

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill No. 1886, Pages 20-23, Section 475.010,  
2 Lines 1-115, by deleting said section and lines from the bill; and

3  
4 Further amend said bill, Pages 23-24, Section 475.045, Lines 1-20, by deleting said section and lines  
5 from the bill; and

6  
7 Further amend said bill, Pages 24-26, Section 475.050, Lines 1-59, by deleting said lines and  
8 inserting in lieu thereof the following:

9  
10 "475.050. 1. Before appointing any other eligible person as guardian of an incapacitated  
11 person, or conservator of a disabled person, the court shall consider the suitability of appointing any  
12 of the following persons, listed in the order of priority, who appear to be willing to serve:

13 (1) If the incapacitated or disabled person is, at the time of the hearing, able to make and  
14 communicate a reasonable choice, any eligible person nominated by the person;

15 (2) Any eligible person nominated in a durable power of attorney executed by the  
16 incapacitated or disabled person, or in an instrument in writing signed by the incapacitated or  
17 disabled person and by two witnesses who signed at the incapacitated or disabled person's request,  
18 before the inception of the person's incapacity or disability;

19 (3) The spouse, parents, adult children, adult brothers and sisters and other close adult  
20 relatives of the incapacitated or disabled person;

21 (4) Any other eligible person or, with respect to the estate only, any eligible organization or  
22 corporation, nominated in a duly probated will of such a spouse or relative.

23 2. The court shall not appoint an unrelated third party as a guardian or conservator unless  
24 there is no relative suitable and willing to serve or if the appointment of a relative or nominee is  
25 otherwise contrary to the best interests of the incapacitated or disabled person. If the incapacitated  
26 or disabled person is a minor under the care of the children's division and is entering adult  
27 guardianship or conservatorship, it shall be a rebuttable presumption that he or she has no relative  
28 suitable and willing to serve as guardian or conservator.

29 3. Except for good cause shown, the court shall make its appointment in accordance with the  
30 incapacitated or disabled person's most recent valid nomination of an eligible person qualified to  
31 serve as guardian of the person or conservator of the estate.

32 4. Except for those individuals specified in subdivisions (1) and (2) of this subsection, the  
33 court shall require all guardians and conservators who are seeking appointment and who have a  
34 fiduciary responsibility to a ward, an incapacitated person, or a disabled person to submit at their  
35 own expense to a background screening that shall include the disqualification lists of the  
36 departments of mental health, social services, and health and senior services; the abuse and neglect

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1 registries for adults and children; a Missouri criminal record review; and the sexual offender  
 2 registry. Individuals seeking appointment as a conservator shall also submit, at their own expense,  
 3 to a credit history investigation. The nominated guardian or conservator shall file the results of the  
 4 reports with the court at least ten days prior to the appointment hearing date unless waived or  
 5 modified by the court for good cause shown by an affidavit filed simultaneously with the petition for  
 6 appointment or in the event the protected person requests an expedited hearing. The provisions of  
 7 this subsection shall not apply to:

8 (1) Public administrators; ~~[or]~~

9 (2) The ~~[ward's, incapacitated person's, or disabled person's]~~ spouse, ~~[parents,]~~ children who  
 10 have reached eighteen years of age, ~~[or]~~ siblings who have reached eighteen years of age, or parents  
 11 of the ward, incapacitated person, or disabled person; or

12 (3) Grandparents of a minor child who are seeking guardianship or conservatorship of the  
 13 minor grandchild, unless such background reports are requested by any other party to the proceeding  
 14 or the guardian ad litem for the minor child or are otherwise ordered by the court on its own motion.

15 5. Any grandparent seeking guardianship or conservatorship of a minor grandchild shall not  
 16 be subject to a home assessment unless the home assessment is requested by any other party to the  
 17 proceeding or the guardian ad litem for the minor child or is otherwise ordered by the court on its  
 18 own motion

19 6. Guardians certified by a national accrediting organization may file proof of certification  
 20 in lieu of the requirements of subsections 4 and ~~[6]~~ 7 of this section.

