

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 166

DATE: February 5, 2003

Version: First Engrossment

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Subject: Guardianship, Conservatorship, and Protective Proceedings

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Overview

The bill adopts portions of the Uniform Guardianship and Protective Proceedings Act. Portions of the bill are entirely new law. The most significant changes are in section 28 (parent or spouse appointment of guardian) and section 50 (estate planning and asset title changes for persons under conservatorship). Most provisions reorganize current law and make minor changes in it.

Section

Article 1

Guardianship and Protective Proceedings Act

General Provisions

- 1 **Short title.** May be cited as the Uniform Guardianship and Protective Proceedings Act.
- 2 **Definitions.** One significant change in the bill appears for the first time here. A "conservator" would be the term used exclusively for a person appointed by a court to manage someone's estate. Under current law "conservator" also may apply to someone appointed to have limited powers over an individual.

Under the bill, in all cases where a person is appointed to have responsibilities toward a minor or incapacitated adult, that person would always be called a guardian.

Section

The definition of "incapacitated person" is continued from current law (see M.S. §535.54, subd. 2).

The bill defines "interested person" to include eight kinds of individuals or entities from family members and housemates to a government agency paying benefits to the incapacitated individual, as well as "any other person designated by the court." This term is used in the current statute but never defined.

A new term, "protected person," means a minor or adult for whom a conservator (of the estate) has been appointed or for whom some other protective order has been made.

- 3 Supplemental general principles.** States that general principles of law and equity supplement the provisions of the bill unless replaced by it.
- 4 Facility of transfer.** This re-drafts M.S. §525.6196 and omits (1) a provision in current law that references a more restrictive transfer power under §524.3-915 of the probate code regarding persons under legal disabilities, and (2) the ability to pay directly to a minor who is 16 or 17 or married.
- 5 Subject matter jurisdiction.** Specifies that state district courts have jurisdiction over guardianship for individuals residing or located in this state, protective proceedings for individuals residing in or having property in this state, and property coming in to the control of a guardian or conservator who is subject to Minnesota law.

Specifies that the bill does not apply to public guardianship of mentally retarded persons, adoption, or child protection proceedings.

- 6 Transfer of jurisdiction.** Similar to §525.6194. Allows a court that appointed a guardian or conservator or entered a protective order to transfer the case to another county in this state or to another state if the transfer will serve the best interests of the affected individual.

Creates a procedure letting a guardian or conservator appointed in another state be appointed in this state.

- 7 Venue.** Continues current law that locates a guardianship proceeding in the county where the proposed ward resides or is found. See §§525.617 and 525.6194. Also addresses issues not covered in current statute, such as venue for a matter involving (1) an institutionalized individual, (2) protective proceedings for property in this state where the individual does not reside here, and (3) proceedings being brought in more than one county. Specifies procedures for changing the venue from one county to another, if in the best interests of the ward/protected person.
- 8 Practice in court.** Unless otherwise specified in the statute, the rules of civil procedure control. If guardianship and protective proceedings for the same individual are pending in the same court, they can be consolidated.
- 9 Letters of office.** Specifies the document the court gives a guardian or conservator as evidence of authority. Similar to current §525.618, subd. 6, which deals only with guardians for minors.
- 10 Effect of acceptance of authority.** Provides that a guardian or conservator, by accepting appointment, accepts the jurisdiction of the court. Same as current §515.6185, which applies only to guardians of minors.

Section

- 11 Termination or change in guardian or conservator appointment.** Combines provisions now found in §§ 525.59, 525.60, 525.6194, and 525.6195. Adds the concept that the court may appoint an additional guardian.
- 12 Notice.** Replaces §§525.581 and 525.6185 on hearing notices. Continues provision for notice by mail. Adds requirement for plain language notices. Specifies notice to be given if a ward or protected person is a patient of any state-operated service. Requires advising the court if such an individual has a health care directive or similar document. Provides for notifying the commissioner of human services if a proceeding modifies a public guardianship. Provides notice to the surety for any bond in the case of a proceeding involving a conservator required to file a bond.
- 13 Waiver of notice.** New. Allows anyone but a ward, protected person, or respondent in a matter to waive notices by a signed writing filed in the proceeding.
- 14 Guardian ad litem.** Allows the court to appoint a guardian ad litem. Similar to current §515.54, subd. 6.
- 15 Multiple appointments or nominations.** Specifies that if more than one appointment or nomination of a guardian or conservator is made by an individual, the most recent controls.
- 16 Background study.** Same as current §525.545.

