

SECOND REGULAR SESSION

HOUSE BILL NO. 3011

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WILLIAMS.

6660H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 475.050, RSMo, and to enact in lieu thereof one new section relating to appointment of guardians or conservators of certain persons.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 475.050, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 475.050, to read as follows:

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

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

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

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

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

2. The court shall not appoint an unrelated third party as a guardian or conservator unless there is no relative suitable and willing to serve or if the appointment of a relative or nominee is otherwise contrary to the best interests of the incapacitated or disabled person. If

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 the incapacitated or disabled person is a minor under the care of the children's division and is
19 entering adult guardianship or conservatorship, it shall be a rebuttable presumption that he or
20 she has no relative suitable and willing to serve as guardian or conservator.

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

24 4. Except for those individuals specified in subdivisions (1) and (2) of this subsection,
25 the court shall require all guardians and conservators who are seeking appointment and who
26 have a fiduciary responsibility to a ward, an incapacitated person, or a disabled person to
27 submit at their own expense to a background screening that shall include the disqualification
28 lists of the departments of mental health, social services, and health and senior services; the
29 abuse and neglect registries for adults and children; a Missouri criminal record review; and
30 the sexual offender registry. Individuals seeking appointment as a conservator shall also
31 submit, at their own expense, to a credit history investigation. The nominated guardian or
32 conservator shall file the results of the reports with the court at least ten days prior to the
33 appointment hearing date unless waived or modified by the court for good cause shown by an
34 affidavit filed simultaneously with the petition for appointment or in the event the protected
35 person requests an expedited hearing. The provisions of this subsection shall not apply to:

36 (1) Public administrators; or

37 (2) The ward's, incapacitated person's, or disabled person's spouse, parents,
38 **grandparents**, children who have reached eighteen years of age, or siblings who have
39 reached eighteen years of age.

40 5. Guardians certified by a national accrediting organization may file proof of
41 certification in lieu of the requirements of subsections 4 and 6 of this section.

42 6. An order appointing a guardian or conservator shall not be signed by the judge
43 until such reports have been filed with the court and reviewed by the judge, who shall
44 consider the reports in determining whether to appoint a guardian or conservator. Such
45 reports, or lack thereof, shall be certified either by an affidavit or by obtaining a certified copy
46 of the reports. No reports or national criminal history record check shall be required by the
47 court upon the application of a petitioner for an emergency temporary guardianship or
48 emergency temporary conservatorship. The court may waive the requirements of this
49 subsection for good cause shown. If appointed, a guardian or conservator may petition the
50 court for reimbursement of the reasonable expenses of the credit history investigation and
51 background screenings.

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