verify facts relevant to the
19 investment and management of the conservatorship estate.

20 (h) A conservator that has special skills or expertise, or is named conservator
21 in reliance on the conservator's representation of special skills or expertise, has a duty
22 to use the special skills or expertise in carrying out the conservator's duties.

23 (i) In investing, selecting specific property for distribution, and invoking a
24 power of revocation or withdrawal for the use or benefit of the individual subject to
25 conservatorship, a conservator shall consider any estate plan of the individual known
26 or reasonably ascertainable to the conservator and may examine the will or other
27 donative, nominative, or appointive instrument of the individual.

28 (j) A conservator shall maintain insurance on the insurable real and personal
29 property of the individual subject to conservatorship, unless the conservatorship estate
30 lacks sufficient funds to pay for insurance or the court finds

31 (1) the property lacks sufficient equity; or

1 (2) insuring the property would unreasonably dissipate the
2 conservatorship estate or otherwise not be in the best interest of the individual.

3 (k) If a power of attorney under AS 13.26 is in effect, a conservator shall
4 cooperate with the agent to the extent feasible.

5 (l) A conservator has access to and authority over a digital asset of the
6 individual subject to conservatorship to the extent provided under AS 13.63 (Revised
7 Uniform Fiduciary Access to Digital Assets Act) or court order.

8 (m) A conservator for an adult shall notify the court if the condition of the
9 adult has changed so that the adult is capable of exercising rights previously removed.
10 The notice must be given immediately on learning of the change.

11 **Sec. 13.29.245. Conservator's plan.** (a) A conservator shall file with the court
12 a plan for protecting, managing, expending, and distributing the assets of the
13 conservatorship estate not later than 60 days after appointment, when there is a
14 significant change in circumstances, or when the conservator seeks to deviate
15 significantly from the conservator's plan. The plan must be based on the needs of the
16 individual subject to conservatorship and take into account the best interest of the
17 individual as well as the individual's preferences, values, and prior directions, to the
18 extent known to or reasonably ascertainable by the conservator. The conservator shall
19 include in the plan

20 (1) a budget containing projected expenses and resources, including an
21 estimate of the total amount of fees the conservator anticipates charging each year and
22 a statement or list of the amount the conservator proposes to charge for each service
23 the conservator anticipates providing to the individual;

24 (2) how the conservator will involve the individual in decisions about
25 management of the conservatorship estate;

26 (3) any step the conservator plans to take to develop or restore the
27 ability of the individual to manage the conservatorship estate; and

28 (4) an estimate of the duration of the conservatorship.

29 (b) A conservator shall give notice of the filing of the conservator's plan under
30 (a) of this section, together with a copy of the plan, to the individual subject to
31 conservatorship, a person entitled to notice under AS 13.29.205(e) or a subsequent

1 order, and any other person the court determines. The notice must include a statement
2 of the right to object to the plan and be given not later than 14 days after the filing.

3 (c) An individual subject to conservatorship and any person entitled to receive
4 notice and a copy of the plan of the conservator under (b) of this section may object to
5 the plan.

6 (d) The court shall review the plan of the conservator filed under (a) of this
7 section and determine whether to approve the plan or require a new plan. In deciding
8 whether to approve the plan, the court shall consider an objection under (c) of this
9 section and whether the plan is consistent with the duties and powers of the
10 conservator. The court may not approve the plan until 30 days after its filing.

11 (e) After a conservator's plan under this section is approved by the court, the
12 conservator shall provide a copy of the plan to the individual subject to
13 conservatorship, a person entitled to notice under AS 13.29.205(e) or a subsequent
14 order, and any other person the court determines.

15 **Sec. 13.29.250. Inventory; records.** (a) Not later than 60 days after
16 appointment, a conservator shall prepare and file with the appointing court a detailed
17 inventory of the conservatorship estate, together with an oath or affirmation that the
18 inventory is believed to be complete and accurate as far as information permits.

19 (b) A conservator shall give notice of the filing of an inventory to the
20 individual subject to conservatorship, a person entitled to notice under
21 AS 13.29.205(e) or a subsequent order, and any other person the court determines. The
22 notice must be given not later than 14 days after the filing.

23 (c) A conservator shall keep records of the administration of the
24 conservatorship estate and make them available for examination on reasonable request
25 of the individual subject to conservatorship, a guardian for the individual, or any other
26 person the conservator or the court determines.

27 **Sec. 13.29.255. Administrative powers of conservator not requiring court**
28 **approval.** (a) Except as otherwise provided in AS 13.29.220 or qualified or limited in
29 the court's order of appointment and stated in the letters of office, a conservator has all
30 powers granted in this section and any additional power granted to a trustee by a law
31 of this state other than this chapter.

1 (b) A conservator, acting reasonably and consistent with the fiduciary duties
 2 of the conservator to accomplish the purpose of the conservatorship, without specific
 3 court authorization or confirmation, may, with respect to the conservatorship estate,

4 (1) collect, hold, and retain property, including property in which the
 5 conservator has a personal interest and real property in another state, until the
 6 conservator determines disposition of the property should be made;

7 (2) receive additions to the conservatorship estate;

8 (3) continue or participate in the operation of a business or other
 9 enterprise;

10 (4) acquire an undivided interest in property in which the conservator,
 11 in a fiduciary capacity, holds an undivided interest;

12 (5) invest assets;

13 (6) deposit funds or other property in a financial institution, including
 14 one operated by the conservator;

15 (7) acquire or dispose of property, including real property in another
 16 state, for cash or on credit, at public or private sale, and manage, develop, improve,
 17 exchange, partition, change the character of, or abandon property;

18 (8) make ordinary or extraordinary repairs or alterations in a building
 19 or other structure, demolish any improvement, or raze an existing or erect a new party
 20 wall or building;

21 (9) subdivide or develop land, dedicate land to public use, make or
 22 obtain the vacation of a plat and adjust a boundary, adjust a difference in valuation of
 23 land, exchange or partition land by giving or receiving consideration, and dedicate an
 24 easement to public use without consideration;

25 (10) enter for any purpose into a rental agreement or lease of property
 26 as lessor or lessee, with or without an option to purchase or renew, for a term within or
 27 extending beyond the term of the conservatorship;

28 (11) enter into a lease or arrangement for exploration and removal of
 29 minerals or other natural resources or a pooling or unitization agreement;

30 (12) grant an option involving disposition of property or accept or
 31 exercise an option for the acquisition of property;

- 1 (13) vote a security, in person or by general or limited proxy;
- 2 (14) pay a call, assessment, or other sum chargeable or accruing
- 3 against or on account of a security;
- 4 (15) sell or exercise a stock subscription or conversion right;
- 5 (16) consent, directly or through a committee or agent, to the
- 6 reorganization, consolidation, merger, dissolution, or liquidation of a corporation or
- 7 other business enterprise;
- 8 (17) hold a security in the name of a nominee or in other form without
- 9 disclosure of the conservatorship so that title to the security may pass by delivery;
- 10 (18) insure
- 11 (A) the conservatorship estate, in whole or in part, against
- 12 damage or loss in accordance with AS 13.29.240(j); and
- 13 (B) the conservator against liability with respect to a third
- 14 person;
- 15 (19) borrow funds, with or without security, to be repaid from the
- 16 conservatorship estate or otherwise;
- 17 (20) advance funds for the protection of the conservatorship estate or
- 18 the individual subject to conservatorship and all expenses, losses, and liability
- 19 sustained in the administration of the conservatorship estate or because of holding any
- 20 property for which the conservator has a lien on the conservatorship estate;
- 21 (21) pay or contest a claim, settle a claim by or against the
- 22 conservatorship estate or the individual subject to conservatorship by compromise,
- 23 arbitration, or otherwise, or release, in whole or in part, a claim belonging to the
- 24 conservatorship estate to the extent the claim is uncollectible;
- 25 (22) pay a tax, assessment, compensation of the conservator or any
- 26 guardian, and other expense incurred in the collection, care, administration, and
- 27 protection of the conservatorship estate;
- 28 (23) pay a sum distributable to the individual subject to
- 29 conservatorship or an individual who is in fact dependent on the individual subject to
- 30 conservatorship by paying the sum to the distributee or for the use of the distributee
- 31 (A) to the guardian for the distributee;

(B) to the custodian of the distributee under AS 13.42 (Alaska Uniform Transfers to Minors Act) or custodial trustee under AS 13.60 (Alaska Uniform Custodial Trust Act); or

(C) if there is no guardian, custodian, or custodial trustee, to a relative or other person having physical custody of the distributee;

(24) bring or defend an action, claim, or proceeding in any jurisdiction for the protection of the conservatorship estate or the conservator in the performance of the conservator's duties;

(25) structure the finances of the individual subject to conservatorship to establish eligibility for a public benefit, including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the duties of the conservator; and

(26) execute and deliver any instrument that will accomplish or facilitate the exercise of a power of the conservator.

Sec. 13.29.260. Distribution from conservatorship estate. (a) Except as otherwise provided in AS 13.29.220 or qualified or limited in the court's order of appointment and stated in the letters of office, and unless contrary to a plan of the conservator under AS 13.29.245, the conservator may expend or distribute income or principal of the conservatorship estate without specific court authorization or confirmation for the support, care, education, health, or welfare of the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship, including the payment of child or spousal support, in accordance with (b) - (e) of this section.

(b) The conservator shall consider a recommendation relating to the appropriate standard of support, care, education, health, or welfare for the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship, made by a guardian for the individual subject to conservatorship, if any, and, if the individual subject to conservatorship is a minor, a recommendation made by a parent of the minor.

(c) The conservator acting in compliance with the conservator's duties under

1 AS 13.29.240 is not liable for an expenditure or distribution made based on a
 2 recommendation under (b) of this section unless the conservator knows the
 3 expenditure or distribution is not in the best interest of the individual subject to
 4 conservatorship.

5 (d) In making an expenditure or distribution under this section, the conservator
 6 shall consider

7 (1) the size of the conservatorship estate, the estimated duration of the
 8 conservatorship, and the likelihood the individual subject to conservatorship, at some
 9 future time, may be fully self-sufficient and able to manage the individual's financial
 10 affairs and the conservatorship estate;

11 (2) the accustomed standard of living of the individual subject to
 12 conservatorship and individual who is dependent on the individual subject to
 13 conservatorship;

14 (3) other funds or source used for the support of the individual subject
 15 to conservatorship; and

16 (4) the preferences, values, and prior directions of the individual
 17 subject to conservatorship.

18 (e) Funds expended or distributed under this section may be paid by the
 19 conservator to any person, including the individual subject to conservatorship, as
 20 reimbursement for expenditures the conservator might have made, or in advance for
 21 services to be provided to the individual subject to conservatorship or individual who
 22 is dependent on the individual subject to conservatorship if it is reasonable to expect
 23 the services will be performed and advance payment is customary or reasonably
 24 necessary under the circumstances.

25 **Sec. 13.29.265. Conservator's report and accounting; monitoring.** (a) A
 26 conservator shall file with the court a report in a record regarding the administration of
 27 the conservatorship estate annually unless the court otherwise directs, on resignation
 28 or removal, on termination of the conservatorship, and at any other time the court
 29 directs.

30 (b) A report under (a) of this section must state or contain

31 (1) an accounting that lists property included in the conservatorship

1 estate and the receipts, disbursements, liabilities, and distributions during the period
2 for which the report is made;

3 (2) a list of the services provided to the individual subject to
4 conservatorship;

5 (3) a copy of the most recently approved plan of the conservator and a
6 statement whether the conservator has deviated from the plan and, if so, how the
7 conservator has deviated and why;

8 (4) a recommendation as to the need for continued conservatorship and
9 any recommended change in the scope of the conservatorship;

10 (5) to the extent feasible, a copy of the most recent reasonably
11 available financial statements evidencing the status of bank accounts, investment
12 accounts, and mortgages or other debts of the individual subject to conservatorship
13 with all but the last four digits of the account numbers and Social Security number
14 redacted;

15 (6) anything of more than minimal value that the conservator, any
16 individual who resides with the conservator, or the spouse, parent, child, or sibling of
17 the conservator has received from a person providing goods or services to the
18 individual subject to conservatorship;

19 (7) any business relation the conservator has with a person the
20 conservator has paid or that has benefited from the property of the individual subject
21 to conservatorship; and

22 (8) whether any co-conservator or successor conservator appointed to
23 serve when a designated event occurs is alive and able to serve.

24 (c) The court may appoint a visitor to review a report under this section or the
25 plan of the conservator under AS 13.29.245, interview the individual subject to
26 conservatorship or conservator, or investigate any other matter involving the
27 conservatorship. In connection with the report, the court may order the conservator to
28 submit the conservatorship estate to appropriate examination in a manner the court
29 directs.

30 (d) Notice of the filing under this section of a conservator's report, together
31 with a copy of the report, must be provided to the individual subject to

1 conservatorship, a person entitled to notice under AS 13.29.205(e) or a subsequent
2 order, and other persons the court determines. The notice and report must be given not
3 later than 14 days after filing.

4 (e) The court shall establish procedures for monitoring a report submitted
5 under this section and review each report at least annually to determine whether

6 (1) the reports provide sufficient information to establish the
7 conservator has complied with the conservator's duties;

8 (2) the conservatorship should continue; and

9 (3) the requested fees of the conservator, if any, should be approved.

10 (f) If the court determines there is reason to believe a conservator has not
11 complied with the conservator's duties or the conservatorship should not continue, the
12 court

13 (1) shall notify the individual subject to conservatorship, the
14 conservator, and any other person entitled to notice under AS 13.29.205(e) or a
15 subsequent order;

16 (2) may require additional information from the conservator;

17 (3) may appoint a visitor to interview the individual subject to
18 conservatorship or conservator or investigate any matter involving the
19 conservatorship; and

20 (4) consistent with AS 13.29.300 and 13.29.305, may hold a hearing to
21 consider removal of the conservator, termination of the conservatorship, or a change in
22 the powers granted to the conservator or terms of the conservatorship.

23 (g) If the court has reason to believe fees requested by a conservator are not
24 reasonable, the court shall hold a hearing to determine whether to adjust the requested
25 fees.

26 (h) A conservator may petition the court for approval of a report filed under
27 this section. The court after review may approve the report. If the court approves the
28 report, there is a rebuttable presumption the report is accurate as to a matter adequately
29 disclosed in the report.

30 (i) An order, after notice and hearing, approving an interim report of a
31 conservator filed under this section adjudicates liabilities concerning a matter

adequately disclosed in the report, as to a person given notice of the report or accounting.

(j) An order, after notice and hearing, approving a final report filed under this section discharges the conservator from all liabilities, claims, and causes of action by a person given notice of the report and the hearing as to a matter adequately disclosed in the report.

Sec. 13.29.270. Attempted transfer of property by individual subject to conservatorship. (a) The interest of an individual subject to conservatorship in property included in the conservatorship estate is not transferrable or assignable by the individual and is not subject to levy, garnishment, or similar process for claims against the individual unless allowed under AS 13.29.290.

(b) If an individual subject to conservatorship enters into a contract after having the right to enter the contract removed by the court, the contract is void against the individual and the property of the individual but is enforceable against the person that contracted with the individual.

(c) A person other than the conservator that deals with an individual subject to conservatorship with respect to property included in the conservatorship estate is entitled to protection provided by law of this state other than this chapter.