Part 2 Guardian of a minor

- 17 Appointment and status of guardian of a minor.** Same as §525.615. Also references the standby custodian law as a way of appointing a guardian for a minor.
- 18 Parental appointment of guardian.** Allows for appointment by will or by an advance directive to take effect while the parent is still alive. Specifies when a parental appointment of a guardian takes effect and how the guardian must indicate acceptance. Specifies that appointment of a guardian by one parent does not supersede the other's parent's rights. If both parents are dead, the appointment by the last to die has priority. Provides that a guardianship under this section terminates upon appointment of a guardian by the court or the filing of an objection with the court.
- 19 Objection by minor or others to parental appointment.** Until the court confirms a guardian, allows the same objection process as current §525.616.
- 20 Judicial appointment of guardian; conditions.** Allows a court appointed guardian for a minor if that is in the minor's best interests and both parents are deceased, parental rights have been terminated (current §525.6165 includes this option) or parents are unable or unwilling to exercise their rights. Allows the court to appoint a temporary guardian for up to six months. Allows appointment of an emergency guardian to serve up to 30 days and exercise only powers specified in the appointing order.
- 21 Judicial appointment of guardian; procedure.** Paragraph (a) lets any person interested in the welfare of a minor petition for appointment of a guardian for the minor.

Paragraph (b) provides for notice of hearing to be sent to the same parties as current §525.618, subd. 1, plus anyone nominated as a guardian by a minor who is 14 or older, a guardian appointee named by a parent, and a guardian or conservator currently acting for the minor in this state or elsewhere.

Section

Paragraph (c) follows current §515.618, subd. 2.

Paragraph (d) follows §515.618, subd. 4 (attorneys for minors) and adds that the attorney appointment expires when the time for appeal runs or such other time as the court directs.

Paragraph (e) follows §515.618, subd. 5 on notifying the ward of a guardianship appointment.

22 Judicial appointment of guardian; priority of minor's nominee; limited guardianship.

Paragraph (a) preserves §525.6175. Paragraph (b) allows the court to limit a guardian's powers in order to develop self-reliance in the ward or for other good cause.

23 Powers and duties of guardian. Subdivisions. 1 and 2 come from §525.619, except that paragraph (e) is new. That paragraph states the guardian has the power to apply for government benefits and services for a ward who does not have an acting conservator of the estate.

24 Rights and immunities of guardian. States that (1) a guardian is entitled to reasonable compensation and expense reimbursement; (2) a minor's guardian is not liable for the minor's acts solely because of the relationship; (3) a guardian is liable for injury to the ward caused by a third party to the same extent that a parent would be; and (4) a guardian must use the commitment law to initiate the commitment of a minor.

25 Termination of guardianship; other proceedings after appointment. Follows §525.6192 on termination. Adds reference to emancipation of the minor as a way guardianship might end. Allows the court to direct other circumstances when a guardianship would terminate.

Lets a ward or interested person petition for any order in the ward's best interests. Requires notice to the persons listed in the notice section, excluding a ward who is under 14 and is not the petitioner.

26 Delegation of power by parent or guardian. Same as §524.5-505 except that the bill would allow the arrangement to last for a year. Current law allows it for six months.

Part 3 Guardian of Incapacitated Person

27 Appointment and status of guardian. [Incapacitated person.] Specifies that a person becomes a guardian of an incapacitated person by parental, spousal, or court appointment. Guardianship continues until terminated, regardless of the location of guardian or ward.

28 Appointment by will or other writing. This is all new. Lets a parent, by will or by a document executed in the manner of a health care directive, appoint a guardian for an unmarried child the parent believes is incapacitated. Lets the parent specify desired limits on guardian powers and revoke or amend the appointment before court confirmation.

Lets an individual by will or by a document executed in the manner of a health care directive, appoint a guardian for his or her spouse who the individual believes is incapacitated. Lets the spouse specify desired limits on guardian powers and revoke or amend the appointment before court confirmation.

Makes such an appointment effective on the death of the appointing parent or spouse, the

Section

adjudication of incapacity of the parent or spouse, or a written determination, by a physician who has examined the appointing parent or spouse, that the parent or spouse is no longer able to care for the incapacitated person, whichever happens first. This is subject to the right of the incapacitated person, a person who has custody of him or her, or the incapacitated person's nearest adult kin, to object.

A parent or spouse may petition for confirmation of a guardianship. If the court finds the parent or spouse will likely be unable to care for the incapacitated individual within two years or less, notice must be given as provided by this section and the court may grant confirmation and terminate the rights of others to object.