21 ~~[6-]~~ 7. An order appointing a guardian or conservator shall not be signed by the judge until  
 22 such reports have been filed with the court and reviewed by the judge, who shall consider the reports  
 23 in determining whether to appoint a guardian or conservator. Such reports, or lack thereof, shall be  
 24 certified either by an affidavit or by obtaining a certified copy of the reports. No reports or national  
 25 criminal history record check shall be required by the court upon the application of a petitioner for  
 26 an emergency temporary guardianship or emergency temporary conservatorship. The court may  
 27 waive the requirements of this subsection for good cause shown. If appointed, a guardian or  
 28 conservator may petition the court for reimbursement of the reasonable expenses of the credit  
 29 history investigation and background screenings."; and

30  
 31 Further amend said bill, Page 26, Section 475.063, Lines 1-4, by deleting said lines and inserting in  
 32 lieu thereof the following:

33  
 34 "475.063. 1. The parent, physical custodian, or guardian of a minor that has a diagnosed  
 35 developmental disability or intellectual disability as defined in section 630.005 may file an affidavit  
 36 for emergency, temporary, or full orders regarding a petition for the appointment of the parent,  
 37 physical custodian, guardian, or some other qualified person as guardian of the minor upon the  
 38 minor attaining the age of eighteen. Such affidavit shall state that:

39 (1) The affiant is the parent, physical custodian, or guardian of the minor;

40 (2) A treating doctor has certified by letter, report, or affidavit that the minor has a  
 41 diagnosed developmental disability or intellectual disability as defined in section 630.005, and the  
 42 letter, report, or affidavit is attached to the affidavit. This shall not include a mental disorder or  
 43 mental illness as defined in section 630.005;

44 (3) The minor has not yet attained the age of eighteen;

45 (4) No petition for adult guardianship or conservatorship, filed pursuant to section 475.060,  
 46 has been filed in the court in which the affidavit is filed or in any other court having jurisdiction  
 47 over the minor; and

48 (5) The affiant is not aware of an objection by an interested person to the appointment of the  
 49 parent, physical custodian, guardian, or some other qualified person as guardian of the minor upon

1 the minor attaining the age of eighteen.

2 2. If the court finds the affidavit fails to meet one or more of the criteria set forth in  
3 subsection 1 of this section, or if good cause is shown by the attorney for the minor or ward, the  
4 court may enter an order appointing an attorney to represent the affiant.

5 3. (1) A clerk of a court shall make available to the petitioner the affidavit and other  
6 uniform forms"; and

7  
8 Further amend said bill, page, and section, Line 7-11, by deleting said lines and inserting in lieu  
9 thereof the following:

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11 "circuit clerk shall explain to a petitioner who is not represented by counsel the procedures  
12 for filing all forms and pleadings necessary for the presentation of the petitioner's petition under this  
13 section."; and

14  
15 Further amend said bill, page, and section, Line 15, by deleting the phrase "Missouri supreme court"  
16 and inserting in lieu thereof the phrase "supreme court of Missouri"; and

17  
18 Further amend said bill, page, and section, Lines 19-22, by deleting said lines and inserting in lieu  
19 thereof the following:

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21 "4. The court shall accept and act upon a petition filed under this section without requiring a  
22 filing fee. Any expenses incurred under this section for attorney's fees for the attorney of the minor  
23 or ward may be reimbursed for attorney's fees for the attorney of the minor or ward may be  
24 reimbursed from moneys deposited into a family services and justice fund under section 488.2300.

25 5. For purposes of this section, "physical custodian" means an adult having continuous  
26 physical custody of a minor entering adult guardianship or conservatorship for the six months prior  
27 to the filing of an affidavit under subsection 1 of this section."; and

28  
29 Further amend said bill by amending the title, enacting clause, and intersectional references  
30 accordingly.