Sec. 13.29.275. Transaction involving conflict of interest. A transaction involving a conservatorship estate which is affected by a substantial conflict between the conservator's fiduciary duties and personal interests is voidable unless the transaction is authorized by court order after notice to persons entitled to notice under AS 13.29.205(e) or a subsequent order. A transaction affected by a substantial conflict includes a sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator, an individual with whom the conservator resides, the spouse, descendant, sibling, agent, or attorney of the conservator, or a corporation or other enterprise in which the conservator has a substantial beneficial interest.

Sec. 13.29.280. Protection of person dealing with conservator. (a) A person that assists or deals with a conservator in good faith and for value in any transaction, other than a transaction requiring a court order under AS 13.29.220, is protected as though the conservator properly exercised any power in question. Knowledge by a

1 person that the person is dealing with a conservator alone does not require the person
 2 to inquire into the existence of authority of the conservator or the propriety of the
 3 conservator's exercise of authority, but restrictions on authority stated in letters of
 4 office, or otherwise provided by law, are effective as to the person. A person that pays
 5 or delivers property to a conservator is not responsible for proper application of the
 6 property.

7 (b) Protection under (a) of this section extends to a procedural irregularity or
 8 jurisdictional defect in the proceeding leading to the issuance of letters of office and
 9 does not substitute for protection for a person that assists or deals with a conservator
 10 provided by comparable provisions in law of this state other than this chapter relating
 11 to a commercial transaction or simplifying a transfer of securities by a fiduciary.

12 **Sec. 13.29.285. Death of individual subject to conservatorship.** (a) If an
 13 individual subject to conservatorship dies, the conservator shall deliver to the court for
 14 safekeeping any will of the individual in the possession of the conservator and inform
 15 the personal representative named in the will if feasible, or if not feasible, a
 16 beneficiary named in the will, of the delivery.

17 (b) On the death of an individual subject to conservatorship, the conservator
 18 shall conclude the administration of the conservatorship estate as provided in
 19 AS 13.29.305.

20 **Sec. 13.29.290. Presentation and allowance of claim.** (a) A conservator may
 21 pay, or secure by encumbering property included in the conservatorship estate, a claim
 22 against the conservatorship estate or the individual subject to conservatorship arising
 23 before or during the conservatorship, on presentation and allowance in accordance
 24 with the priorities under (d) of this section. A claimant may present a claim by

25 (1) sending or delivering to the conservator a statement in a record of
 26 the claim, indicating its basis, the name and address of the claimant, and the amount
 27 claimed; or

28 (2) filing the claim with the court, in a form acceptable to the court,
 29 and sending or delivering a copy of the claim to the conservator.

30 (b) A claim under (a) of this section is presented on receipt by the conservator
 31 of the statement of the claim or the filing with the court of the claim, whichever first

occurs. A presented claim is allowed if it is not disallowed in whole or in part by the conservator in a record sent or delivered to the claimant not later than 60 days after its presentation. Before payment, the conservator may change an allowance of the claim to a disallowance in whole or in part, but not after allowance under a court order or order directing payment of the claim. Presentation of a claim tolls until 30 days after disallowance of the claim the running of a statute of limitations that has not expired relating to the claim.

(c) A claimant whose claim under (a) of this section has not been paid may petition the court to determine the claim at any time before it is barred by a statute of limitations, and the court may order its allowance, payment, or security by encumbering property included in the conservatorship estate. If a proceeding is pending against the individual subject to conservatorship at the time of appointment of the conservator or is initiated thereafter, the moving party shall give the conservator notice of the proceeding if it could result in creating a claim against the conservatorship estate.

(d) If a conservatorship estate is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

- (1) costs and expenses of administration;
- (2) a claim of the federal or state government having priority under law other than this chapter;
- (3) a claim incurred by the conservator for support, care, education, health, or welfare previously provided to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship;
- (4) a claim arising before the conservatorship; and
- (5) all other claims.

(e) Preference may not be given in the payment of a claim under (d) of this section over another claim of the same class. A claim due and payable may not be preferred over a claim not due unless

- (1) doing so would leave the conservatorship estate without sufficient funds to pay the basic living and health care expenses of the individual subject to

1 conservatorship; and

2 (2) the court authorizes the preference under AS 13.29.220(a)(8).

3 (f) If assets of a conservatorship estate are adequate to meet all existing
4 claims, the court may order the conservator to grant a security interest in the
5 conservatorship estate for payment of a claim at a future date if it is in the best interest
6 of the individual subject to conservatorship.

7 **Sec. 13.29.295. Personal liability of conservator.** (a) Except as otherwise
8 agreed by a conservator, the conservator is not personally liable on a contract properly
9 entered into in a fiduciary capacity in the course of administration of the
10 conservatorship estate unless the conservator fails to reveal the conservator's
11 representative capacity in the contract or before entering into the contract.

12 (b) A conservator is personally liable for an obligation arising from control of
13 property of the conservatorship estate or an act or omission occurring in the course of
14 administration of the conservatorship estate only if the conservator is personally at
15 fault.

16 (c) A claim based on a contract entered into by a conservator in a fiduciary
17 capacity, an obligation arising from control of property included in the
18 conservatorship estate, or a tort committed in the course of administration of the
19 conservatorship estate may be asserted against the conservatorship estate in a
20 proceeding against the conservator in a fiduciary capacity, whether or not the
21 conservator is personally liable for the claim.

22 (d) A question of liability between a conservatorship estate and the
23 conservator personally may be determined in a proceeding for accounting, surcharge,
24 or indemnification or another appropriate proceeding or action.

25 **Sec. 13.29.300. Removal of conservator; appointment of successor.** (a) The
26 court may remove a conservator for failure to perform the duties of the conservator or
27 other good cause and appoint a successor conservator to assume the duties of the
28 conservator.

29 (b) The court shall hold a hearing to determine whether to remove a
30 conservator and appoint a successor on

31 (1) petition of the individual subject to conservatorship, conservator, or

1 person interested in the welfare of the individual which contains allegations that, if
 2 true, would support a reasonable belief that removal of the conservator and
 3 appointment of a successor may be appropriate, but the court may decline to hold a
 4 hearing if a petition based on the same or substantially similar facts was filed during
 5 the preceding six months;

6 (2) communication from the individual subject to conservatorship,
 7 conservator, or person interested in the welfare of the individual which supports a
 8 reasonable belief that removal of the conservator and appointment of a successor may
 9 be appropriate; or

10 (3) determination by the court that a hearing would be in the best
 11 interest of the individual subject to conservatorship.

12 (c) Notice of a petition under (b)(1) of this section must be given to the
 13 individual subject to conservatorship, the conservator, and any other person the court
 14 determines.

15 (d) An individual subject to conservatorship who seeks to remove the
 16 conservator and have a successor appointed has the right to choose an attorney to
 17 represent the individual in this matter. If the individual is not represented by an
 18 attorney, the court shall appoint an attorney under the same conditions as in
 19 AS 13.29.180. The court shall award reasonable attorney fees to the attorney as
 20 provided in AS 13.29.480.

21 (e) In selecting a successor conservator, the court shall follow the priorities
 22 under AS 13.29.200.

23 (f) Not later than 30 days after appointing a successor conservator, the court
 24 shall give notice of the appointment to the individual subject to conservatorship and
 25 any person entitled to notice under AS 13.29.205(e) or a subsequent order.

26 **Sec. 13.29.305. Termination or modification of conservatorship.** (a) A
 27 conservatorship for a minor terminates on the earliest of

28 (1) a court order terminating the conservatorship;

29 (2) the minor becoming an adult or, if the minor consents or the court
 30 finds by clear and convincing evidence that substantial harm to the minor's interests is
 31 otherwise likely, attaining 21 years of age;

1 (3) emancipation of the minor; or

2 (4) except as provided under AS 13.16.065(d) and AS 13.26.545(e),
3 death of the minor.

4 (b) A conservatorship for an adult terminates on order of the court or, except
5 as provided under AS 13.16.065(d) and AS 13.26.545(e), when the adult dies.

6 (c) An individual subject to conservatorship, the conservator, or a person
7 interested in the welfare of the individual may petition for

8 (1) termination of the conservatorship on the ground that a basis for
9 appointment under AS 13.29.155 does not exist or termination would be in the best
10 interest of the individual or for other good cause; or

11 (2) modification of the conservatorship on the ground that the extent of
12 protection or assistance granted is not appropriate or for other good cause.

13 (d) The court shall hold a hearing to determine whether termination or
14 modification of a conservatorship is appropriate on

15 (1) petition under (c) of this section which contains allegations that, if
16 true, would support a reasonable belief that termination or modification of the
17 conservatorship may be appropriate, but the court may decline to hold a hearing if a
18 petition based on the same or substantially similar facts was filed within the preceding
19 six months;

20 (2) a communication from the individual subject to conservatorship,
21 conservator, or person interested in the welfare of the individual which supports a
22 reasonable belief that termination or modification of the conservatorship may be
23 appropriate, including because the functional needs of the individual or supports or
24 services available to the individual have changed;

25 (3) a report from a guardian or conservator which indicates that
26 termination or modification may be appropriate because the functional needs or
27 supports or services available to the individual have changed or a protective
28 arrangement instead of conservatorship or other less restrictive alternative is available;
29 or

30 (4) a determination by the court that a hearing would be in the best
31 interest of the individual.

1 (e) Notice of a petition under (c) of this section must be given to the individual
2 subject to conservatorship, the conservator, and any other person the court determines.

3 (f) On presentation of prima facie evidence for termination of a
4 conservatorship, the court shall order termination unless it is proven that a basis for
5 appointment of a conservator under AS 13.29.155 exists.

6 (g) The court shall modify the powers granted to a conservator if the powers
7 are excessive or inadequate because of a change in the abilities or limitations of the
8 individual subject to conservatorship, the supports of the individual, or other
9 circumstances.

10 (h) Unless the court otherwise orders for good cause, before terminating a
11 conservatorship, the court shall follow the same procedures to safeguard the rights of
12 the individual subject to conservatorship which apply to a petition for conservatorship.

13 (i) An individual subject to conservatorship who seeks to terminate or modify
14 the terms of the conservatorship has the right to choose an attorney to represent the
15 individual in this matter. If the individual is not represented by an attorney, the court
16 shall appoint an attorney under the same conditions as in AS 13.29.180. The court
17 shall award reasonable attorney fees to the attorney as provided in AS 13.29.480.

18 (j) On termination of a conservatorship other than because of the death of the
19 individual subject to conservatorship, property of the conservatorship estate passes to
20 the individual. The order of termination must direct the conservator to file a final
21 report and petition for discharge on approval by the court of the final report.

22 (k) On termination of a conservatorship because of the death of the individual
23 subject to conservatorship, the conservator shall promptly file a final report and
24 petition for discharge on approval by the court of the final report. On approval of the
25 final report, the conservator shall proceed expeditiously to distribute the
26 conservatorship estate to the individual's estate or as otherwise ordered by the court.
27 The conservator may take reasonable measures necessary to preserve the
28 conservatorship estate until distribution can be made.

29 (l) The court shall issue a final order of discharge on the approval by the court
30 of the final report and satisfaction by the conservator of any other condition the court
31 imposed on the conservator's discharge.

Sec. 13.29.310. Transfer for benefit of minor without appointment of conservator. (a) Unless a person required to transfer funds or other property to a minor knows that a conservator for the minor has been appointed or a proceeding is pending for conservatorship, the person may transfer an amount or value not exceeding \$15,000 in a 12-month period to

(1) a person that has care or custody of the minor and with whom the minor resides;

(2) a guardian for the minor;

(3) a custodian under AS 13.42 (Alaska Uniform Transfers to Minors Act); or

(4) a financial institution as a deposit in an interest-bearing account or certificate solely in the name of the minor and shall give notice to the minor of the deposit.

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

(c) A person that receives funds or other property for a minor under (a)(1) or (2) of this section may apply it only to the support, care, education, health, or welfare of the minor, and may not derive a personal financial benefit from it, except for reimbursement for necessary expenses. Funds not applied for these purposes must be preserved for the future support, care, education, health, or welfare of the minor, and the balance, if any, transferred to the minor when the minor becomes an adult or otherwise is emancipated.

Article 4. Other Protective Arrangements.

Sec. 13.29.315. Authority for protective arrangement. (a) Under AS 13.29.315 - 13.29.368, a court on receiving a petition for a

(1) guardianship for an adult may order a protective arrangement instead of guardianship as a less restrictive alternative to guardianship; and

(2) conservatorship for an individual may order a protective arrangement instead of conservatorship as a less restrictive alternative to conservatorship.

(b) A person interested in an adult's welfare, including the adult or a

conservator for the adult, may petition under AS 13.29.315 - 13.29.368 for a protective arrangement instead of guardianship.

(c) The following persons may petition under AS 13.29.315 - 13.29.368 for a protective arrangement instead of conservatorship:

(1) the individual for whom the protective arrangement is sought;

(2) a person interested in the property, financial affairs, or welfare of the individual, including a person that would be adversely affected by lack of effective management of property or financial affairs of the individual; and

(3) the guardian for the individual.

Sec. 13.29.320. Basis for protective arrangement instead of guardianship for adult. (a) After the hearing on a petition under AS 13.29.065 for a guardianship or under AS 13.29.315(b) for a protective arrangement instead of guardianship, the court may issue an order under (b) of this section for a protective arrangement instead of guardianship if the court finds by clear and convincing evidence that

(1) the respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(2) the identified needs of the respondent cannot be met by a less restrictive alternative.

(b) If the court makes the findings under (a) of this section, the court, instead of appointing a guardian, may

(1) authorize or direct a transaction necessary to meet the respondent's need for health, safety, or care, including

(A) a particular medical treatment or refusal of a particular medical treatment;

(B) a move to a specified place of dwelling; or

(C) visitation or supervised visitation between the respondent and another person;

(2) restrict access to the respondent by a specified person whose access places the respondent at serious risk of physical, psychological, or financial harm; and

1 (3) order other arrangements on a limited basis that are appropriate.

2 (c) In deciding whether to issue an order under this section, the court shall
3 consider the factors under AS 13.29.120 and 13.29.125 which a guardian must
4 consider when making a decision on behalf of an adult subject to guardianship.

5 **Sec. 13.29.325. Basis for protective arrangement instead of**
6 **conservatorship for adult or minor.** (a) After the hearing on a petition under
7 AS 13.29.160 for conservatorship for an adult or under AS 13.29.315(c) for a
8 protective arrangement instead of conservatorship for an adult, the court may issue an
9 order under (c) of this section for a protective arrangement instead of conservatorship
10 for the adult if the court finds by clear and convincing evidence that

11 (1) the adult is unable to manage property or financial affairs because

12 (A) of a limitation in the ability to receive and evaluate
13 information or make or communicate decisions, even with appropriate
14 supportive services, technological assistance, or supported decision making; or

15 (B) the adult is missing, detained, or unable to return to the
16 United States;

17 (2) an order under (c) of this section is necessary to

18 (A) avoid harm to the adult or significant dissipation of the
19 property of the adult; or

20 (B) obtain or provide funds or other property needed for the
21 support, care, education, health, or welfare of the adult or an individual entitled
22 to the adult's support; and

23 (3) the identified needs of the respondent cannot be met by a less
24 restrictive alternative.

