

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

December 19, 2019 - 12:00 to 2:00 p.m.

Administrative Office of the Courts, Matheson Courthouse
1st floor, Suite W-19 - Conference Room B and C

Agenda		
TOPIC	PRESENTER	MATERIALS
1. Welcome, Minutes, Housekeeping	Judge Kelly	
2. Review Process: Annual Reports, Court Visitor Reports	Judge Kelly Michelle Wilkes Shonna Thomas	<ul style="list-style-type: none"> • <i>Report Review Process</i>
3. Probate Subcommittee Legislative Recommendations	Nancy Sylvester	<ul style="list-style-type: none"> • <i>Probate Subcommittee Legislative Recommendations</i>
4. Updates		
<ul style="list-style-type: none"> • Financial Exploitation, Commission on Aging 	TantaLisa Clayton	
<ul style="list-style-type: none"> • Clerical Education Subcommittee 	Subcommittee Chair Joanne Sayre	
5. WINGS Membership Expiration & Bylaws	Judge Kelly	<ul style="list-style-type: none"> • <i>Utah WINGS Bylaws, Proposed Revision</i>
6. Judicial Council Update	Judge Kelly Shonna Thomas	<ul style="list-style-type: none"> • <i>Utah WINGS Update – Judicial Council</i> • <i>WINGS Strategic Goals: 2013 - 2019</i>
7. Guardianship Test	Kent Alderman	
8. Recruiting Stakeholders	Kent Alderman Judge Kelly	<ul style="list-style-type: none"> • <i>WINGS Membership</i>
9. Other business		

WINGS 2020 Meeting Schedule: TBD
February -
April -
June -
August -
October -
December -
WINGS webpage: https://www.utcourts.gov/utc/wings/

Materials Table of Contents

- Report Review Process 3**
- Probate Subcommittee Legislative Recommendations 9**
- Utah WINGS Bylaws, Proposed Revision 68**
- Utah WINGS Update – Judicial Council..... 72**
- WINGS Strategic Goals: 2013 – 2019 76**
- WINGS Membership 81**

*** Click on title to jump to document ***

Report Review Process

DATA TABLE

Annual Reports

The assigned judge reviews the annual report for assigned case	OR	The designated probate judge reviews all annual reports	Notes
1 st 6 th 2 nd 7 th 5 th 8 th		3 rd 4 th – uncontested only	4 th – Contested matters are assigned to individual judges, and the review process may be different with each of them.
Annual reports receive a clerical review before forwarding to the judge	OR	Annual reports are forwarded directly to the judge without review	Notes
1 st 2 nd 3 rd 6 th 8 th		4 th 5 th 7 th	2 nd – JAs review reports only for compliance to requirements, not for content, before forwarding to the judge.
The district uses a cover sheet or review form for the reports	OR	The reports are forwarded as is – no cover sheet used	Notes
2 nd 4 th 8 th		1 st 6 th 3 rd 7 th 5 th	2 nd – Cover sheet info based upon comments by Judge Connors, not the reply from the Clerk. 4 th – Cover sheet is used by the Judge to make notes during the review.

Court Visitor Reports

Court visitor reports receive a clerical review before forwarding to the judge	OR	Court visitor reports are forwarded directly to the judge without review	Notes
1 st 3 rd		2 nd 6 th 4 th 7 th 5 th 8 th	

INDIVIDUAL RESPONSES

Annual Reports & Court Visitor Reports

1. After the report is submitted, is there a system in place that triggers review of the report?
2. Is the review of reports assigned to individual judges, to a single judge over guardianship reports, or some other variation?
3. Do Clerks/Case Managers/JAs provide an initial review, then forward concerns to the judge? Or, is there another method in place for judges to become aware of concerns?

1st
(Chris)

- If the annual report is filed by paper, the JA processes it, which covers the review process.
- If it comes in by e-filing, the JA follows up on the review process.
- All judges have assigned probate cases, so individual judges receive the reports.
- Initial review is handled by a JA for each judge.
- The process is the same for court visitors since each judge has a probate case load.