The guardian becomes eligible to act after filing an acceptance of appointment, which must be done within 30 days after the effective date of the guardian's appointment. If the court has not already confirmed the appointment, the guardian must notify the appointing individual, if living, the incapacitated person, and the nearest adult kin of the right to file a written objection.

Makes effective in this state: appointment of a guardian by will under a will probated in another state.

Filing a written objection in the court where the guardian filed acceptance terminates the guardianship, but the court may decide to appoint that guardian. The court may initially appoint an emergency or limited guardian.

Unless the appointment was already confirmed by the court, a guardian must seek confirmation after filing acceptance. If necessary, the guardian may petition for appointment as conservator.

Appointment of a guardian under this section is not a determination of incapacity.

Retroactively ratifies acts by a guardian that benefit the ward and occurred before the acceptance of appointment was filed.

- 29** **Judicial appointment of guardian; petition. Same as current law.** A person interested in an individual's welfare, or the individual him/herself may petition for a determination of incapacity and for the appointment of a limited or unlimited guardian. Specifies the contents of the petition, including why guardianship is necessary, whether limited or unlimited guardianship is requested and a general statement of the ward's property and income.
- 30** **Judicial appointment of guardianship; preliminaries to hearing.** Contains provisions from current §§525.55, 525.5501, and 525.551 subds. 3 and 7 on the appointment of a visitor and the right to counsel in involuntary petitions. Provides for expiration of the attorney appointment. Retains current law allowing a county to use a screening committee to explore less restrictive options for indigent persons.
- 31** **Presence and rights at hearing.** Paragraph (a) follows §525.551, subd. 1. Paragraph (b) allows the court to grant the request of any person to participate in the proceeding on a showing of good cause and a determination that the proposed ward's best interests will be served.
- 32** **Notice.** Continues current law (§525.55, subd. 1) that requires personal service of the petition

Section

and notice of hearing on the proposed ward. Specifies who else gets notice of a proceeding to establish a guardianship, a petition for an order after appointment of a guardian, or the filing of the guardian's report.

- 33 Who may be guardian; priorities.** This is new. Specifies that the court will consider otherwise qualified persons as guardians in the order listed, but lets the court depart from the priorities. The ranking is (1) a guardian, other than a temporary or emergency guardian, currently acting for the individual; (2) an agent appointed by the individual under a health care directive; (3) the individual's spouse or someone nominated by a deceased spouse in a will or advance directive; (4) an adult child; (5) a parent or person nominated by a deceased parent in a will or advance directive; and (6) an adult with whom the individual resided for six months before the petition was filed. Prohibits appointing as guardian an individual or agency that provides residence or care for the individual for which a fee is paid, unless there is a relationship by blood, marriage, or adoption.
- 34 Findings; order of appointment.** Continues current §525.551, subd. 5 on required findings to support a guardianship; advising the ward of the right to appeal (§525.5515, subd. 1; and annual notice of the right to seek restoration to capacity (§525.58, subd. 2). Continues current §525.54, subd. 7, which encourages the court to consider a protective order and §525.56, subd. 2, which encourages the court to put limits on the guardian's powers.
- 35 Emergency guardian.** Somewhat like the special guardian in current §525.591. Differences include: (1) the arrangement may last 90 days; a special guardianship expires in 30 days but can be extended for good cause or if a hearing cannot be held that soon; (2) statement that the court must appoint a lawyer for the proposed ward; (3) required hearing within five days if an emergency guardian must be appointed without hearing (a hearing on a special guardian happens in seven days or when possible); (4) statement that appointment of an emergency guardian is not a determination of the individual's incapacity; and (5) eliminates the current provision that there is no appeal from appointment or refusal to appoint a special guardian.

Lets a county in a vulnerable adult case act as emergency guardian for up to 90 days.

- 36 Temporary substitute guardian.** New. Lets the court appoint a temporary substitute guardian for up to six months to replace someone who is not performing effectively. Requires notice to the ward of the appointment. Lets the court remove the temporary guardian anytime and require any reports the court directs.
- 37 Powers and duties of guardians.** Clauses (1) through (6) follow current §525.56 except they (1) follow the bill's usage that a guardian is for the person and a conservator is for the estate; and (2) in clause (4)(i) language is added that has been seen previously in the bill about the expiration of an attorney appointment.

Clause (7) directs a guardian, if there is no conservator, to apply for government benefits on behalf of the ward. It is very similar to a provision in clause (2).