25 (b) After the hearing on a petition under AS 13.29.160 for conservatorship for
26 a minor or under AS 13.29.315(c) for a protective arrangement instead of
27 conservatorship for a minor, the court may issue an order under (c) of this section for a
28 protective arrangement instead of conservatorship for the respondent if the court finds
29 by a preponderance of the evidence that

30 (1) the arrangement is in the best interest of the minor; if the minor has
31 a parent, the court shall give weight to any recommendation of the parent on whether

1 an arrangement is in the best interest of the minor; and

2 (2) one of the following applies:

3 (A) the minor owns money or property requiring management
4 or protection that otherwise cannot be provided;

5 (B) the minor has or may have financial affairs that may be put
6 at unreasonable risk or hindered because of the minor's age; or

7 (C) the arrangement is necessary or desirable to obtain or
8 provide funds or other property needed for the support, care, education, health,
9 or welfare of the minor; and

10 (3) the order under (c) of this section is necessary or desirable to obtain
11 or provide money needed for the support, care, education, health, or welfare of the
12 minor.

13 (c) If the court makes the findings under (a) or (b) of this section, the court,
14 instead of appointing a conservator, may

15 (1) authorize or direct a transaction necessary to protect the financial
16 interest or property of the respondent, including

17 (A) an action to establish eligibility for benefits;

18 (B) payment, delivery, deposit, or retention of funds or
19 property;

20 (C) sale, mortgage, lease, or other transfer of property;

21 (D) purchase of an annuity;

22 (E) entry into a contractual relationship, including a contract to
23 provide for personal care, supportive services, education, training, or
24 employment;

25 (F) addition to or establishment of a trust;

26 (G) ratification or invalidation of a contract, trust, will, or other
27 transaction, including a transaction related to the property or business affairs of
28 the respondent; or

29 (H) settlement of a claim; or

30 (2) restrict access to the property of the respondent by a specified
31 person whose access to the property places the respondent at serious risk of financial

1 harm.

2 (d) After the hearing on a petition under AS 13.29.315(a)(2) or (c), whether or
3 not the court makes the findings under (a) or (b) of this section, the court may issue an
4 order to restrict access to the respondent or the property of the respondent by a
5 specified person that the court finds by clear and convincing evidence

6 (1) through fraud, coercion, duress, or the use of deception and control
7 caused or attempted to cause an action that would have resulted in financial harm to
8 the respondent or the property of the respondent; and

9 (2) poses a serious risk of substantial financial harm to the respondent
10 or the property of the respondent.

11 (e) Before issuing an order under (c) or (d) of this section, the court shall
12 consider the factors under AS 13.29.240 a conservator must consider when making a
13 decision on behalf of an individual subject to conservatorship.

14 (f) Before issuing an order under (c) or (d) of this section for a respondent
15 who is a minor, the court also shall consider the best interest of the minor, the
16 preference of the parents of the minor, and the preference of the minor, if the minor is
17 12 years of age or older.

18 **Sec. 13.29.330. Petition for protective arrangement.** A petition for a
19 protective arrangement instead of guardianship or conservatorship must state the
20 petitioner's name, principal residence, current street address, if different, relationship
21 to the respondent, interest in the protective arrangement, the name and address of any
22 attorney representing the petitioner, and, to the extent known, the following:

23 (1) the respondent's name, age, principal residence, current street
24 address, if different, and, if different, address of the dwelling in which it is proposed
25 the respondent will reside if the petition is granted;

26 (2) the name and address of the respondent's

27 (A) spouse or, if the respondent has none, an adult with whom
28 the respondent has shared household responsibilities for more than six months
29 in the 12-month period before the filing of the petition;

30 (B) adult children or, if none, each parent and adult sibling of
31 the respondent, or, if none, at least one adult nearest in kinship to the

1 respondent who can be found with reasonable diligence; and

2 (C) adult stepchildren whom the respondent actively parented
3 during the minor years of the stepchildren and with whom the respondent had
4 an ongoing relationship in the two-year period immediately before the filing of
5 the petition;

6 (3) the name and current address of each of the following, if
7 applicable:

8 (A) a person responsible for the care or custody of the
9 respondent;

10 (B) any attorney currently representing the respondent;

11 (C) the representative payee appointed by the United States
12 Social Security Administration for the respondent;

13 (D) a guardian or conservator acting for the respondent in this
14 state or another jurisdiction;

15 (E) a trustee or custodian of a trust or custodianship of which
16 the respondent is a beneficiary;

17 (F) the fiduciary appointed for the respondent by the United
18 States Department of Veterans Affairs;

19 (G) an agent designated under a durable power of attorney for
20 health care under AS 13.52 in which the respondent is identified as the
21 principal;

22 (H) an agent designated under a power of attorney under
23 AS 13.26 in which the respondent is identified as the principal;

24 (I) a person nominated as guardian or conservator by the
25 respondent if the respondent is 12 years of age or older;

26 (J) a person nominated as guardian by the parent or spouse of
27 the respondent in a will or other signed record;

28 (K) a person known to have routinely assisted the respondent
29 with decision making in the six-month period immediately before the filing of
30 the petition; and

31 (L) if the respondent is a minor,

(i) an adult not otherwise listed with whom the respondent resides; and

(ii) each person not otherwise listed that had primary care or custody of the respondent for at least 60 days during the two years immediately before the filing of the petition or for at least 730 days during the five years immediately before the filing of the petition;

(4) the nature of the protective arrangement sought;

(5) the reason the protective arrangement sought is necessary, including a brief description of

(A) the nature and extent of the alleged need of the respondent;

(B) any less restrictive alternative for meeting the alleged need of the respondent which has been considered or implemented;

(C) if no less restrictive alternative has been considered or implemented, the reason less restrictive alternatives have not been considered or implemented; and

(D) the reason other less restrictive alternatives are insufficient to meet the alleged need of the respondent;

(6) the name and current address, if known, of any person with whom the petitioner seeks to limit the respondent's contact;

(7) whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;

(8) if a protective arrangement instead of guardianship is sought and the respondent has property other than personal effects, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts; and

(9) if a protective arrangement instead of conservatorship is sought, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts.

Sec. 13.29.335. Notice and hearing. (a) On filing of a petition under

1 AS 13.29.315, the court shall set a date, time, and place for a hearing on the petition.

2 (b) A copy of a petition under AS 13.29.315 and notice of a hearing on the
3 petition must be served personally on the respondent. The notice must inform the
4 respondent of the respondent's rights at the hearing, including the right to an attorney
5 and to attend the hearing. The notice must include a description of the nature, purpose,
6 and consequences of granting the petition. The court may not grant the petition if
7 notice substantially complying with this subsection is not served on the respondent.

8 (c) In a proceeding on a petition under AS 13.29.315, the notice required
9 under (b) of this section must be given to the persons required to be listed in the
10 petition under AS 13.29.330(1) - (3) and any other person interested in the welfare of
11 the respondent the court determines. Failure to give notice under this subsection does
12 not preclude the court from granting the petition.

13 (d) After the court has ordered a protective arrangement under AS 13.29.315 -
14 13.29.368, notice of a hearing on a petition filed under this chapter, together with a
15 copy of the petition, must be given to the respondent and any other person the court
16 determines.

17 **Sec. 13.29.340. Appointment and role of visitor.** (a) On filing of a petition
18 under AS 13.29.315 for a protective arrangement instead of guardianship, the court
19 shall appoint a visitor. The visitor must be an individual with training or experience in
20 the type of abilities, limitations, and needs alleged in the petition.

21 (b) On filing of a petition under AS 13.29.315 for a protective arrangement
22 instead of conservatorship for a minor, the court may appoint a visitor to investigate a
23 matter related to the petition or inform the minor or a parent of the minor about the
24 petition or a related matter.

25 (c) On filing of a petition under AS 13.29.315 for a protective arrangement
26 instead of conservatorship for an adult, the court shall appoint a visitor. The visitor
27 must be an individual with training or experience in the types of abilities, limitations,
28 and needs alleged in the petition.

29 (d) A visitor appointed under (a) or (c) of this section shall interview the
30 respondent in person and, in a manner the respondent is best able to understand,

31 (1) explain to the respondent the substance of the petition, the nature,

1 purpose, and effect of the proceeding, and the rights of the respondent at the hearing
2 on the petition;

3 (2) determine the views of the respondent with respect to the order
4 sought;

5 (3) inform the respondent of the respondent's right to employ and
6 consult with an attorney at the respondent's expense and the right to request a court-
7 appointed attorney;

8 (4) inform the respondent that all costs and expenses of the proceeding,
9 including respondent's attorney fees, may be paid from the respondent's assets;

10 (5) if the petitioner seeks an order related to the dwelling of the
11 respondent, visit the respondent's present dwelling and any dwelling in which it is
12 reasonably believed the respondent will live if the order is granted;

13 (6) if a protective arrangement instead of guardianship is sought,
14 obtain information from any physician or other person known to have treated, advised,
15 or assessed the respondent's relevant physical or mental condition;

16 (7) if a protective arrangement instead of conservatorship is sought,
17 review financial records of the respondent, if relevant to the visitor's recommendation
18 under (e)(3) of this section; and

19 (8) investigate the allegations in the petition and any other matter
20 relating to the petition the court directs.

21 (e) A visitor under this section promptly shall file a report in a record with the
22 court, which must include

23 (1) a recommendation whether an attorney should be appointed to
24 represent the respondent;

25 (2) to the extent relevant to the order sought, a summary of self-care,
26 independent-living tasks, and financial management tasks the respondent

27 (A) can manage without assistance or with existing supports;

28 (B) could manage with the assistance of appropriate supportive
29 services, technological assistance, or supported decision making; and

30 (C) cannot manage;

31 (3) a recommendation regarding the appropriateness of the protective

1 arrangement sought and whether a less restrictive alternative for meeting the needs of
2 the respondent is available;

3 (4) if the petition seeks to change the physical location of the dwelling
4 of the respondent, a statement whether the proposed dwelling meets the needs of the
5 respondent and whether the respondent has expressed a preference as to the
6 respondent's dwelling;

7 (5) a recommendation whether a professional evaluation under
8 AS 13.29.350 is necessary;

9 (6) a statement whether the respondent is able to attend a hearing at the
10 location where court proceedings typically are held;

11 (7) a statement whether the respondent is able to participate in a
12 hearing and which identifies any technology or other form of support that would
13 enhance the respondent's ability to participate; and

14 (8) any other matter the court directs.

15 **Sec. 13.29.345. Appointment and role of attorney.** (a) The court shall
16 appoint an attorney to represent the respondent in a proceeding under AS 13.29.315 -
17 13.29.368 if

18 (1) the respondent requests the appointment;

19 (2) the visitor recommends the appointment; or

20 (3) the court determines the respondent needs representation.

21 (b) An attorney representing the respondent in a proceeding under
22 AS 13.29.315 - 13.29.368 shall

23 (1) make reasonable efforts to ascertain the wishes of the respondent;

24 (2) advocate for the wishes of the respondent to the extent reasonably
25 ascertainable; and

26 (3) if the wishes of the respondent are not reasonably ascertainable,
27 advocate for the result that is the least restrictive alternative in type, duration, and
28 scope, consistent with the interests of the respondent.

29 **Sec. 13.29.350. Professional evaluation.** (a) At or before a hearing on a
30 petition under AS 13.29.315 - 13.29.368 for a protective arrangement, the court shall
31 order a professional evaluation of the respondent

1 (1) if the respondent requests the evaluation; or

2 (2) in other cases, unless the court finds that it has sufficient
3 information to determine the needs and abilities of the respondent without the
4 evaluation.

5 (b) If the court orders an evaluation under (a) of this section, the respondent
6 must be examined by a licensed physician, psychologist, social worker, or other
7 individual appointed by the court who is qualified to evaluate the respondent's alleged
8 cognitive and functional abilities and limitations and will not be advantaged or
9 disadvantaged by a decision to grant the petition or otherwise have a conflict of
10 interest. The individual conducting the evaluation shall promptly file a report in a
11 record with the court. Unless otherwise directed by the court, the report must contain

12 (1) a description of the nature, type, and extent of the respondent's
13 cognitive and functional abilities and limitations;

14 (2) an evaluation of the respondent's mental and physical condition
15 and, if appropriate, educational potential, adaptive behavior, and social skills;

16 (3) a prognosis for improvement, including with regard to the ability to
17 manage the property and financial affairs of the respondent if a limitation in that
18 ability is alleged, and recommendation for the appropriate treatment, support, or
19 habilitation plan; and

20 (4) the date of the examination on which the report is based.

21 (c) The respondent may decline to participate in an evaluation ordered under
22 (a) of this section.

23 **Sec. 13.29.355. Attendance and rights at hearing.** (a) Except as otherwise
24 provided in (b) of this section, a hearing under AS 13.29.315 - 13.29.368 may not
25 proceed unless the respondent attends the hearing. If it is not reasonably feasible for
26 the respondent to attend a hearing at the location where court proceedings typically are
27 held, the court shall make reasonable efforts to hold the hearing at an alternative
28 location convenient to the respondent or allow the respondent to attend the hearing
29 using real-time audiovisual technology.

30 (b) A hearing under AS 13.29.315 - 13.29.368 may proceed without the
31 respondent in attendance if the court finds by clear and convincing evidence that

1 (1) the respondent consistently and repeatedly has refused to attend the
 2 hearing after having been fully informed of the right to attend and the potential
 3 consequences of failing to do so;

4 (2) there is no practicable way for the respondent to attend and
 5 participate in the hearing even with appropriate supportive services and technological
 6 assistance; or

7 (3) the respondent is a minor who has received proper notice and
 8 attendance would be harmful to the minor.

9 (c) The respondent may be assisted in a hearing under AS 13.29.315 -
 10 13.29.368 by a person or persons chosen by the respondent, assistive technology, or an
 11 interpreter or translator, or a combination of these supports. If assistance would
 12 facilitate the ability of the respondent to participate in the hearing, but is not otherwise
 13 available to the respondent, the court shall make reasonable efforts to provide it.

14 (d) The respondent has a right to choose an attorney to represent the
 15 respondent at a hearing under AS 13.29.315 - 13.29.368.

16 (e) At a hearing under AS 13.29.315 - 13.29.368, the respondent may

17 (1) present evidence and subpoena witnesses and documents;

18 (2) examine witnesses, including any court-appointed evaluator and
 19 the visitor; and

20 (3) otherwise participate in the hearing.

21 (f) A hearing under AS 13.29.315 - 13.29.368 must be closed on request of the
 22 respondent and a showing of good cause.

23 (g) Any person may request to participate in a hearing under AS 13.29.315 -
 24 13.29.368. The court may grant the request, with or without a hearing, on determining
 25 that the best interest of the respondent will be served. The court may impose
 26 appropriate conditions on the person's participation.

27 **Sec. 13.29.360. Notice of order.** The court shall give notice of an order under
 28 AS 13.29.315 - 13.29.368 to the individual who is subject to the protective
 29 arrangement instead of guardianship or conservatorship, a person whose access to the
 30 individual is restricted by the order, and any other person the court determines.