2nd
(Brooke)

- CORIS enters the annual reporting due date upon appointment of guardianship/conservatorship. Court staff is responsible to track compliance with the reporting requirements, send notice and take action if reports are not filed timely. This tracking is updated through CORIS as the yearly reports are filed.
- All judges in Second District are assigned guardianship cases. They each review the reports assigned to their caseload.
- Clerks/Case Managers/JA's ensure all required documents are submitted and forward to judge for review. Judges may become aware of concerns by parties, interested parties, court visitors, etc. Typically judicial assistants are not reviewing documents for content as they are not law trained. They are reviewing documents to ensure all requirements are met before sending reports to the assigned judge.

3rd
(Joanne)

- Guardian annual reports come to us in several ways: hand delivered by the guardian, mailed to us by the guardian, e-filed by the attorney for the guardian. Once we receive the paper copies, the documents are docketed and scanned and placed in a basket with the Case Manager until the 30 days have passed (for any objections).
- After the 30 days have passed, one of the probate clerks reviews the report and accompanying documents. If everything is in order, a Ruling is made saying the Court has reviewed the report and it was approved. If everything is not in order or something looks "fishy", the report is referred to the Probate Judge.
- Court Visitor Reports are sent to me and I docket and scan them. I initially review the report and highlight anything I think the Judge should take note of. The full report is given to the Probate Judge on Tuesday before the hearing on Wednesday (I usually receive the reports on Mondays).

4th
(Debbie)

- The guardian annual reports and court visitor reports are submitted to Judge Howell for review with a cover sheet (see attachment).
- Judge Howell reviews all probate reports.
- All reports (inventory, report on status, annual financial accounting, termination, proof of minor's insurance deposit, and court visitor reports) are submitted to Judge Howell for review with a cover sheet. Judge Howell can make comments, check box to approve, deny, grant, or schedule a hearing. If a hearing is necessary, we will send notice of hearing.
- If the guardian/conservator fails to appear for the hearing, Judge Howell will usually order a court visitor. The clerk will then email Michelle Wilkes requesting a court visitor to be assigned to locate the guardian and/or conservator and check the well-being of the ward. Ms. Wilkes will draft up a proposed order when a court visitor is appointed and email it to either Cora or myself. That order is date stamped, stamp used at direction of judge, and scanned into CORIS and sent to Ms. Wilkes. When we receive the court visitor report, it is then given to Judge Howell for review and he determines what happens next.
- *If an attorney or pro se is requesting a court visitor to report to excuse the respondent from the hearing, we e-mail Michelle Wilkes. Again, she will draft up a proposed order and send it to Cora or myself and we use the judge's stamp, scan in the order into CORIS, and email the signed order to Ms. Wilkes. Ms. Wilkes will then email Cora or myself the court visitor report and we scan it in to CORIS and email it to Judge Howell for review prior to the hearing.