Clause (8) is new. It specifies that the ward does not lose the right to vote unless specified by the court.

- 38 Rights and immunities of guardians; limitations.** Paragraph (a) states the guardian's right

Section

to compensation and expense reimbursement. Paragraph (b) states that a guardian is not liable to a third person for the ward's acts solely because of being the guardian. It also restates a provision in current §525.56, subd. 2, paragraph (e) and the prior section of this bill on the extent of a guardian's liability for choosing medical (and other) care for the ward. Paragraph (c) allows a guardian to revoke the appointment of a health care agent but not to revoke a ward's health care directive. Paragraph (d) restates current law that a ward may only be civilly committed according to the commitment statute.

39 Reports; monitoring guardian. Similar to current §525.58, subd. 4. Somewhat different report contents specified. Allows the court to appoint a visitor to review a report, interview a guardian or ward, and make any other investigation. Requires the court to establish a system to monitor guardianships and review annual reports.

40 Termination or modification of guardianship. Follows §525.60 and 525.61, subd. 2 on termination of guardianship by death or restoration of capacity. Requires the court to safeguard a ward's rights when terminating a guardianship. Provides for modification of a guardianship to address powers that are either excessive or insufficient.

Part 4 Protection of Property

41 Protective proceeding. Allows a court to name a conservator or limited conservator for a minor or an adult under the specified conditions. Conditions applicable to a minor are those now found in §525.6198, clause (1). A conservator may be appointed for either an adult or a minor if (1) by clear and convincing evidence it is shown that the individual cannot manage property and business because of impaired ability to receive and evaluate information or because the person is missing, detained or unable to return to the country; and (2) by a preponderance, it is shown that the individual has property that will be wasted without management or that money is need for the support of the individual or dependents and protection is necessary to obtain such money. Clause (1) is from §525.54, subd. 3.

42 Jurisdiction over protected person's business affairs. Specifies that once a conservatorship or protective order petition is filed, the court has exclusive jurisdiction over that issue and over how to manage the protected person's estate. Provides that the court has concurrent jurisdiction to determine the validity of claims against the protected person or the estate and title questions about the estate.

43 Original petition for appointment or protective order. Specifies who may petition for a conservatorship of an estate or other protective order: the person to be protected, someone interested in the estate or the person's welfare, or a person who would be adversely affected by lack of good management of the estate. Current law allows the person to be protected and "any interested person" to file a petition.

Specifies what the petition must include.

44 Notice. Similar to §525.55 subds. 2 and 3.

45 Original petition; minors; preliminaries to hearing. Paragraph (a) on appointment of counsel is like §525.618, subd. 4. Paragraph (b) lets the court issue orders to preserve a minor's property pending the proceedings.

46 Original petition; persons under disability; preliminaries to hearing. Applies to conservatorships and protective orders for adults. Provides for setting the hearing date,

Section

appointing counsel, naming a visitor to interview the proposed protected person. Contains the same provision of expiration of an attorney appointment found else where in the bill. Specifies the visitor's duties, which may include making an investigation and filing a report if directed by the court. Some of these duties are found in current §§525.55, subd. 2 and 525.551, subd.1.

47 **Original petition; procedure at hearing.** Paragraph (a) reflects current law. Paragraph (b) lets the court permit any interested person to participate in the proceeding on a showing of good cause and a determination that the proposed protected person's best interest will be served.

48 **Findings; order of appointment.** Paragraph (a) repeats section 41, clause (2). Adds a third requirement for naming a limited or unlimited conservator: that the individual's needs cannot be met by less restrictive means.

Lets the court enter another appropriate order or dismiss the proceedings.

Similar to current law in requiring the court to give the conservator only the necessary powers and encourage the protected person's independence.

Similar to current law on giving the protected person notice of the conservator's appointment and annual notice of the right to request modification or termination of the arrangement.

49 **Powers of court.** States that a conservatorship or protective order is not a determination of incapacity. Specifies the court's powers when the basis for a conservatorship or protective order is found. These are: in the case of a minor, whatever is in the minor's and immediate family's best interests; in the case of an adult, whatever an adult not under conservatorship/protective order could do.

50 **Required court approval.** Specifies nine groups of actions conservator may take with court authorization after hearing, including making gifts, conveying property, creating a trust, electing options and changing beneficiaries in retirement plans, and making or amending a will. Specifies who will receive notice of these hearings and how it must be given.

States factors for the court to consider in authorizing a request.

Requires in these matters that the court will represent or appoint a guardian ad litem for an affected person who is unborn, unknown, or has no guardian or conservator in this state.