31 **Sec. 13.29.365. Confidentiality of records.** (a) The existence of a proceeding

1 for or the existence of a protective arrangement instead of guardianship or
 2 conservatorship is a matter of public record unless the court seals the record after

3 (1) the respondent, the individual subject to the protective
 4 arrangement, or the parent of a minor subject to the protective arrangement requests
 5 that the record be sealed; and

6 (2) one of the following occurs:

7 (A) the proceeding is dismissed;

8 (B) the protective arrangement is no longer in effect; or

9 (C) an act authorized by the order granting the protective
 10 arrangement has been completed.

11 (b) A respondent, an individual subject to a protective arrangement instead of
 12 guardianship or conservatorship, an attorney designated by the respondent or
 13 individual, a parent of a minor subject to a protective arrangement, and any other
 14 person the court determines are entitled to access court records of the proceeding and
 15 resulting protective arrangement. A person not otherwise entitled to access court
 16 records under this subsection for good cause may petition the court for access. The
 17 court shall grant access if access is in the best interest of the respondent or individual
 18 subject to the protective arrangement or furthers the public interest and does not
 19 endanger the welfare or financial interests of the respondent or individual.

20 (c) A report of a visitor or professional evaluation generated in the course of a
 21 proceeding under AS 13.29.315 - 13.29.368 must be sealed on filing but is available to

22 (1) the court;

23 (2) the individual who is the subject of the report or evaluation,
 24 without limitation as to use;

25 (3) the petitioner, visitor, and petitioner's and respondent's attorneys,
 26 for purposes of the proceeding;

27 (4) unless the court orders otherwise, an agent appointed under a
 28 power of attorney under AS 13.26 in which the respondent is the principal;

29 (5) if the order is for a protective arrangement instead of guardianship
 30 and unless the court orders otherwise, an agent appointed under a durable power of
 31 attorney for health care under AS 13.52 in which the respondent is identified as the

principal; and

(6) any other person if it is in the public interest or for a purpose the court orders for good cause.

Sec. 13.29.368. Appointment of master. The court may appoint a master to assist in implementing a protective arrangement under AS 13.29.315 - 13.29.368. The master has the authority conferred by the order of appointment and serves until discharged by court order.

Article 5. Forms.

Sec. 13.29.370. Use of forms. Use of the forms contained in AS 13.29.370 - 13.29.385 is optional. Failure to use these forms does not prejudice any party.

Sec. 13.29.375. Petition for guardianship for minor. This form may be used to petition for guardianship for a minor.

Petition for Guardianship for Minor

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT

Name and address of attorney representing Petitioner, if applicable:

NOTE TO PETITIONER: This form can be used to petition for a guardian for a minor. A court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is in the best interest of the minor, and (1) the parents consent after being fully informed of the nature and consequences of guardianship; (2) all parental rights have been terminated; or (3) the court finds by clear and convincing evidence that the parents are unwilling or unable to exercise their parental rights.

(1) INFORMATION ABOUT THE PERSON FILING THIS PETITION (THE "PETITIONER").

a. Name: _____

b. Principal residence: _____

c. Current street address (if different): _____

d. Relationship to minor: _____

e. Interest in this petition: _____

1 f. Telephone number (optional): _____

2 g. Email address (optional): _____

3 (2) INFORMATION ABOUT THE MINOR ALLEGED TO
4 NEED A GUARDIAN.

5 Provide the following information to the extent known:

6 a. Name: _____

7 b. Age: _____

8 c. Principal residence: _____

9 d. Current street address (if different): _____

10 e. If Petitioner anticipates the minor moving, or seeks to move the minor,
11 proposed new address: _____

12 f. Does the minor need an interpreter, translator, or other form of support to
13 communicate with the court or understand court proceedings? If so, please
14 explain. _____

15 g. Telephone number (optional): _____

16 h. Email address (optional): _____

17 (3) INFORMATION ABOUT THE MINOR'S PARENT(S).

18 a. Name(s) of living parent(s): _____

19 b. Current street address(es) of living parent(s): _____

20 c. Does any parent need an interpreter, translator, or other form of support to
21 communicate with the court or understand court proceedings? If so, please
22 explain. _____

23 (4) PEOPLE WHO ARE REQUIRED TO BE NOTIFIED OF
24 THIS PETITION. State the name and current address of the people listed in
25 Appendix A.

26 (5) APPOINTMENT REQUESTED. State the name and
27 address of any proposed guardian and the reason the proposed guardian should
28 be selected.

29 (6) STATE WHY PETITIONER SEEKS THE
30 APPOINTMENT. Include a description of the nature and extent of the minor's
31 alleged need.

(7) PROPERTY. If the minor has property other than personal effects, state the minor's property with an estimate of its value.

(8) OTHER PROCEEDINGS. If there are any other proceedings concerning the care or custody of the minor currently pending in any court in this state or another jurisdiction, please describe them.

(9) ATTORNEY(S). If the minor or the minor's parent is represented by an attorney in this matter, state the name, [telephone number, email address,] and address of the attorney(s).

SIGNATURE

Signature of Petitioner

Date

Signature of Petitioner's Attorney if

Date

Petitioner is Represented by Counsel

APPENDIX A:

People whose name and address must be listed in Section 4 of this petition if they are not the Petitioner.

(1) The minor, if the minor is 12 years of age or older.

(2) Each parent of the minor or, if there are none, the adult nearest in kinship that can be found.

(3) An adult with whom the minor resides.

(4) Each person that had primary care or custody of the minor for at least 60 days during the two years immediately before the filing of the petition or for at least 730 days during the five years immediately before the filing of the petition.

(5) If the minor is 12 years of age or older, any person nominated as guardian by the minor.

(6) Any person nominated as guardian by a parent of the minor.

(7) The grandparents of the minor.

(8) Adult siblings of the minor.

(9) Any current guardian or conservator for the minor appointed in this

1 state or another jurisdiction.

2 **Sec. 13.29.380. Petition for guardianship, conservatorship, or protective**
 3 **arrangement.** This form may be used to petition for

- 4 (1) guardianship for an adult;
 5 (2) conservatorship for an adult or minor;
 6 (3) a protective arrangement instead of guardianship for an adult; or
 7 (4) a protective arrangement instead of conservatorship for an adult or
 8 minor.

9 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT

10 _____
 11 Name and address of attorney representing Petitioner, if
 12 applicable: _____

13 NOTE TO PETITIONER: This form can be used to petition for a
 14 guardian, conservator, or both, or for a protective arrangement instead of either
 15 a guardianship or conservatorship. This form should not be used to petition for
 16 guardianship for a minor.

17 The court may appoint a guardian or order a protective arrangement
 18 instead of guardianship for an adult if the adult lacks the ability to meet
 19 essential requirements for physical health, safety, or self-care because (1) the
 20 adult is unable to receive and evaluate information or make or communicate
 21 decisions even with the use of supportive services, technological assistance,
 22 and supported decision-making; and (2) the adult's identified needs cannot be
 23 met by a less restrictive alternative.

24 The court may appoint a conservator or order a protective arrangement
 25 instead of conservatorship for an adult if (1) the adult is unable to manage
 26 property and financial affairs because of a limitation in the ability to receive
 27 and evaluate information or make or communicate decisions even with the use
 28 of supportive services, technological assistance, and supported decision-
 29 making or the adult is missing, detained, or unable to return to the United
 30 States; and (2) appointment is necessary to avoid harm to the adult or
 31 significant dissipation of the property of the adult, or to obtain or provide funds

1 or other property needed for the support, care, education, health, or welfare of
 2 the adult, or of an individual who is entitled to the adult's support, and
 3 protection is necessary or desirable to provide funds or other property for that
 4 purpose.

5 The court may appoint a conservator or order a protective arrangement
 6 instead of conservatorship for a minor if (1) the minor owns funds or other
 7 property requiring management or protection that cannot otherwise be
 8 provided; or (2) it would be in the best interest of the minor, and the minor has
 9 or may have financial affairs that may be put at unreasonable risk or hindered
 10 because of the minor's age, or appointment is necessary or desirable to provide
 11 funds or other property needed for the support, care, education, health, or
 12 welfare of the minor.

13 The court may also order a protective arrangement instead of
 14 conservatorship that restricts access to an individual or an individual's property
 15 by a person that the court finds (1) through fraud, coercion, duress, or the use
 16 of deception and control, caused, or attempted to cause, an action that would
 17 have resulted in financial harm to the individual or the individual's property;
 18 and (2) poses a serious risk of substantial financial harm to the individual or
 19 the individual's property.

20 (1) INFORMATION ABOUT THE PERSON FILING THIS
 21 PETITION (THE "PETITIONER").

- 22 a. Name: _____
 23 b. Principal residence: _____
 24 c. Current street address (if different): _____
 25 d. Relationship to Respondent: _____
 26 e. Interest in this petition: _____
 27 f. Telephone number (optional): _____
 28 g. Email address (optional): _____

29 (2) INFORMATION ABOUT THE INDIVIDUAL ALLEGED
 30 TO NEED PROTECTION (THE "RESPONDENT").

31 Provide the following information to the extent known.

- 1 a. Name: _____
- 2 b. Age: _____
- 3 c. Principal residence: _____
- 4 d. Current street address (if different): _____
- 5 e. If Petitioner anticipates Respondent moving, or seeks to move Respondent,
- 6 proposed new address: _____
- 7 f. Does Respondent need an interpreter, translator, or other form of support to
- 8 communicate with the court or understand court proceedings? If so, please
- 9 explain. _____
- 10 g. Telephone number (optional): _____
- 11 h. Email address (optional): _____

12 (3) PEOPLE WHO ARE REQUIRED TO BE NOTIFIED OF

13 THIS PETITION. State the name and address of the people listed in Appendix

14 A.

15 (4) EXISTING AGENTS. State the name and address of any

16 person appointed as an agent under a power of attorney under AS 13.26 or

17 durable power of attorney for health care under AS 13.52, or who has been

18 appointed as the individual's representative for payment of benefits.

19 (5) ACTION REQUESTED. State whether Petitioner is

20 seeking appointment of a guardian, a conservator, or a protective arrangement

21 instead of an appointment.

22 (6) ORDER REQUESTED OR APPOINTMENT

23 REQUESTED. If seeking a protective arrangement instead of a guardianship

24 or conservatorship, state the transaction or other action you want the court to

25 order. If seeking appointment of a guardian or conservator, state the powers

26 Petitioner requests the court grant to a guardian or conservator.

27 (7) STATE WHY THE APPOINTMENT OR PROTECTIVE

28 ARRANGEMENT SOUGHT IS NECESSARY. Include a description of the

29 nature and extent of Respondent's alleged need.

30 (8) STATE ALL LESS RESTRICTIVE ALTERNATIVES TO

31 MEETING RESPONDENT'S ALLEGED NEED THAT HAVE BEEN

1 CONSIDERED OR IMPLEMENTED. Less restrictive alternatives could
 2 include supported decision-making, technological assistance, or the
 3 appointment of an agent by Respondent, including appointment under a power
 4 of attorney under AS 13.26 or durable power of attorney for health care under
 5 AS 13.52. If no alternative has been considered or implemented, state the
 6 reason why.

7 (9) EXPLAIN WHY LESS RESTRICTIVE ALTERNATIVES
 8 WILL NOT MEET RESPONDENT'S ALLEGED NEED.

9 (10) PROVIDE A GENERAL STATEMENT OF
 10 RESPONDENT'S PROPERTY AND AN ESTIMATE OF ITS VALUE.
 11 Include any real property such as a house or land, insurance or pension, and the
 12 source and amount of any other anticipated income or receipts. As part of this
 13 statement, indicate, if known, how the property is titled (for example, is it
 14 jointly owned?).

15 (11) FOR A PETITION SEEKING APPOINTMENT OF A
 16 CONSERVATOR. (Skip this section if not asking for appointment of a
 17 conservator.)

18 a. If seeking appointment of a conservator with all powers permissible under
 19 this state's law, explain why appointment of a conservator with fewer powers
 20 (i.e., a "limited conservatorship") or other protective arrangement instead of
 21 conservatorship will not meet the individual's alleged needs.

22 b. If seeking a limited conservatorship, state the property Petitioner requests
 23 be placed under the conservator's control and any proposed limitation on the
 24 conservator's powers and duties.

25 c. State the name and address of any proposed conservator and the reason the
 26 proposed conservator should be selected.

27 d. If Respondent is 12 years of age or older, state the name and address of any
 28 person Respondent nominates as conservator.

29 e. If alleging a limitation in Respondent's ability to receive and evaluate
 30 information, provide a brief description of the nature and extent of
 31 Respondent's alleged limitation.

f. If alleging that Respondent is missing, detained, or unable to return to the United States, state the relevant circumstances, including the time and nature of the disappearance or detention and a description of any search or inquiry concerning the Respondent's whereabouts.

(12) FOR A PETITION SEEKING APPOINTMENT OF A GUARDIAN. (Skip this section if not asking for appointment of a guardian.)

a. If seeking appointment of a guardian with all powers permissible under this state's law, explain why appointment of a guardian with fewer powers (i.e., a "limited guardianship") or other protective arrangement instead of guardianship will not meet the individual's alleged needs.

b. If seeking a limited guardianship, state the powers Petitioner requests be granted to the guardian.

c. State the name and address of any proposed guardian and the reason the proposed guardian should be selected.

d. State the name and address of any person nominated as guardian by Respondent, or, in a will or other signed writing or other record, by Respondent's parent or spouse.

(13) ATTORNEY. If Petitioner, Respondent, or, if Respondent is a minor, Respondent's parent is represented by an attorney in this matter, state the name, telephone number, email address, and address of the attorney(s).

SIGNATURE

Signature of Petitioner

Date

Signature of Petitioner's Attorney if
Petitioner is Represented by Counsel

Date

APPENDIX A:

People whose name and address must be listed in Section 3 of this petition, if they are not the Petitioner.

1 (1) Respondent's spouse or if Respondent has none, any adult with
2 whom Respondent has shared household responsibilities in the past six months.

3 (2) Respondent's adult children, or, if Respondent has none,
4 Respondent's parents and adult siblings, or if Respondent has none, one or more adults
5 nearest in kinship to Respondent who can be found with reasonable diligence.

6 (3) Respondent's adult stepchildren whom Respondent actively
7 parented during the stepchildren's minor years and with whom Respondent had an
8 ongoing relationship within two years of this petition.

9 (4) Any person responsible for the care or custody of Respondent.

10 (5) Any attorney currently representing Respondent.

11 (6) Any representative payee for Respondent appointed by the United
12 States Social Security Administration.

13 (7) Any current guardian or conservator for Respondent appointed in
14 this state or another jurisdiction.

15 (8) Any trustee or custodian of a trust or custodianship of which
16 Respondent is a beneficiary.

17 (9) Any fiduciary for Respondent appointed by the United States
18 Department of Veterans Affairs.

19 (10) Any person Respondent has designated as agent under a power of
20 attorney under AS 13.26.

21 (11) Any person Respondent has designated as agent under a durable
22 power of attorney for health care under AS 13.52.

23 (12) Any person known to have routinely assisted the individual with
24 decision making in the previous six months.

25 (13) Any person Respondent nominates as guardian or conservator.

26 (14) Any person nominated as guardian by Respondent's parent or
27 spouse in a will or other signed writing or other record.