INDIVIDUAL RESPONSES

5th (Peggy)	<ul style="list-style-type: none"> ○ When the reports are efiled they come in the records quality queue. ○ The JA prints the report and gives it to the judge. If the report is paper filed it is put in the judge's basket. ○ A court visitor report is provided to the judge. ○ Assigned judge ○ No
6th (Keri)	<ul style="list-style-type: none"> ○ I run the report from CORIS titled Guardian Conservator Notices that will give me a list of cases that are due their reports every month. I will send notice that the report is due. The next month, if there has been no response, I'll set the matter for a court date with the judge to follow up. If I get notification that the address is wrong or incorrect, then I'll ask for a court visitor to follow up. The judge will also appoint a court visitor if there's a no show at a hearing. ○ Reports on status of the ward and accountings / inventories I'll read through, and if there's a concern, send the report on to the judge assigned to the case. ○ When a court visitor submits a report, I'll send it to the judge for review.
7th (Loni)	<ul style="list-style-type: none"> ○ When the annual Guardian reports are filed with the court, clerical will prepare a proposed "Order Approving Annual Accounting". This is submitted to the judge assigned to the case for review once 30 days has passed since filing of the report. ○ The judge assigned will review the annual report and either sign the Order Approving Annual Accounting or set it for a hearing if he has concerns/questions. ○ Clerical does not review the annual reports. ○ As far as Court Visitor Reports, once those are submitted to the court, they are then given to the assigned judge for review. He will then set the case for review if he has any concerns/questions.
8th (Dawn)	<ul style="list-style-type: none"> ○ The process is virtually the same with pro se as it is with efiled reports. When a report is filed, the clerks should provide a quick review of the case and note anything noteworthy that the judge should be aware of (for example, if they only filed a report on status but not an accounting, etc.). They would then provide the form I will share with you to the judge alerting the judge that he needs to review the report and the case, along with any notes from the clerk. ○ All reports go the judge assigned to the case. ○ The clerk that provides this form to the judge is the clerk that is responsible to follow up to ensure we get the completed form back and uploaded in the case. ○ As far as court visitor reports, we don't get many. When we do, we put them in the case and send them directly to the judge.

**IN THE EIGHTH JUDICIAL DISTRICT COURT
UINTAH / DUCHESNE COUNTY, STATE OF UTAH**

IN THE MATTER OF THE
GUARDIANSHIP/CONSERVATORSHIP OF:

DOB: _____

**Approval of Guardianship /
Conservatorship Reports**

Case #

The following reports are being submitted for review and approval:

Inventory Report Accounting Report Report on Status of Ward

The court, having reviewed the above identified reports, hereby

Approves report as submitted.

Requests additional information from filer, specifically: _____

Requests an auditor be appointed to review the: inventory; and/or the accounting.

Requests a court visitor be appointed for the following: _____

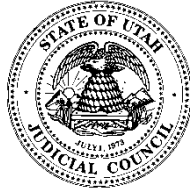
Requests a hearing be set for _____

Other: _____

Date

Judge

Probate Subcommittee Legislative Recommendations



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

To: WINGS
From: Nancy Sylvester, Staff to the Probate Subcommittee
Date: October 10, 2019
Re: Probate Subcommittee Legislative Recommendations

Earlier this year, the Utah Supreme Court tasked the Probate Subcommittee with reviewing the Uniform Probate Code (Title 75) for court procedure and making recommendations for codifying that procedure in rule and amending the Code. This task would accomplish at least two purposes: 1) making our courts more accessible to the public by clarifying how a probate case will proceed in the district court; and 2) addressing the Supreme Court's constitutional responsibility for creating court rules of procedure.

Due to the voluminous nature of Title 75, the Probate Subcommittee chose to focus initially on Chapter 5 of the Uniform Probate Code, which addresses guardianship and conservatorship. These areas tend to be the most confusing and also the most used by pro se litigants.

The Probate Subcommittee recommended that the Judicial Council advance to the Legislature during the 2020 Legislative Session the attached procedural amendments to Chapter 5 of the Uniform Probate Code. The Judicial Council adopted that recommendation at its August meeting. Below is a sample from the Probate Subcommittee's procedural amendment recommendations:

75-5-208. Consent to service by acceptance of appointment -- Notice.

By accepting a testamentary, instrumental, or court appointment as guardian, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person or any person interested in the welfare of the minor. Notice of any proceeding shall be ~~delivered~~ given to the guardian in accordance with Rule 5 of the Utah Rules of Probate Procedure. ~~to the guardian or mailed to him by ordinary mail at his address as listed in the court records and to his address as then known to the petitioner.~~ Letters of guardianship shall indicate whether the guardian was appointed by will, written instrument, or by court order.