Immunizes a conservator for either exercising or not exercising the powers in this section, except in case of gross negligence.

States that in a conflict between this section and the medical assistance lien law, the latter controls.

51 **Protective arrangements and single transactions.** Lets the court authorize various transactions for the care of an individual for whom a basis for a protective e order exists, without actually appointing a conservator. Based on §525.54, subd. 7.

52 **Who may be conservator; priorities.** Parallels the options listed earlier in the bill for who can be named guardian. Lets certain persons having priority in the law designate a substitute to serve. Lets the court choose someone with lower priority in the best interest of the

Section

protected person. Prohibits naming as conservator, a person who provides care or services to a protected person for money, unless related by blood, adoption, or marriage.

53 **Petition for order subsequent to appointment.** Specifies issues a protected person or interested person may petition the court for. Provides for notice and hearing unless the court waives either.

54 **Bond.** Allows the court to require a conservator to furnish a bond. Under current §525.551, subd. 1, bond must be furnished unless the ward has no personal property.

55 **Terms and requirements of bond.** Makes the conservator and surety jointly and severally liable.

56 **General powers and duties of conservator. Paragraphs (a) through (c) are the same as** §525.56, subds 1, 2, 4, 3, cl (5) and (2). Paragraph (d) is new. It lets the conservator revoke, suspend, or terminate a durable power of attorney executed by the protected person. Paragraph (e) is the same as §525.5655. Paragraph (f) allows for filing with the secretary of state a certificate indicating that a conservator petition is pending for an individual. If a conservator is appointed, contracts by the protected person other than for necessities are voidable.

57 **General powers and duties of conservator over real property.** Paragraphs (a) to (k) re-enact §§525.62 to 525.702 with minor changes. For example, the bill provides details for the manner of giving published notice not found in current law. Paragraph (l) allows a filing of a certificate to indicate that a conservator petition is pending. If a conservator is appointed, real property contracts and transfers by the protected person after the filing and throughout the conservatorship are void.

58 **Inventory; records.** Requires a conservator to file an inventory of the estate within 60 days after appointment. Current §525.561 requires an inventory within a month unless the court grants a longer period, and contains more detail about the structure of the inventory

Requires a conservator to keep estate administration records and make them available on reasonable request by the court, ward or protected person or their attorney.

59 **Reports; appointment of visitor; monitoring.** Parallels the guardian report requirements provided by the bill earlier. Requires an annual report showing assets, receipts, disbursements, and distributions during the reporting period. Similar to §525.58. Allows the court to appoint a visitor to investigate a situation.

60 **Title after appointment.** Specifies that appointment as conservator does not vest title to the protected person's property in the conservator. States that letters of appointment are evidence of the conservator's right to act on behalf of the protected person and that termination of a conservatorship terminates the conservator's powers. Allows letters of conservatorship and orders terminating conservatorships be filed or recorded to give notice of title as between protected person and conservator.

61 **Protected person's interest nonalienable.** Makes a protected person unable to transfer his or her interest in property, except as allowed by the bill. Allows an action for restitution or damages against a protected person who attempts a prohibited transfer. Permitted transfers include those allowed by section 67, and the transfer of personal property to an individual who receives it in good faith and does not know about the conservatorship. Mechanics liens are also protected. Third parties dealing with the protected person retain any protection given to them by other law.

Section

62 Sale, encumbrance, or other transaction involving conflict of interest. Provides for a court to void a transaction involving the conservatorship estate and affected by a conservator's conflict of interest, unless the transaction is expressly authorized by a court after notice to interested persons. A conflict exists if a transaction involves the conservator or his or her spouse, descendant, agent, lawyer, or a corporation in which the conservator has a beneficial interest.

63 Protection of person dealing with conservator. Protects a person in a transaction other than one requiring a court order if the person assists or deals with a conservator in good faith and for value.

64 Delegation. Prohibits a conservator from delegating the entire management of the estate but otherwise allows delegation of functions that a prudent person might delegate under similar circumstances. Sets out standards for the conservator to follow in selecting an agent. Requires an agent to exercise reasonable care and provides that an agent by accepting the role submits to the jurisdiction of the courts of this state.

65 Principles of distribution by conservator. Lets a conservator use income or principal of the estate without further court authorization for the support, care, education, health, and welfare of the protected person and dependents. Requires that in the case of dependents, the conservator listen to recommendations by a guardian or by the parent of a minor. Prohibits surcharging the conservator for money paid pursuant to these recommendations unless (1) the conservator knows the guardian or parent derives personal financial benefit, or (2) the recommendations are not in the protected person's best interest.