28 **Sec. 13.29.385. Notification of rights for adult subject to guardianship or**
29 **conservatorship.** This form may be used to notify an adult subject to guardianship or
30 conservatorship of the adult's rights under AS 13.29.110 and 13.29.210.

31 NOTIFICATION OF RIGHTS

1 You are getting this notice because a guardian, conservator, or both have been
 2 appointed for you. It tells you about some important rights you have. It does
 3 not tell you about all your rights. If you have questions about your rights, you
 4 can ask an attorney or another person, including your guardian or conservator,
 5 to help you understand your rights.

6 GENERAL RIGHTS: You have the right to exercise any right the court
 7 has not given to your guardian or conservator. You also have the right to ask
 8 the court to

9 (1) end your guardianship, conservatorship, or both;

10 (2) increase or decrease the powers granted to your guardian,
 11 conservator, or both;

12 (3) make other changes that affect what your guardian or
 13 conservator can do or how they do it; and

14 (4) replace the person that was appointed with someone else.

15 You also have a right to hire an attorney to help you do any of these things.

16 ADDITIONAL RIGHTS FOR PERSONS FOR WHOM A
 17 GUARDIAN HAS BEEN APPOINTED: As an adult subject to guardianship,
 18 you have a right to

19 (1) be involved in decisions affecting you, including decisions
 20 about your care, where you live, your activities, and your social interactions, to
 21 the extent reasonably feasible;

22 (2) be involved in decisions about your health care to the extent
 23 reasonably feasible, and to have other people help you understand the risks and
 24 benefits of health care options;

25 (3) be notified at least 14 days in advance of a change in where
 26 you live or a permanent move to a nursing home, mental health facility, or
 27 other facility that places restrictions on your ability to leave or have visitors,
 28 unless the guardian has proposed this change in the guardian's plan or the court
 29 has expressly authorized it;

30 (4) ask the court to prevent your guardian from changing where
 31 you live or selling or surrendering your primary dwelling by objecting to such

1 a move in compliance with AS 13.29.125;

2 (5) vote and get married unless the court order appointing your
3 guardian states that you cannot do so;

4 (6) receive a copy of your guardian's report and your guardian's
5 plan; and

6 (7) communicate, visit, or interact with other people (this
7 includes the right to have visitors, to make and receive telephone calls,
8 personal mail, or electronic communications) unless

9 (A) your guardian has been authorized by the court by
10 specific order to restrict these communications, visits, or interactions;

11 (B) a protective order is in effect that limits contact
12 between you and other people; or

13 (C) your guardian has good cause to believe the
14 restriction is needed to protect you from significant physical,
15 psychological, or financial harm and the restriction is for not more than
16 seven business days if the person has a family or pre-existing social
17 relationship with you or not more than 60 days if the person does not
18 have that kind of relationship with you.

19 ADDITIONAL RIGHTS FOR PERSONS FOR WHOM A
20 CONSERVATOR HAS BEEN APPOINTED: As an adult subject to
21 conservatorship, you have a right to

22 (1) participate in decisions about how your property is
23 managed to the extent feasible; and

24 (2) receive a copy of your conservator's inventory, report, and
25 plan.

26 **Article 6. Miscellaneous Provisions.**

27 **Sec. 13.29.390. Uniformity of application and construction.** In applying and
28 construing this chapter, consideration must be given to the need to promote uniformity
29 of the law with respect to its subject matter among states that enact it.

30 **Sec. 13.29.395. Relation to Electronic Signatures in Global and National**
31 **Commerce Act.** This chapter modifies, limits, or supersedes 15 U.S.C. 7001 - 7031

(Electronic Signatures in Global and National Commerce Act), but does not modify, limit, or supersede 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

Article 7. General Provisions.

Sec. 13.29.400. Supplemental principles of law and equity applicable.

Unless displaced by a particular provision of this chapter, the principles of law and equity supplement its provisions.

Sec. 13.29.405. Subject matter jurisdiction. (a) Except to the extent jurisdiction is precluded by AS 25.30 (Uniform Child Custody Jurisdiction and Enforcement Act), a court of this state has jurisdiction over a guardianship for a minor domiciled or present in this state. The court has jurisdiction over a conservatorship or protective arrangement instead of conservatorship for a minor domiciled or having property in this state.

(b) A court of this state has jurisdiction over a guardianship, conservatorship, or protective arrangement under AS 13.29.315 - 13.29.368 for an adult as provided in AS 13.27 (Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act).

(c) After notice is given in a proceeding for a guardianship, conservatorship, or protective arrangement under AS 13.29.315 - 13.29.368 and until termination of the proceeding, the court in which the petition is filed has

(1) exclusive jurisdiction to determine the need for the guardianship, conservatorship, or protective arrangement;

(2) exclusive jurisdiction to determine how property of the respondent must be managed, expended, or distributed to or for the use of the respondent, an individual who is dependent in fact on the respondent, or other claimant;

(3) nonexclusive jurisdiction to determine the validity of a claim against the respondent or property of the respondent or a question of title concerning the property; and

(4) if a guardian or conservator is appointed, exclusive jurisdiction over issues related to administration of the guardianship or conservatorship.

(d) A court that appoints a guardian or conservator or authorizes a protective arrangement under AS 13.29.315 - 13.29.368 has exclusive and continuing jurisdiction

1 over the proceeding until the court terminates the proceeding or the appointment or
2 protective arrangement expires by its terms.

3 **Sec. 13.29.410. Transfer of proceedings.** (a) This section does not apply to a
4 guardianship or conservatorship for an adult that is subject to the transfer provisions
5 under AS 13.27.200 or 13.27.210.

6 (b) After appointment of a guardian or conservator, the court that made the
7 appointment may transfer the proceeding to another court in the same judicial district,
8 another judicial district in this state, or another state if a transfer is in the best interest
9 of the individual subject to the guardianship or conservatorship.

10 (c) If a proceeding for a guardianship or conservatorship is pending in another
11 state or a foreign country and a petition for guardianship or conservatorship for the
12 same individual is filed in a court in this state, the court shall notify the court in the
13 other state or foreign country and, after consultation with that court, assume or decline
14 jurisdiction, whichever is in the best interest of the respondent.

15 (d) A guardian or conservator appointed in another state or country may
16 petition the court for appointment as a guardian or conservator in this state for the
17 same individual if jurisdiction in this state is or will be established. The appointment
18 may be made on proof of appointment in the other state or foreign country and
19 presentation of a certified copy of the part of the court record in the other state or
20 country specified by the court in this state.

21 (e) Notice of hearing on a petition under (d) of this section, together with a
22 copy of the petition, must be given to the respondent, if the respondent is at least 12
23 years of age at the time of the hearing, and to the persons that would be entitled to
24 notice if the procedures for appointment of a guardian or conservator under this
25 chapter were applicable. The court shall make the appointment unless the court
26 determines the appointment would not be in the best interest of the respondent.

27 (f) Not later than 14 days after appointment under (e) of this section, the
28 guardian or conservator shall give a copy of the order of appointment to the individual
29 subject to guardianship or conservatorship, if the individual is at least 12 years of age,
30 and to all persons given notice of the hearing on the petition.

31 **Sec. 13.29.415. Venue.** (a) Except as provided in (e) of this section, venue for

1 a guardianship proceeding for a minor is in

2 (1) the judicial district in which the minor resides or is present at the
3 time the proceeding commences; or

4 (2) the judicial district in which another proceeding concerning the
5 custody or parental rights of the minor is pending.

6 (b) Venue for a guardianship proceeding or protective arrangement instead of
7 guardianship for an adult is in

8 (1) the judicial district in which the respondent resides;

9 (2) if the respondent has been admitted to an institution by court order,
10 the judicial district in which the court is located; or

11 (3) if the proceeding is for appointment of an emergency guardian for
12 an adult, the judicial district in which the respondent is present.

13 (c) Venue for a conservatorship proceeding or protective arrangement instead
14 of conservatorship is in

15 (1) the judicial district in which the respondent resides, whether or not
16 a guardian has been appointed in another judicial district or other jurisdiction; or

17 (2) if the respondent does not reside in this state, any judicial district in
18 which property of the respondent is located.

19 (d) If proceedings under this chapter are brought in more than one judicial
20 district, the court of the judicial district in which the first proceeding is brought has the
21 exclusive right to proceed unless the court determines venue is properly in another
22 court or the interest of justice otherwise requires transfer of the proceeding.

23 (e) The venue for a guardianship proceeding for a minor in state custody under
24 AS 47.10 is the

25 (1) superior court where the child-in-need-of-aid proceeding is pending
26 as provided under AS 47.10.111; or

27 (2) judicial district in which the petitioner resides if the petitioner
28 provides notice to all of the parties to the child-in-need-of-aid proceeding and no party
29 objects.

30 **Sec. 13.29.420. Practice in court.** (a) If proceedings for a guardianship,
31 conservatorship, or protective arrangement under AS 13.29.315 - 13.29.368 for the

1 same individual are commenced or pending in the same court, the proceedings may be
2 consolidated.

3 (b) A respondent may demand a jury trial in a proceeding under this chapter
4 on the issue of whether a basis exists for appointment of a guardian or conservator.

5 **Sec. 13.29.425. Letters of office.** (a) The court shall issue letters of office to a
6 guardian on filing by the guardian of an acceptance of appointment.

7 (b) The court shall issue letters of office to a conservator on filing by the
8 conservator of an acceptance of appointment and filing of any required bond or
9 compliance with any other asset protection arrangement required by the court.

10 (c) Limitations on the powers of a guardian or conservator or on the property
11 subject to conservatorship must be stated on the letters of office.

12 (d) The court at any time may limit the powers conferred on a guardian or
13 conservator. The court shall issue new letters of office to reflect the limitation. The
14 court shall give notice of the limitation to the guardian or conservator, individual
15 subject to guardianship or conservatorship, each parent of a minor subject to
16 guardianship or conservatorship, and any other person the court determines.

17 **Sec. 13.29.430. Effect of acceptance of appointment.** On acceptance of
18 appointment, a guardian or conservator submits to the personal jurisdiction of the
19 court in this state in any proceeding relating to the guardianship or conservatorship.

20 **Sec. 13.29.435. Co-guardian; co-conservator.** (a) The court at any time may
21 appoint a co-guardian or co-conservator to serve immediately or when a designated
22 event occurs.

23 (b) A co-guardian or co-conservator appointed to serve immediately may act
24 when that co-guardian or co-conservator complies with AS 13.29.425.

25 (c) A co-guardian or co-conservator appointed to serve when a designated
26 event occurs may act when

27 (1) the event occurs; and

28 (2) that co-guardian or co-conservator complies with AS 13.29.425.

29 (d) Unless an order of appointment under (a) of this section or subsequent
30 order states otherwise, co-guardians or co-conservators shall make decisions jointly.

31 **Sec. 13.29.440. Judicial appointment of successor guardian or successor**

1 **conservator.** (a) The court at any time may appoint a successor guardian or successor
2 conservator to serve immediately or when a designated event occurs.

3 (b) A person entitled under AS 13.29.010 or 13.29.065 to petition the court to
4 appoint a guardian may petition the court to appoint a successor guardian. A person
5 entitled under AS 13.29.160 to petition the court to appoint a conservator may petition
6 the court to appoint a successor conservator.

7 (c) A successor guardian or successor conservator appointed to serve when a
8 designated event occurs may act as guardian or conservator when

9 (1) the event occurs; and

10 (2) the successor complies with AS 13.29.425.

11 (d) A successor guardian or successor conservator has the predecessor's
12 powers unless otherwise provided by the court.

13 **Sec. 13.29.445. Effect of death, removal, or resignation of guardian or**
14 **conservator.** (a) Appointment of a guardian or conservator terminates on the death or
15 removal of the guardian or conservator or when the court approves a resignation of the
16 guardian or conservator under (b) of this section.

17 (b) A guardian or conservator must petition the court to resign. The petition
18 may include a request that the court appoint a successor. Resignation of a guardian or
19 conservator is effective on the date the resignation is approved by the court.

20 (c) Death, removal, or resignation of a guardian or conservator does not affect
21 liability for a previous act or the obligation to account for

22 (1) an action taken on behalf of the individual subject to guardianship
23 or conservatorship; or

24 (2) the individual's funds or other property.

25 **Sec. 13.29.450. Notice of hearing generally.** (a) Except as otherwise provided
26 in AS 13.29.015, 13.29.035, 13.29.070, 13.29.165, and 13.29.335, if notice of a
27 hearing under this chapter is required, the movant shall give notice of the date, time,
28 and place of the hearing to the person to be notified unless otherwise ordered by the
29 court for good cause. Except as otherwise provided in this chapter, notice must be
30 given in compliance with AS 13.06.110 - 13.06.120.

31 (b) Proof of notice of a hearing under this chapter must be made before or at

1 the hearing and filed in the proceeding.

2 (c) Notice of a hearing under this chapter must be in at least 16-point font, in
3 plain language, and, to the extent feasible, in a language in which the person to be
4 notified is proficient.

5 **Sec. 13.29.455. Waiver of notice.** (a) Except as otherwise provided in (b) of
6 this section, a person may waive notice under this chapter in a record signed by the
7 person or person's attorney and filed in the proceeding.

8 (b) A respondent, individual subject to guardianship, individual subject to
9 conservatorship, or individual subject to a protective arrangement under AS 13.29.315
10 - 13.29.368 may not waive notice under this chapter.

11 **Sec. 13.29.460. Guardian ad litem.** The court at any time may appoint a
12 guardian ad litem for an individual if the court determines the individual's interest
13 otherwise would not be adequately represented. If no conflict of interest exists, a
14 guardian ad litem may be appointed to represent multiple individuals or interests. The
15 guardian ad litem may not be the same individual as the attorney representing the
16 respondent. The court shall state the duties of the guardian ad litem and the reasons for
17 the appointment as a part of the record of the proceeding.

18 **Sec. 13.29.465. Request for notice.** (a) A person may file with the court a
19 request for notice under this chapter if the person is

20 (1) not otherwise entitled to notice; and

21 (2) interested in the welfare of a respondent, individual subject to
22 guardianship or conservatorship, or individual subject to a protective arrangement
23 under AS 13.29.315 - 13.29.368.

24 (b) A request under (a) of this section must include a statement showing the
25 interest of the person making the request and the address of the person or an attorney
26 for the person to whom notice is to be given.

27 (c) If the court approves a request under (a) of this section, the court shall give
28 notice of the approval to the guardian or conservator, if one has been appointed, or, if
29 no guardian or conservator has been appointed, to the respondent.

30 **Sec. 13.29.470. Disclosure of bankruptcy or criminal history.** (a) Before
31 accepting appointment as a guardian or conservator, a person shall disclose to the

1 court whether the person has been

2 (1) or is a debtor in a bankruptcy, insolvency, or receivership
3 proceeding; or

4 (2) convicted of

5 (A) a felony;

6 (B) a crime involving dishonesty, neglect, violence, or use of
7 physical force; or

8 (C) a crime relevant to the functions the person would assume
9 as guardian or conservator.

10 (b) A guardian or conservator that engages or anticipates engaging an agent
11 who the guardian or conservator knows has been convicted of a felony, a crime
12 involving dishonesty, neglect, violence, or use of physical force, or a crime relevant to
13 the functions the agent is being engaged to perform shall promptly disclose that
14 knowledge to the court.