**The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.**

As the proposed new language implies, the subcommittee also made a recommendation to the Utah Supreme Court that a separate body of probate rules be created. Rule 5 of the Utah Rules of Probate Procedure would address the giving of notice in probate proceedings in much the same way that Rule 5 of the Utah Rules of Civil Procedure does so in civil cases. The Supreme Court adopted the recommendation to create the new body of rules, but has yet to approve any of the attached proposed draft rules.

Timing-wise, it is unclear yet whether the Probate Subcommittee's recommended procedural amendments to Title 75, Chapter 5 will have traction at the Legislature during the coming session. The Probate Subcommittee is in discussions with members of the Elder Law and Estate Planning sections of the Bar (other than those who are already members of the Probate Subcommittee) about feedback they have on the recommendations. And our legislative liaison is also still in discussions with Senator Hillyard about whether he is interested in sponsoring the amendments.

This group may be interested to know that the Probate Subcommittee has also made substantive recommendations for changes to Title 75, Chapter 5, which are attached. The Judicial Council will not be advancing the proposed substantive provisions because they are not the kind of legislation it would ordinarily take a position on. But the recommendations are available to other stakeholders who are interested in advancing them to the Legislature.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Draft Probate Legislation: Title 75, Chapter 5

Amended Code Sections

75-5-101. Jurisdiction of subject matter -- Consolidation of proceedings..... 2

75-5-207. Court appointment of guardian of minor -- Procedure..... 2

75-5-208. Consent to service by acceptance of appointment -- Notice. 3

75-5-212. Resignation or removal proceedings. 3

75-5-303. Procedure for court appointment of a guardian of an incapacitated person. 3

75-5-305. Acceptance of appointment -- Consent to jurisdiction. 5

75-5-308. Appointment of visitor in guardianship proceeding 6

75-5-309. Notices in guardianship proceedings..... 6

75-5-310. Emergency guardians. 7

75-5-310.5. Temporary guardians..... 7

75-5-312. General powers and duties of guardian -- Penalties. 8

75-5-312.5. Association between an adult ward and a relative of the adult ward. 11

75-5-316. Expedited guardianship proceedings..... 14

75-5-402. Protective proceedings -- Jurisdiction of affairs of protected persons. 17

75-5-405. Notice. 17

75-5-406. Protective proceedings -- Request for notice -- Interested person..... 17

75-5-407. Procedure concerning hearing and order on original petition. 18

75-5-412. Terms and requirements of bonds. 19

75-5-413. Acceptance of appointment -- Consent to jurisdiction. 19

75-5-417. General duty of conservator. 20

75-5-428. Claims against protected person -- Enforcement..... 21

26 **75-5-101. Jurisdiction of subject matter -- Consolidation of proceedings.**

27 (1) The court has jurisdiction over protective proceedings and guardianship proceedings.

28 (2) When both guardianship and protective proceedings as to the same person are
29 commenced or pending in the same court, the proceedings may be consolidated in accordance
30 with Rule 14 of the Utah Rules of Probate Procedure.

31 **75-5-207. Court appointment of guardian of minor -- Procedure.**

32 (1) Notice of the time and place of hearing of a petition for the appointment of a guardian of
33 a minor is to be given by the petitioner ~~in the manner prescribed by Section 75-1-401~~ in
34 accordance with Rule 5 of the Utah Rules of Probate Procedure to:

35 (a) the minor, if the minor is 14 years of age or older;

36 (b) the person who has had the principal care and custody of the minor during the 60 days
37 preceding the date of the petition;

38 (c) any living parent of the minor;

39 (d) any guardian appointed by the will or written instrument of the parent of the minor who
40 died last; and

41 (e) the school district in which the petitioner resides and a representative of the school
42 district may participate in the hearing.