Specifies factors for the conservator to consider when making distributions. Allows payment either as reimbursement or in advances, if advance payments are customary in the circumstances.

66 Death of protected person. If the protected person dies, the conservator must deliver any will to the court, inform the personal representative of the delivery, and retain the estate until delivered to a duly appointed personal representative or other appropriate person. If a personal representative has not been appointed within 90 days after the death and no petition is pending, the conservator may seek appointment.

67 Claims against protected person. Specifies how the conservator should handle claims against the protected person or the estate. Outlines how a claimant should present a claim and how the claimant may seek court enforcement if necessary. If assets are insufficient to pay claims, lays out the priority of claims. Prohibits favoring one claim over another claim of the same class or favoring claims not due over claims due.

68 Personal liability of conservator. A conservator who reveals his or her representative capacity and identifies the estate is not personally liable on contracts unless personally at fault. A conservator is not personally liable for an environmental condition or injury solely by reason of being conservator.

Claims may be brought against the estate by proceeding against the conservator as fiduciary.

69 Termination of proceedings. States current law that a conservatorship for a protected person ends when the person dies or upon court order, and in the case of a minor ends when the minor is emancipated or turns 18. Repeats the earlier section that directs the

Section

conservator to distribute probate property to the personal representative in the case of the protected person's death. Requires the conservator to distribute nonprobate property to the successor in interest.

If the conservatorship is terminated by court order, the conservator remains liable for actions taken during the conservatorship.

Specifies the court's duties in terminating a conservatorship. Specifies where title to property vests and that expenses of administration must be paid.

- 70 Payment of debt and delivery of property to foreign conservator.** Lets a person in this state pay a debt or deliver property to a conservator in another state upon proof of appointment in the other state and presentation of an affidavit by the conservator that no protective proceedings are pending in this state.
- 71 Foreign conservator; proof of authority; bond; powers.** If there is no Minnesota conservator, a conservator in another state may file with a court here letters of appointment and may act regarding property of the protected person located in this state.

Part 5 Miscellaneous

- 72 Guardianship, conservatorship; workers' compensation.** Provides for appointment of a conservator if an incapacitated person or minor has a workers' compensation claim. Cross references current workers' compensation law.
- 73 Compensation and expenses.** Continues substance of §525.703.
- Allows the court to order payment to a guardian or conservator (1) from the estate or (2) from the county in the case of an indigent person or a person who has no suitable relative or other person. Fees in the latter cases are to be based on a fee schedule recommended by the county commissioners.
- Allows compensation from an estate to a county whose employee provides necessary services if the county shows it was unable after diligent search to find an independent guardian or conservator.

Article 2

Conforming Amendments and Transition

- 1 1 Power of a guardian.** Amends the health care directive act to reference a guardian's powers in relation to revoking an agent's appointment and revoking a directive.
- 2 2 Not eligible.** Amends the voter eligibility statute to reflect the provision in section 37, clause 8 on the right to vote under guardianship.
- 3 3** Same as section 2.
- 4 4 Systems and records.** Amends the human services background check statute to reference criminal history data held by the Department of Human Services.

Section

- 5 5** **Conveyance of protected person's real property.** Amends §507.04 on real estate conveyance by a married person who is under guardianship to make terminology consistent with the bill.
- 6 6** **Execution; witnessed wills.** Amends the probate code to reference the bill provision that lets a conservator sign a protected person's will pursuant to court order.
- 7** **Priority among persons seeking appointment as personal representative.** Adds to this probate code provision a reference to the bill provision that lets a conservator seek appointment in certain circumstances.
- 8** **Repealer.** Repeals current guardianship and conservatorship laws replaced by the bill
- 9** **Transition.** The bill applies to guardianships and conservatorships commenced on or after the effective date. Applies to arrangements pending or in existence as of the effective date unless the court find that for good cause or in the interests of judicial economy, the proceeding should be completed under the law repealed by the bill.
- A guardian or conservator not discharged by the effective date of the bill has only the powers under the law repealed by the bill but also has the duties of the former and new law.
- Covers the treatment of acts done prior to the effective date of the bill and the status of a court order issued before the effective date.
- Allows the court to issue new guardianship or conservatorship letters under the new law to replace letters issued under the old law.
- Keeps in effect a power of attorney executed under prior law until it expires or is modified or replaced by a power of attorney executed according to the bill.