15 (c) If a conservator engages or anticipates engaging an agent to manage the
16 finances of the individual subject to conservatorship and knows the agent is or has
17 been a debtor in a bankruptcy, insolvency, or receivership proceeding, the conservator
18 shall promptly disclose that knowledge to the court.

19 **Sec. 13.29.475. Multiple nominations.** If a respondent or other person makes
20 more than one nomination of a guardian or conservator, the latest in time governs.

21 **Sec. 13.29.480. Compensation and expenses; in general.** (a) Unless
22 otherwise compensated or reimbursed, an attorney for a respondent in a proceeding
23 under this chapter is entitled to reasonable compensation for services and
24 reimbursement of reasonable expenses from the property of the respondent.

25 (b) Unless otherwise compensated or reimbursed, an attorney or other person
26 whose services resulted in an order beneficial to an individual subject to guardianship
27 or conservatorship or for whom a protective arrangement under AS 13.29.315 -
28 13.29.368 was ordered is entitled to reasonable compensation for services and
29 reimbursement of reasonable expenses from the property of the individual.

30 (c) The court must approve compensation and expenses payable under this
31 section before payment. Approval is not required before a service is provided or an

1 expense is incurred.

2 (d) If the court dismisses a petition under this chapter and determines the
3 petition was filed in bad faith, the court may assess the cost of any court-ordered
4 professional evaluation or visitor against the petitioner.

5 **Sec. 13.29.485. Compensation of guardian or conservator.** (a) Subject to
6 court approval, a guardian is entitled to reasonable compensation for services as
7 guardian and to reimbursement for room, board, clothing, and other appropriate
8 expenses advanced for the benefit of the individual subject to guardianship. If a
9 conservator, other than the guardian or a person affiliated with the guardian, is
10 appointed for the individual, reasonable compensation and reimbursement to the
11 guardian may be approved and paid by the conservator without court approval.

12 (b) Subject to court approval, a conservator is entitled to reasonable
13 compensation for services and reimbursement for appropriate expenses from the
14 property of the individual subject to conservatorship.

15 (c) In determining reasonable compensation for a guardian or conservator, the
16 court, or a conservator in determining reasonable compensation for a guardian as
17 provided in (a) of this section, shall consider

18 (1) the necessity and quality of the services provided;

19 (2) the experience, training, professional standing, and skills of the
20 guardian or conservator;

21 (3) the difficulty of the services performed, including the degree of
22 skill and care required;

23 (4) the conditions and circumstances under which a service was
24 performed, including whether the service was provided outside regular business hours
25 or under dangerous or extraordinary conditions;

26 (5) the effect of the services on the individual subject to guardianship
27 or conservatorship;

28 (6) the extent to which the services provided were or were not
29 consistent with the guardian's plan under AS 13.29.135 or conservator's plan under
30 AS 13.29.245; and

31 (7) the fees customarily paid to a person that performs a similar service

1 in the community.

2 (d) A guardian or conservator does not need to use personal funds of the
3 guardian or conservator for the expenses of the individual subject to guardianship or
4 conservatorship.

5 (e) If an individual subject to guardianship or conservatorship seeks to modify
6 or terminate the guardianship or conservatorship or remove the guardian or
7 conservator, the court may order compensation to the guardian or conservator for time
8 spent opposing modification, termination, or removal only to the extent the court
9 determines the opposition was reasonably necessary to protect the interest of the
10 individual subject to guardianship or conservatorship.

11 **Sec. 13.29.490. Liability of guardian or conservator for act of individual**
12 **subject to guardianship or conservatorship.** A guardian or conservator is not
13 personally liable to another person solely because of the guardianship or
14 conservatorship for an act or omission of the individual subject to guardianship or
15 conservatorship.

16 **Sec. 13.29.495. Petition after appointment of instruction or ratification.** (a)
17 A guardian or conservator may petition the court for instruction concerning fiduciary
18 responsibility or ratification of a particular act related to the guardianship or
19 conservatorship.

20 (b) On notice and hearing on a petition under (a) of this section, the court may
21 give an instruction and issue an appropriate order.

22 **Sec. 13.29.500. Third-party acceptance of authority of guardian or**
23 **conservator.** (a) A person may not recognize the authority of a guardian or
24 conservator to act on behalf of an individual subject to guardianship or
25 conservatorship if

26 (1) the person has actual knowledge or a reasonable belief that the
27 letters of office of the guardian or conservator are invalid or the conservator or
28 guardian is exceeding or improperly exercising the authority granted by the court; or

29 (2) the person has actual knowledge that the individual subject to
30 guardianship or conservatorship is subject to physical or financial abuse, neglect,
31 exploitation, or abandonment by the guardian or conservator or a person acting for or

1 with the guardian or conservator.

2 (b) A person may refuse to recognize the authority of a guardian or
3 conservator to act on behalf of an individual subject to guardianship or
4 conservatorship if

5 (1) the guardian's or conservator's proposed action would be
6 inconsistent with this chapter; or

7 (2) the person makes, or has actual knowledge that another person has
8 made, a report to the Department of Administration, the Department of Family and
9 Community Services, or the Department of Health stating a good-faith belief that the
10 individual subject to guardianship or conservatorship is subject to physical or financial
11 abuse, neglect, exploitation, or abandonment by the guardian or conservator or a
12 person acting for or with the guardian or conservator.

13 (c) A person that refuses to accept the authority of a guardian or conservator in
14 accordance with (b) of this section may report the refusal and the reason for refusal to
15 the court. The court, on receiving the report, shall consider whether removal of the
16 guardian or conservator or other action is appropriate.

17 (d) A guardian or conservator may petition the court to require a third party to
18 accept a decision made by the guardian or conservator on behalf of the individual
19 subject to guardianship or conservatorship.

20 **Sec. 13.29.505. Use of agent by guardian or conservator.** (a) Except as
21 otherwise provided in (c) of this section, a guardian or conservator may delegate a
22 power to an agent that a prudent guardian or conservator of comparable skills could
23 delegate prudently under the circumstances if the delegation is consistent with the
24 fiduciary duties of the guardian or conservator and the guardian's plan under
25 AS 13.29.135 or conservator's plan under AS 13.29.245.

26 (b) In delegating a power under (a) of this section, the guardian or conservator
27 shall exercise reasonable care, skill, and caution in

28 (1) selecting the agent;

29 (2) establishing the scope and terms of the agent's work in accordance
30 with the guardian's plan under AS 13.29.135 or conservator's plan under
31 AS 13.29.245;

1 (3) monitoring the agent's performance and compliance with the
2 delegation; and

3 (4) redressing an act or omission of the agent which would constitute a
4 breach of the duties of the guardian or conservator if done by the guardian or
5 conservator.

6 (c) A guardian or conservator may not delegate all powers to an agent.

7 (d) In performing a power delegated under this section, an agent shall

8 (1) exercise reasonable care to comply with the terms of the delegation
9 and use reasonable care in the performance of the power; and

10 (2) if the guardian or conservator has delegated to the agent the power
11 to make a decision on behalf of the individual subject to guardianship or
12 conservatorship, use the same decision-making standard the guardian or conservator
13 would be required to use.

14 (e) By accepting a delegation of a power under (a) of this section from a
15 guardian or conservator, an agent submits to the personal jurisdiction of the courts of
16 this state in an action involving the agent's performance as agent.

17 (f) A guardian or conservator that delegates and monitors a power in
18 compliance with this section is not liable for the decision, act, or omission of the
19 agent.

20 (g) A guardian for an adult may not delegate a power to an agent under this
21 section for a period exceeding one year.

22 **Sec. 13.29.510. Temporary substitute guardian or conservator.** (a) The
23 court may appoint a temporary substitute guardian for an individual subject to
24 guardianship for a period not exceeding six months if

25 (1) a proceeding to remove a guardian for the individual is pending; or

26 (2) the court finds a guardian is not effectively performing the duties of
27 the guardian and the welfare of the individual requires immediate action.

28 (b) The court may appoint a temporary substitute conservator for an individual
29 subject to conservatorship for a period not exceeding six months if

30 (1) a proceeding to remove a conservator for the individual is pending;

31 or

1 (2) the court finds that a conservator for the individual is not
2 effectively performing the duties of the conservator and the welfare of the individual
3 or the conservatorship estate requires immediate action.

4 (c) Except as otherwise ordered by the court, a temporary substitute guardian
5 or temporary substitute conservator appointed under this section has the powers stated
6 in the order of appointment of the guardian or conservator. The authority of the
7 existing guardian or conservator is suspended for as long as the temporary substitute
8 guardian or conservator has authority.

9 (d) The court shall give notice of appointment of a temporary substitute
10 guardian or temporary substitute conservator, not later than five days after the
11 appointment, to

12 (1) the individual subject to guardianship or conservatorship;

13 (2) the affected guardian or conservator; and

14 (3) in the case of a minor, each parent of the minor and any person
15 currently having care or custody of the minor.

16 (e) The court may remove a temporary substitute guardian or temporary
17 substitute conservator at any time. The temporary substitute guardian or temporary
18 substitute conservator shall make any report the court requires.

19 **Sec. 13.29.515. Grievance against guardian or conservator.** (a) An
20 individual who is subject to guardianship or conservatorship, or person interested in
21 the welfare of an individual subject to guardianship or conservatorship, who
22 reasonably believes the guardian or conservator is breaching the guardian's or
23 conservator's fiduciary duty or otherwise acting in a manner inconsistent with this
24 chapter may file a grievance in a record with the court.

25 (b) Subject to (c) of this section, after receiving a grievance under (a) of this
26 section, the court

27 (1) shall review the grievance and, if necessary to determine the
28 appropriate response, court records related to the guardianship or conservatorship;

29 (2) shall schedule a hearing if the individual subject to guardianship or
30 conservatorship is an adult and the grievance supports a reasonable belief that

31 (A) removal of the guardian and appointment of a successor

1 may be appropriate under AS 13.29.145;

2 (B) termination or modification of the guardianship may be
3 appropriate under AS 13.29.150;

4 (C) removal of the conservator and appointment of a successor
5 may be appropriate under AS 13.29.300; or

6 (D) termination or modification of the conservatorship may be
7 appropriate under AS 13.29.305; and

8 (3) may take any action supported by the evidence, including

9 (A) ordering the guardian or conservator to provide to the court
10 any report, accounting, inventory, updated plan, or other information;

11 (B) appointing a guardian ad litem;

12 (C) appointing an attorney for the individual subject to
13 guardianship or conservatorship; or

14 (D) holding a hearing.

15 (c) The court may decline to act under (b) of this section if a similar grievance
16 was filed within the six months preceding the filing of the current grievance and the
17 court followed the procedures of (b) of this section in considering the earlier
18 grievance.

19 **Sec. 13.29.520. Definitions.** In this chapter,

20 (1) "adult" means an individual at least 18 years of age or an
21 emancipated individual under 18 years of age;

22 (2) "adult subject to conservatorship" means an adult for whom a
23 conservator has been appointed under this chapter;

24 (3) "adult subject to guardianship" means an adult for whom a
25 guardian has been appointed under this chapter;

26 (4) "claim" includes a claim against an individual or conservatorship
27 estate, whether arising in contract, tort, or otherwise;

28 (5) "conservator" means a person or persons appointed by a court to
29 make decisions with respect to the property or financial affairs of an individual subject
30 to conservatorship;

31 (6) "conservatorship estate" means property subject to conservatorship

1 under this chapter;

2 (7) "full conservatorship" means a conservatorship that grants the
3 conservator all powers available under this chapter;

4 (8) "full guardianship" means a guardianship that grants the guardian
5 all powers available under this chapter;

6 (9) "guardian" means a person or persons appointed by the court to
7 make decisions with respect to the personal affairs of an individual;

8 (10) "guardian ad litem" means a person appointed to inform the court
9 about, and to represent, the needs and best interest of an individual;

10 (11) "individual subject to conservatorship" means an adult or minor
11 for whom a conservator has been appointed under this chapter;

12 (12) "individual subject to guardianship" means an adult or minor for
13 whom a guardian has been appointed under this chapter;

14 (13) "less restrictive alternative" means an approach to meeting an
15 individual's needs that restricts fewer rights of the individual than the appointment of a
16 guardian or conservator would; "less restrictive alternative" includes supported
17 decision-making, appropriate technological assistance, appointment of a representative
18 payee, and appointment of an agent by the individual, including appointment under a
19 durable power of attorney for health care under AS 13.52 or power of attorney under
20 AS 13.26;

21 (14) "letters of office" means a record issued by a court certifying a
22 guardian's or conservator's authority to act;

23 (15) "limited conservatorship" means a conservatorship that grants the
24 conservator fewer powers than available under this chapter, grants powers over only
25 certain property, or otherwise restricts the powers of the conservator;

26 (16) "limited guardianship" means a guardianship that grants the
27 guardian fewer powers than available under this chapter or otherwise restricts the
28 powers of the guardian;

29 (17) "minor" means an unemancipated individual under 18 years of
30 age;

31 (18) "minor subject to conservatorship" means a minor for whom a

conservator has been appointed under this chapter;

(19) "minor subject to guardianship" means a minor for whom a guardian has been appointed under this chapter;

(20) "parent" does not include an individual whose parental rights have been terminated;

(21) "property" includes tangible and intangible property;

(22) "protective arrangement instead of conservatorship" means a court order entered under AS 13.29.325;

(23) "protective arrangement instead of guardianship" means a court order entered under AS 13.29.320;

(24) "protective arrangement under AS 13.29.315 - 13.29.368" means a court order entered under AS 13.29.320 or 13.29.325;

(25) "record" means, when used as a noun, information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(26) "respondent" means an individual for whom appointment of a guardian or conservator or a protective arrangement instead of guardianship or conservatorship is sought;

(27) "standby guardian" means a person appointed by the court under AS 13.29.035;

(28) "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; "state" includes a federally recognized Indian tribe;

(29) "supported decision-making" means assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions, which enables the individual to make the decisions, and in communicating a decision once made if consistent with the individual's wishes.

Sec. 13.29.525. Short title. This chapter may be cited as the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act.

1 * **Sec. 87.** AS 13.36.280(b) is amended to read:

2 (b) AS 13.36.225 - 13.36.290 govern only decisions or actions of personal
3 representatives under AS 13.16.350(a) [OR OF CONSERVATORS UNDER
4 AS 13.26.500 THAT OCCUR] on or after May 23, 1998.

5 * **Sec. 88.** AS 13.38.980(12) is amended to read:

6 (12) "sui juris beneficiary" includes

7 (A) a court-appointed guardian of a [AN INCAPACITATED]
8 beneficiary **subject to guardianship**;

9 (B) an agent for an incompetent beneficiary; and

10 (C) a court-appointed guardian of a minor beneficiary's estate;

11 * **Sec. 89.** AS 13.52.140 is amended to read:

12 **Sec. 13.52.140. Judicial relief.** On petition of a patient, the patient's agent,
13 guardian, or surrogate, or a health care provider or institution involved with the
14 patient's care, the superior court may enjoin or direct a health care decision or order
15 other equitable relief. A proceeding under this section is governed by **AS 13.29**
16 [AS 13.26.201 - 13.26.580].