43 (2)

44 (a) Upon hearing, if the court finds that a qualified person seeks appointment, venue is
45 proper, the required notices have been given in accordance with Rule 5 of the Utah Rules of
46 Probate Procedure, the requirements of Sections 75-5-204 and 75-5-206 have been met, and the
47 welfare and best interests of the minor will be served by the requested appointment, it may make
48 the appointment.

49 (b) In other cases the court may dismiss the proceedings or make any other disposition of the
50 matter that will best serve the interest of the minor.

51 (3)

52 (a) If necessary, the court may appoint a temporary guardian, with the status of an ordinary
53 guardian of a minor.

54 (b) The authority of a temporary guardian may not last longer than six months.

55 (4) If, at any time in the proceeding, the court determines that the interests of the minor are
56 or may be inadequately represented, it may appoint an attorney to represent the minor, giving
57 consideration to the preference of the minor if the minor is 14 years of age or older.

58 **75-5-208. Consent to service by acceptance of appointment -- Notice.**

59 By accepting a testamentary, instrumental, or court appointment as guardian, a guardian
60 submits personally to the jurisdiction of the court in any proceeding relating to the guardianship
61 that may be instituted by any interested person or any person interested in the welfare of the
62 minor. Notice of any proceeding shall be ~~delivered~~ given to the guardian in accordance with Rule
63 5 of the Utah Rules of Probate Procedure ~~to the guardian or mailed to him by ordinary mail at his~~
64 ~~address as listed in the court records and to his address as then known to the petitioner.~~ Letters of
65 guardianship shall indicate whether the guardian was appointed by will, written instrument, or by
66 court order.

67 **75-5-212. Resignation or removal proceedings.**

68 (1) Any person interested in the welfare of a ward, or the ward, if 14 or more years of age,
69 may petition for removal of a guardian on the ground that removal would be in the best interest
70 of the ward. A guardian may petition for permission to resign. A petition for removal or for
71 permission to resign may, but need not, include a request for appointment of a successor
72 guardian.

73 (2) After notice in accordance with Rule 5 of the Utah Rules of Probate Procedure and
74 hearing on a petition for removal or for permission to resign, the court may terminate the
75 guardianship and make any further order that may be appropriate.

76 (3) If, at any time in the proceeding, the court determines that the interests of the ward are, or
77 may be, inadequately represented, it may appoint an attorney in accordance with Rule 9 of the
78 Utah Rules of Probate Procedure to represent the minor, giving consideration to the preference of
79 the minor if the minor is 14 or more years of age.

80 **75-5-303. Procedure for court appointment of a guardian of an incapacitated person.**

81 (1) An incapacitated person or any person interested in the incapacitated person's welfare
82 may petition for a finding of incapacity and appointment of a guardian.

83 (2)

84 (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of
85 incapacity.

86 (b) Unless the allegedly incapacitated person has counsel of the person's own choice, the
87 court shall appoint an attorney to represent the person in the proceeding in accordance with Rule

88 | 9 of the Utah Rules of Probate Procedure, the cost of which shall be paid by the person alleged to
89 | be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated
90 | person's parents are indigent.

91 | (c) If the court determines that the petition is without merit, the attorney fees and court costs
92 | shall be paid by the person filing the petition.

93 | (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the
94 | incapacitated person, regardless of whether the nominee is specified in the moving petition or
95 | nominated during the proceedings, the petitioner shall be entitled to receive from the
96 | incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting,
97 | or defending the petition.

98 | (3) The legal representation of the incapacitated person by an attorney shall terminate upon
99 | the appointment of a guardian, unless:

100 | (a) there are separate conservatorship proceedings still pending before the court subsequent
101 | to the appointment of a guardian;

102 | (b) there is a timely filed appeal of the appointment of the guardian or the determination of
103 | incapacity; or

104 | (c) upon an express finding of good cause, the court orders otherwise.

105 | (4)

106 | (a) The person alleged to be incapacitated may be examined by a physician appointed by the
107 | court. The physician who shall submit a report in writing to the court.