17 * **Sec. 90.** AS 13.52.020(c) is amended to read:

18 (c) In the case of mental illness, an advance health care directive may be
19 revoked in whole or in part at any time by the principal if the principal does not lack
20 capacity and is competent. A revocation is effective when a competent principal with
21 capacity communicates the revocation to a physician or other health care provider. The
22 physician or other health care provider shall note the revocation on the principal's
23 medical record. In the case of mental illness, the authority of a named agent and an
24 alternative agent named in the advance health care directive continues in effect as long
25 as the advance health care directive appointing the agent is in effect or until the agent
26 has withdrawn. For the purposes of this subsection, a principal is not considered
27 competent when

28 (1) it is the opinion of the court in a guardianship proceeding under
29 **AS 13.29** [AS 13.26], the opinion of two physicians, at least one of whom is a
30 psychiatrist, or the opinion of a physician and a professional mental health clinician,
31 that the principal is not competent; or

(2) a court in a hearing under AS 47.30.735, 47.30.750, or 47.30.770 determines that the principal is gravely disabled; in this paragraph, "gravely disabled" has the meaning given in **AS 47.30.915** [AS 47.30.915(9)(B)].

* **Sec. 91.** AS 13.56.190(4) is amended to read:

(4) "conservator" means a person appointed a conservator under **AS 13.29.155 - 13.29.310** [AS 13.26.401 - 13.26.595] or a similar law of another state;

* **Sec. 92.** AS 13.56.190(7) is amended to read:

(7) "guardian" means a person appointed a guardian under **AS 13.29.060 - 13.29.150** [AS 13.26.201 - 13.26.316] or a similar law of another state;

* **Sec. 93.** AS 13.63.110 is amended to read:

Sec. 13.63.110. Disclosure of digital assets to conservator of individual subject to conservatorship [PROTECTED PERSON]. (a) After an opportunity for a hearing under **AS 13.29.155 - 13.29.310** [AS 13.26.401 - 13.26.595], the superior court may grant a conservator access to the digital assets of **an individual subject to conservatorship** [A PROTECTED PERSON EXCEPT THAT, IF THE CONSERVATOR IS A GUARDIAN WITH THE POWERS AND DUTIES OF A CONSERVATOR UNDER AS 13.26.316(c), THE SUPERIOR COURT MAY GRANT THE CONSERVATOR ACCESS TO THE DIGITAL ASSETS OF A PROTECTED PERSON AFTER AN OPPORTUNITY FOR A HEARING UNDER AS 13.26.201 - 13.26.316].

(b) Unless otherwise ordered by the superior court or directed by the user, a custodian shall disclose to a conservator the catalog of electronic communications sent or received by **an individual subject to conservatorship** [A PROTECTED PERSON] and any digital assets, other than the content of electronic communications, in which the **individual subject to conservatorship** [PROTECTED PERSON] has a right or interest if the conservator gives the custodian

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the superior court order that gives the conservator authority over the digital assets of the **individual subject to**

conservatorship [PROTECTED PERSON]; and

(3) if requested by the custodian,

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the

individual subject to conservatorship [PROTECTED PERSON]; or

(B) evidence linking the account to the **individual subject to conservatorship** [PROTECTED PERSON].

(c) A conservator with general authority to manage the assets of **an individual subject to conservatorship** [A PROTECTED PERSON] may request a custodian of the digital assets of the **individual subject to conservatorship** [PROTECTED PERSON] to suspend or terminate an account of the **individual subject to conservatorship** [PROTECTED PERSON] for good cause. A request made under this subsection must be accompanied by a certified copy of the superior court order giving the conservator authority over the [PROTECTED PERSON'S] property **of the individual subject to conservatorship**.

* **Sec. 94.** AS 13.63.120(c) is amended to read:

(c) A fiduciary with authority over the property of a decedent, **individual subject to conservatorship** [PROTECTED PERSON], principal, or settlor has the right to access any digital asset in which the decedent, **individual subject to conservatorship** [PROTECTED PERSON], principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

* **Sec. 95.** AS 13.63.120(d) is amended to read:

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, **individual subject to conservatorship** [PROTECTED PERSON], principal, or settlor for the purpose of applicable computer-fraud and unauthorized-computer-access laws, including AS 11.46.200, 11.46.484(a)(3), and 11.46.740.

* **Sec. 96.** AS 13.63.120(e) is amended to read:

(e) A fiduciary with authority over the tangible personal property of a decedent, **individual subject to conservatorship** [PROTECTED PERSON], principal, or settlor

(1) has the right to access the property and any digital asset stored in it;
and

(2) is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including AS 11.46.200, 11.46.484(a)(3), and 11.46.740.

* **Sec. 97.** AS 13.63.130(e) is amended to read:

(e) This chapter does not limit a custodian's ability to obtain or to require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a superior court order that

(1) specifies that an account belongs to the **individual subject to conservatorship** [PROTECTED PERSON] or principal;

(2) specifies that there is sufficient consent from the **individual subject to conservatorship** [PROTECTED PERSON] or principal to support the requested disclosure; and

(3) contains a finding required by law other than this chapter.

* **Sec. 98.** AS 13.70.030(b) is amended to read:

(b) With court approval, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment. Without court approval, a fiduciary may not disclaim, in whole or in part, any interest in or power over property, including a power of appointment, except that

(1) a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, if and to the extent that the instrument creating the fiduciary relationship grants the fiduciary the right to disclaim;

(2) in the absence of a court-appointed guardian, notwithstanding a provision in AS 13.26 **or AS 13.29** to the contrary, an individual having legal custody of a minor child may disclaim on behalf of the minor child, in whole or in part, any interest in or power over property, including a power of appointment, that the minor child is to receive solely as a result of another disclaimer, but only if the interest or power disclaimed by the individual having legal custody does not pass, as a result of the disclaimer, to or for the benefit of the individual having legal custody.

* **Sec. 99.** AS 13.90.010(d)(3) is amended to read:

(3) "fiduciary" includes guardians and conservators under AS 13.29 [AS 13.26], persons performing the trustee activities described under AS 06.05.180 whether or not the persons are covered by AS 06.05.180, and other persons acting in a fiduciary capacity;

* **Sec. 100.** AS 18.65.540(a) is amended to read:

(a) The Department of Public Safety shall maintain a central registry of protective orders issued by or filed with a court of this state under AS 13.29.320 and 13.29.325 [AS 13.26.450 - 13.26.460], AS 18.65.850 - 18.65.870, or AS 18.66.100 - 18.66.180. The registry must include, for each protective order, the names of the petitioner and respondent, their dates of birth, and the conditions and duration of the order. The registry shall retain a record of the protective order after it has expired.

* **Sec. 101.** AS 18.65.540(b) is amended to read:

(b) A peace officer receiving a protective order from a court under AS 13.29.320 and 13.29.325 [AS 13.26.450, 13.26.455], AS 18.65.850 - 18.65.855, or AS 18.66.100 - 18.66.180, a modified order issued under [AS 13.26.460,] AS 18.65.860 [,] or AS 18.66.120, or an order dismissing a protective order shall take reasonable steps to ensure that the order, modified order, or dismissal is entered into the central registry within 24 hours after being received.

* **Sec. 102.** AS 25.23.040(b) is amended to read:

(b) A petition to adopt an adult may be granted only if written consent to adoption has been executed by the adult and the adult's spouse or by the guardian or conservator of an [INCAPACITATED] adult.

* **Sec. 103.** AS 25.23.200 is amended to read:

Sec. 25.23.200. Investigation of home for subsidized hard-to-place child.

Persons who are caring for a hard-to-place child on a foster parent basis and who have applied to adopt the hard-to-place child and to receive payments for the care and support of the hard-to-place child shall be evaluated as to their suitability as adoptive parents by means of an adoptive home study. Persons who are caring for a hard-to-place child in the state's custody and who wish to be appointed legal guardians of the child under AS 13.29.005 [AS 13.26.132], and to receive payments for the care and support of the child, shall be evaluated as to their suitability as guardians by means of

1 a guardianship study. A home study or guardianship study shall be made by the
 2 commissioner's adoption staff or on the commissioner's behalf by an authorized
 3 agency or individual that provides adoption services.

4 * **Sec. 104.** AS 34.25.050(a) is amended to read:

5 (a) A sale of real property heretofore or hereafter made by an executor,
 6 administrator, or guardian is sufficient to sustain an executor's, administrator's, or
 7 guardian's deed to the purchaser for the real property when

8 (1) made of the decedent's **or individual subject to guardianship or**
 9 **conservatorship's** [, WARD'S, OR INCOMPETENT PERSON'S] real property in
 10 the state to a purchaser for a valuable consideration;

11 (2) the consideration is paid by the purchaser to the executor,
 12 administrator, or guardian, or the successor of the executor, administrator, or guardian,
 13 in good faith; and

14 (3) the sale is not set aside by the court, but is confirmed or acquiesced
 15 in by the court.

16 * **Sec. 105.** AS 34.25.050(c) is amended to read:

17 (c) The deed is sufficient to convey to the purchaser all the title that the
 18 decedent **or individual subject to guardianship or conservatorship** [, WARD, OR
 19 INCOMPETENT] had in the real property.

20 * **Sec. 106.** AS 44.21.410(a) is amended to read:

21 (a) The office of public advocacy shall

22 (1) perform the duties of the public guardian under AS 13.26.700 -
 23 13.26.750;

24 (2) provide guardian ad litem services to children in child protection
 25 actions under AS 47.17.030(e) and to **individuals subject to guardianship** [WARDS]
 26 and respondents in guardianship proceedings who will suffer financial hardship or
 27 become dependent upon a government agency or a private person or agency if the
 28 services are not provided at state expense under **AS 13.29.460** [AS 13.26.041];

29 (3) provide legal representation in cases involving judicial bypass
 30 procedures for minors seeking abortions under AS 18.16.030 [, IN GUARDIANSHIP
 31 PROCEEDINGS TO RESPONDENTS WHO ARE FINANCIALLY UNABLE TO

1 EMPLOY ATTORNEYS UNDER AS 13.26.226(b)], to indigent parties in cases
 2 involving child custody in which the opposing party is represented by counsel
 3 provided by a public agency, and to indigent parents or guardians of a minor
 4 respondent in a commitment proceeding concerning the minor under AS 47.30.775;

5 (4) provide legal representation and guardian ad litem services under
 6 AS 25.24.310; in cases arising under AS 47.15 (Interstate Compact for Juveniles); in
 7 cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the
 8 termination of parental rights under AS 25.23.180(c)(2); in cases involving petitions to
 9 remove the disabilities of a minor under AS 09.55.590; in children's proceedings under
 10 AS 47.10.050(a) or under AS 47.12.090; in cases involving appointments under
 11 AS 18.66.100(a) in petitions for protective orders on behalf of a minor; and in cases
 12 involving indigent persons who are entitled to representation under AS 18.85.100 and
 13 who cannot be represented by the public defender agency because of a conflict of
 14 interests;

15 (5) develop and coordinate a program to recruit, select, train, assign,
 16 and supervise volunteer guardians ad litem from local communities to aid in delivering
 17 services in cases in which the office of public advocacy is appointed as guardian ad
 18 litem;

19 (6) Provide guardian ad litem services in proceedings under
 20 AS 12.45.046 or AS 18.15.355 - 18.15.395;

21 (7) establish a fee schedule and collect fees for services provided by
 22 the office, except as provided in AS 18.85.120 or when imposition or collection of a
 23 fee is not in the public interest as defined under regulations adopted by the
 24 commissioner of administration;

25 (8) provide guardians ad litem in proceedings under AS 47.30.839;

26 (9) provide legal representation to an indigent parent of a child with a
 27 disability; in this paragraph, "child with a disability" has the meaning given in
 28 AS 14.30.350;

29 (10) investigate complaints and bring civil actions under
 30 AS 44.21.415(a) involving fraud committed against residents of the state who are 60
 31 years of age or older; in this paragraph, "fraud" has the meaning given in

1 AS 44.21.415.

2 * **Sec. 107.** AS 44.21.440(b) is amended to read:

3 (b) The office of public advocacy may not use improper pressure to influence
4 the professional judgment of a person who is paid by the office of public advocacy to
5 act as an attorney or a guardian ad litem for a guardianship or conservatorship
6 established under **AS 13.29** [AS 13.26].

7 * **Sec. 108.** AS 44.41.025(d) is amended to read:

8 (d) Each of the following may submit a complete set of fingerprints of the
9 person designated for inclusion in the Alaska automated fingerprint system:

- 10 (1) a person may submit the person's own fingerprints;
11 (2) the parent or guardian of a minor who is two years of age or older
12 may submit the minor's fingerprints; and
13 (3) the guardian or conservator of a person under **AS 13.29** [AS 13.26]
14 may submit the fingerprints of the person protected by the guardian or conservator.

15 * **Sec. 109.** AS 45.48.220 is amended to read:

16 **Sec. 45.48.220. Request by parent or legal guardian.** A parent, legal
17 guardian, or conservator of a minor **or individual subject to guardianship or**
18 **conservatorship** [, INCAPACITATED PERSON, OR PROTECTED PERSON] may
19 make a request under AS 45.48.100 - 45.48.290 on behalf of a consumer who is the
20 minor **or individual subject to guardianship or conservatorship** [,
21 INCAPACITATED PERSON, OR PROTECTED PERSON] under the supervision of
22 that parent, legal guardian, or conservator. If a consumer credit report does not exist at
23 the time of a request under this section, the consumer credit reporting agency shall
24 generate a consumer credit report for the purpose of placing a security freeze. In this
25 section,

26 (1) "conservator" means a person appointed or qualified by a court to
27 manage the property of an individual or a person legally authorized to perform
28 substantially the same functions, **including under AS 13.29.155 - 13.29.310**;

29 (2) **"individual subject to conservatorship" means an individual**
30 **for whom a protective order has been issued** ["INCAPACITATED PERSON" HAS
31 THE MEANING GIVEN IN AS 47.24.900];

(3) **"individual subject to guardianship" means an individual for whom a guardian has been appointed;**

(4) "minor" means a child under 18 years of age who has not had the disabilities of a minor removed as described in AS 09.55.590 [;

(4) "PROTECTED PERSON" HAS THE MEANING GIVEN IN AS 13.27.490].

* **Sec. 110.** AS 47.10.111(a) is amended to read:

(a) Except as provided under **AS 13.29.415(e)(2)** [AS 13.26.137(b)(2)] and AS 25.23.030(d)(2), if a person seeks adoption or appointment as legal guardian of a child in state custody under this chapter, the court shall hear the adoption or guardianship proceedings as part of the child-in-need-of-aid proceedings relating to the child. A person may initiate proceedings for the adoption or legal guardianship of a child in state custody under this chapter by filing with the court a petition

(1) for adoption that meets the requirements of AS 25.23.080; or

(2) to be appointed legal guardian that meets the requirements of **AS 13.29.005 - 13.29.055** [AS 13.26.147].

* **Sec. 111.** AS 47.10.111(f) is amended to read:

(f) Except as provided in this section, the requirements of AS 25.23 apply to a petition for adoption filed under this section, and the requirements of **AS 13.29.005 - 13.29.055** [AS 13.26.101 - 13.26.186] apply to a petition for legal guardianship filed under this section.