108 | (b) In accordance with Rule 13 of the Utah Rules of Probate Procedure, the person alleged to be
109 | incapacitated and may be interviewed by a visitor sent by the court. The court visitor also may
110 | also interview the person seeking appointment as guardian, visit the present place of abode of the
111 | person alleged to be incapacitated and the place it is proposed that the person will be detained or
112 | reside if the requested appointment is made, conduct other investigations or observations as
113 | directed by the court, and submit a report in writing to the court.

114 | (5)

115 | (a) The person alleged to be incapacitated shall be present at the hearing in person and see or
116 | hear all evidence bearing upon the person's condition. If the person seeking the guardianship
117 | requests a waiver of presence of the person alleged to be incapacitated, the court shall order an
118 | investigation by a court visitor in accordance with Rule 13 of the Utah Rules of Probate
119 | Procedure, the costs of which shall be paid by the person seeking the guardianship.

- 120 (b) The investigation by a court visitor is not required if there is clear and convincing
121 evidence from a physician that the person alleged to be incapacitated has
- 122 (i) fourth stage Alzheimer's Disease;
- 123 (ii) extended comatosis; or
- 124 (iii)
- 125 (A) an intellectual disability; and
- 126 (B) an intelligence quotient score under 25.
- 127 (c) The person alleged to be incapacitated is entitled to be represented by counsel, to present
128 evidence, to cross-examine witnesses, including the court-appointed physician and the court
129 visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the
130 person alleged to be incapacitated or the person's counsel so requests.
- 131 (d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-
132 201(22), is not required if:
- 133 (i) the person is the biological or adopted child of the petitioner;
- 134 (ii) the value of the person's entire estate does not exceed \$20,000 as established by an
135 affidavit of the petitioner in accordance with Section 75-3-1201;
- 136 (iii) the person appears in court with the petitioner;
- 137 (iv) the person is given the opportunity to communicate, to the extent possible, the person's
138 acceptance of the appointment of petitioner;
- 139 (v) no attorney from the state court's list of attorneys who have volunteered to represent
140 respondents in guardianship proceedings is able to provide counsel to the person within 60 days
141 of the date of the appointment described in Subsection (2);
- 142 (vi) the court is satisfied that counsel is not necessary in order to protect the interests of the
143 person; and
- 144 (vii) the court appoints a visitor ~~under Subsection (4)~~ in accordance with Rule 13 of the Utah
145 Rules of Probate Procedure.

146 **75-5-305. Acceptance of appointment -- Consent to jurisdiction.**

147 By accepting appointment, a guardian submits personally to the jurisdiction of the court in any
148 proceeding relating to the guardianship that may be instituted by any interested person or any person
149 interested in the welfare of the ward. Notice of any proceeding shall be ~~delivered~~ given to the guardian as

150 | ~~provided in Rule 5 of the Utah Rules of Probate Procedure or mailed to him by ordinary mail at his~~
151 | ~~address as listed in the court records and to his address as then known to the petitioner.~~

152 | **75-5-308. Appointment of Visitor ~~visitor~~ in guardianship proceeding.**

153 | ~~A visitor is, with respect to guardianship proceedings, a person who is trained in law, nursing,~~
154 | ~~or social work and is an officer, employee, or special appointee of the court with no personal~~
155 | ~~interest in the proceedings.~~ A court visitor, as necessary, shall be appointed in accordance with
156 | this Title and Rule 13 of the Utah Rules of Probate Procedure.