* **Sec. 112.** AS 47.10.112(b) is amended to read:

(b) A proxy filed under this section does not initiate proceedings for adoption or legal guardianship. A person seeking to adopt a child in state custody must file a petition for adoption as required under AS 25.23. A person seeking to be appointed legal guardian of a child in state custody must file a petition for appointment as required under **AS 13.29.005 - 13.29.055** [AS 13.26.101 - 13.26.186].

* **Sec. 113.** AS 47.24.015(c) is amended to read:

(c) The department or its designee shall immediately terminate an investigation under this section upon the request of the vulnerable adult who is the subject of the report made under AS 47.24.010. However, the department or its

designee may not terminate the investigation if the investigation to that point has resulted in probable cause to believe that the vulnerable adult is in need of protective services and the request is made personally by the vulnerable adult and the vulnerable adult is not competent to make the request on the adult's own behalf, or the request is made by the vulnerable adult's guardian, attorney-in-fact, or surrogate decision maker and that person is the alleged perpetrator of the undue influence, abandonment, exploitation, abuse, or neglect of the vulnerable adult and is being investigated under this chapter. If the department has probable cause to believe that the vulnerable adult is in need of protective services,

(1) the department may petition the court as set out in AS 47.24.019;

(2) the department or its designee may refer the report made to the department under AS 47.24.010 to a police officer for criminal investigation; or

(3) in cases involving fraud, the department or its designee may refer the report made to the department under AS 47.24.010 to the office of public advocacy for investigation; in this paragraph, "fraud" means

(A) robbery, extortion, and coercion under AS 11.41.500 -

11.41.530;

(B) offenses against property under AS 11.46.100 -

11.46.740; or

(C) exploitation of another person or another person's resources for personal profit or advantage if no significant benefit accrues to the person who is exploited [HAS THE MEANING GIVEN IN AS 13.26.595].

* **Sec. 114.** AS 47.24.019(a) is amended to read:

(a) If, after investigation under AS 47.24.015, the department has reasonable cause to believe that a vulnerable adult is in need of protective services and is an incapacitated person, the department may petition the court under AS 13.29 [AS 13.26] for appointment of a guardian or temporary guardian, or for a change of guardian, for the vulnerable adult for the purpose of deciding whether to consent to the receipt of protective services for the vulnerable adult.

* **Sec. 115.** AS 47.24.900(8) is amended to read:

1 (8) "exploitation"

2 (A) means unjust or improper use of another person or another
3 person's resources for one's own profit or advantage, with or without the
4 person's consent; and

5 (B) includes acts by a person who stands in a position of trust
6 or confidence with a vulnerable adult or who knows or should know that the
7 vulnerable adult lacks the capacity to consent that involve obtaining profit or
8 advantage through undue influence, deception, fraud, intimidation, or breach of
9 fiduciary duty; in this subparagraph, "fraud" **means**

10 **(i) robbery, extortion, and coercion under**
11 **AS 11.41.500 - 11.41.530; or**

12 **(ii) offenses against property under AS 11.46.100 -**
13 **11.46.740** [HAS THE MEANING GIVEN IN AS 13.26.595(1) AND
14 (2)];

15 * **Sec. 116.** AS 47.24.900(15) is amended to read:

16 (15) "protective services" means services that are intended to prevent
17 or alleviate harm resulting from undue influence, abandonment, exploitation, abuse,
18 neglect, or self-neglect and that are provided to a vulnerable adult in need of
19 protection; in this paragraph, "services" includes

20 (A) protective placement;

21 (B) applying for or obtaining public benefits;

22 (C) obtaining health care services and supplies;

23 (D) staying financial transactions;

24 (E) petitioning for a protective **arrangement** [ORDER] under
25 **AS 13.29.320 and 13.29.325** [AS 13.26.401 - 13.26.460];

26 (F) assisting with personal hygiene;

27 (G) obtaining food and clothing;

28 (H) protection from physical and emotional abuse;

29 (I) obtaining representative payee services; and

30 (J) coordinating protective services;

31 * **Sec. 117.** AS 47.30.835(b) is amended to read:

(b) Court-ordered evaluation or treatment under AS 47.30.660 - 47.30.915 is not a determination that an individual requires a guardianship, conservatorship, or a protective arrangement instead of guardianship or conservatorship under AS 13.29 [OF LEGAL INCAPACITY UNDER AS 13.26.005 - 13.26.580].

* **Sec. 118.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 12(e), Alaska Rules of Administration, is amended to read:

(e) Other Appointments at Public Expense.

(1) Constitutionally Required Appointments. If the court determines that counsel, or a guardian ad litem, or other representative should be appointed for an indigent person, and further determines that the appointment is not authorized by AS 18.85.100 (a) or AS 44.21.410, but in the opinion of the court is required by law or rule, the court shall appoint an attorney who is a member of the Alaska Bar Association to provide the required services. Other persons may be appointed to provide required services to the extent permissible by law.

(A) Appointments may be made in the following types of cases without prior approval of the administrative director, but only in cases in which the required services would not otherwise be provided by a public agency:

(i) Attorneys for biological parents in adoption cases to the extent required by the Indian Child Welfare Act (25 USC 1901 et seq.),

(ii) [ATTORNEYS FOR MINOR CHILDREN AND INDIGENT PARENTS OR CUSTODIANS OF MINOR CHILDREN IN MINOR GUARDIANSHIP CASES BROUGHT PURSUANT TO AS 13.26.147(d),

(iii)] Attorneys for respondents in protective proceedings brought pursuant to AS 13.29 [AS 13.26] in which appointment of the office of public advocacy is not mandated by statute,

(iii) [(iv)] Attorneys for minor children or incompetents

1 who are heirs or devisees of estates in cases in which the attorneys' fees
 2 cannot be paid as a cost of administration from the proceeds of the
 3 estate,

4 (iv) [(v)] Attorneys for indigent putative fathers in
 5 actions to establish paternity in which the state of Alaska provides
 6 representation for mothers,

7 (v) [(vi)] Attorneys to represent indigent respondents in
 8 involuntary alcohol commitments brought pursuant to AS 47.37,

9 (vi) [(vii)] Attorneys for indigent parents who are
 10 defending against a claim that their consent to adoption is not required
 11 under AS 25.23.050 (a).

12 (B) In all other cases, the court shall inform the administrative
 13 director of the specific reasons why an appointment is required prior to making
 14 the appointment.

15 (2) Servicemembers Civil Relief Act. When the opposing party is
 16 financially unable to pay for such representation, the court shall appoint a member of
 17 the Alaska Bar Association to represent an absent service person pursuant to the
 18 Servicemembers Civil Relief Act (50 App. U.S.C. § 521). Prior approval of the
 19 administrative director is not required.

20 (3) List of Private Attorneys.

21 (A) The presiding judge shall designate the area court
 22 administrator and a clerk of court for each court location in the district to keep
 23 and make available to the court in each location lists of attorneys or other
 24 persons eligible to receive court appointments under paragraph (e) of this rule.

25 (B) The attorney lists will first be compiled from names of
 26 persons who have volunteered to accept these appointments. If there are
 27 insufficient volunteers, the court will make appointments on a rotation basis
 28 from lists of eligible attorneys obtained from the Alaska Bar Association. The
 29 court may, in departing from a strict rotation basis, take into account the
 30 complexity of the case and the level of experience required by counsel.

31 (C) Lists of other persons available to provide required services

1 will be compiled from names of qualified persons who have indicated their
2 willingness to provide the required services.

3 (4) Appointment Orders. When the court appoints an attorney or other
4 person under paragraph (e) of this rule, the clerk of the court from which the
5 appointment was made shall immediately send a copy of the appointment order to the
6 administrative director.

7 (5) Compensation.

8 (A) All claims for compensation must be submitted monthly or
9 at least quarterly on forms provided by the court. The final claim for
10 compensation must be submitted within 30 days following the disposition of a
11 case. All claims must be submitted to Fiscal Operations, Alaska Court System,
12 820 West 4th Avenue, Anchorage, AK, 99501. The administrative director
13 shall approve or disapprove the claim.

14 (B) Attorneys will be compensated at the rate of \$130.00 per
15 hour; provided, that total compensation for any case will not exceed \$1,500.00
16 without prior approval of the administrative director. An attorney who is
17 appointed to serve as a guardian ad litem will be compensated at the attorney
18 rate.

19 (C) A person other than an attorney who is appointed to
20 provide services will receive compensation as described below.

21 (i) A person appointed as a court visitor or guardian ad
22 litem will be compensated at the rate that the Office of Public
23 Advocacy would pay under contract for the same services; and

24 (ii) A person appointed to provide other required
25 services will be compensated at a rate not to exceed \$ 25.00 per hour.

26 The total compensation for any case covered by this subparagraph will not
27 exceed \$300.00 without prior approval of the administrative director.

28 (D) The costs of necessary interpreter services will be
29 reimbursed at the rate that the court system would pay under Administrative
30 Bulletin 82 for the same quality services.

31 (E) Extraordinary expenses will be reimbursed only if prior

1 authority has been obtained from the administrative director, upon
 2 recommendation by the assigned trial judge. Extraordinary expenses exceeding
 3 \$ 2,500.00 may be authorized only in extremely complex cases. In this
 4 paragraph, "extraordinary expenses" are limited to expenses for:

5 (i) Investigation;

6 (ii) Expert witnesses; and

7 (iii) Necessary travel and per diem, which expenses
 8 may not exceed the rate authorized for state employees.

9 (F) If necessary to prevent manifest injustice, the
 10 administrative director may authorize payment of compensation or expenses in
 11 excess of the amounts allowed under this rule.

12 (6) Recovery of Costs. When counsel is appointed for a person in a
 13 case described in subparagraph 12(e)(1), the court shall order the person, or if the
 14 person is a child, the person's parents, guardian or custodian, to pay the costs incurred
 15 by the court in providing representation. Before appointing counsel, the court shall
 16 advise the person that the person will be ordered to repay the state for the cost of
 17 appointed counsel and shall advise the person of the maximum amount that the person
 18 will be required to repay. The court shall order the person to apply for permanent fund
 19 dividends every year in which the person qualifies for a dividend until the cost is paid
 20 in full. The clerk shall determine the cost of representation, and shall mail to the
 21 person's address of record a notice informing the person that judgment will be entered
 22 against the person for the actual cost of representation or for \$ 500, whichever is less.
 23 The person may oppose entry of the judgment by filing a written opposition within 10
 24 days after the date shown in the clerk's certificate of distribution on the notice. The
 25 opposition shall specifically set out the grounds for opposing entry of judgment. The
 26 clerk shall enter judgment against the person for the amount shown in the notice if the
 27 person does not oppose entry of the judgment within the 10 days. If the person files a
 28 timely opposition, the court may set the matter for a hearing and shall have authority
 29 to enter the judgment. Criminal Rule 39(c)(1) and (c)(2) shall apply to judgments
 30 entered under this section.

31 * **Sec. 119.** The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 REPEAL OF COURT RULE. Rule 9(b)(2)(G)(ii), Alaska Rules of Administration, is
3 repealed.

4 * **Sec. 120.** AS 08.26.190(9), 08.26.190(10); AS 13.06.050(44), 13.06.050(45),
5 13.06.050(61); AS 13.26.005(2), 13.26.005(6), 13.26.005(9), 13.26.005(13), 13.26.010,
6 13.26.021, 13.26.031, 13.26.041, 13.26.051, 13.26.066(j)(4), 13.26.101, 13.26.121,
7 13.26.126, 13.26.132, 13.26.137, 13.26.143, 13.26.147, 13.26.162, 13.26.167, 13.26.171,
8 13.26.181, 13.26.186, 13.26.201, 13.26.211, 13.26.216, 13.26.221, 13.26.226, 13.26.231,
9 13.26.236, 13.26.241, 13.26.246, 13.26.251, 13.26.261, 13.26.266, 13.26.271, 13.26.276,
10 13.26.281, 13.26.286, 13.26.291, 13.26.296, 13.26.301(a), 13.26.301(b), 13.26.301(c),
11 13.26.301(d), 13.26.301(e), 13.26.306, 13.26.311, 13.26.316, 13.26.401, 13.26.406,
12 13.26.411, 13.26.415, 13.26.420, 13.26.425, 13.26.430, 13.26.435, 13.26.440, 13.26.445,
13 13.26.450, 13.26.455, 13.26.460, 13.26.465, 13.26.470, 13.26.475, 13.26.480, 13.26.485,
14 13.26.490, 13.26.495, 13.26.500, 13.26.505, 13.26.510, 13.26.515, 13.26.520, 13.26.525,
15 13.26.530, 13.26.535, 13.26.540, 13.26.545(a), 13.26.545(b), 13.26.545(c), 13.26.545(d),
16 13.26.550, 13.26.555, 13.26.560, 13.26.565, 13.26.570, 13.26.580, 13.26.595;
17 AS 13.27.490(6), 13.27.490(9); AS 13.52.040; and AS 13.63.190(19) are repealed.

18 * **Sec. 121.** The uncoded law of the State of Alaska is amended by adding a new section
19 to read:

20 INDIRECT COURT RULE AMENDMENT. The provisions of this Act have the
21 effect of changing the Alaska Rules of Probate Procedure.

22 * **Sec. 122.** The uncoded law of the State of Alaska is amended by adding a new section
23 to read:

24 INDIRECT COURT RULE AMENDMENT. AS 13.29.090(c), 13.29.190(c), and
25 13.29.355(c), enacted by sec. 86 of this Act, have the effect of changing Rules 6 and 6.1,
26 Alaska Rules of Administration, by requiring a court to make reasonable efforts to provide, if
27 not otherwise available, assistive technology, or an interpreter or translator, or a combination
28 of those supports to a respondent in certain hearings.

29 * **Sec. 123.** The uncoded law of the State of Alaska is amended by adding a new section
30 to read:

31 INDIRECT COURT RULE AMENDMENT. AS 13.29.095(b), 13.29.195(b), and

1 13.29.365(b), enacted by sec. 86 of this Act, have the effect of changing Rule 37.7(a), Alaska
2 Rules of Administration, by changing the requirements for accessing nonpublic information in
3 guardianship and conservatorship proceedings.

4 * **Sec. 124.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **INDIRECT COURT RULE AMENDMENT.** AS 13.29.040(d), 13.29.115(d)(2), and
7 13.29.215(e), enacted by sec. 86 of this Act, have the effect of changing Rule 77(c), Alaska
8 Rules of Civil Procedure, by requiring a hearing within five days of the appointment of an
9 emergency guardian or conservator.

10 * **Sec. 125.** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 **APPLICABILITY.** (a) This Act applies to a proceeding for appointment of a guardian
13 or conservator or for a protective arrangement instead of guardianship or conservatorship
14 commenced on or after the effective date of this Act.

15 (b) AS 13.29.030(b) and 13.29.100(a), enacted by sec. 86 of this Act, apply to
16 appointments of guardians by will made on or after the effective date of this Act.

17 (c) AS 11.56.740(a), as amended by sec. 20 of this Act, and AS 11.56.740(c), as
18 amended by sec. 21 of this Act, apply to offenses committed on or after the effective date of
19 this Act.

20 * **Sec. 126.** The uncodified law of the State of Alaska is amended by adding a new section
21 to read:

22 **CONDITIONAL EFFECT.** This Act takes effect only if secs. 118, 119, 121, 122, 123,
23 and 124 of this Act receive the two-thirds majority vote of each house required by art. IV, sec.
24 15, Constitution of the State of Alaska.