157 | **75-5-309. Notices in guardianship proceedings.**

158 | (1) In a proceeding for the appointment or removal of a guardian of an incapacitated person
159 | other than the appointment of an emergency guardian or temporary suspension of a guardian,
160 | notice of hearing, in accordance with Rule 5 of the Utah Rules of Probate Procedure, shall be
161 | given to each of the following:

162 | (a) the ward or the person alleged to be incapacitated and spouse, parents, and adult children
163 | of the ward or person;

164 | (b) any person who is serving as guardian or conservator or who has care and custody of the
165 | ward or person;

166 | (c) in case no other person is notified under Subsection (1)(a), at least one of the closest adult
167 | relatives, if any can be found;

168 | (d) any guardian appointed by the will of the parent who died later or spouse of the
169 | incapacitated person; and

170 | (e) Adult Protective Services if Adult Protective Services has received a referral under Title
171 | 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult, concerning the
172 | welfare of the ward or person alleged to be incapacitated or concerning the guardian or
173 | conservator or proposed guardian or conservator.

174 | (2) The notice shall be in the form provided in Rule 8 of the Utah Rules of Probate Procedure
175 | and shall include in plain language and large type and the form shall have the final approval of
176 | the Judicial Council. The notice shall indicate the time and place of the hearing, the possible
177 | adverse consequences to the person receiving notice of rights, a list of rights, including the
178 | person's own or a court appointed counsel, and a copy of the petition.

179 | (3) Notice shall be served personally in accordance with Rule 4 of the Utah Rules of Probate
180 | Procedure on the alleged incapacitated person and the person's spouse and parents if they can be
181 | found within the state. Notice to the spouse and parents, if they cannot be found within the state,
182 | and to all other persons except the alleged incapacitated person shall be given ~~as provided in~~

183 | ~~Section 75-1-401~~ accordance with Rule 5 of the Utah Rules of Probate Procedure. Waiver of
184 | notice by the person alleged to be incapacitated is not effective unless the person attends the
185 | hearing or the person's waiver of notice is confirmed in an interview with the court visitor
186 | appointed pursuant to Section 75-5-303 and Rule 13 of the Utah Rules of Probate Procedure.

187 | **75-5-310. Emergency guardians.**

188 | (1) If an incapacitated person has no guardian and an emergency exists or if an appointed
189 | guardian is not effectively performing the guardian's duties and the court further finds that the
190 | welfare of the incapacitated person requires immediate action, it may, without notice, appoint an
191 | emergency guardian for the person for a specified period not to exceed 30 days pending notice
192 | and hearing.

193 | (2) Upon request by an interested person after the appointment of an emergency guardian,
194 | the court shall hold a hearing within ~~14 days~~ the time frame provided in Rule 8 of the Utah Rules
195 | of Probate Procedure and pursuant to Section 75-5-303.

196 | **75-5-310.5. Temporary guardians.**

197 | (1) If, after notice, in accordance with Rule 5 of the Utah Rules of Probate Procedure, and
198 | hearing as required by Section 75-5-303, the court finds good cause, the court may:

199 | (a) appoint a temporary guardian;

200 | (b) convert an emergency guardian to a temporary guardian if an emergency guardian has
201 | been appointed under Section 75-5-310; or

202 | (c) appoint a different person as temporary guardian to replace an emergency guardian
203 | appointed under Section 75-5-310.

204 | (2) Unless the allegedly incapacitated person has already obtained counsel in this proceeding
205 | or an attorney has been already appointed for the person, the court shall appoint an attorney to
206 | represent the person in the proceeding.

207 | (3) Until a full hearing and further order of the court, the temporary guardian shall be
208 | charged with the care and custody of the ward and may not permit the ward to be removed from
209 | the state. The authority of any permanent guardian previously appointed by the court is
210 | suspended so long as a temporary guardian has authority.

211 | (4) A temporary guardian may be removed at any time, and shall obey all orders and make
212 | any reports required by the court.

213 | (5) A temporary guardian has all of the powers and duties of a permanent guardian as set
214 | forth in Section 75-5-312.

215 **75-5-312. General powers and duties of guardian -- Penalties.**

216 (1) A guardian of an incapacitated person has only the powers, rights, and duties respecting
217 the ward granted in the order of appointment under Section 75-5-304.

218 (2) Except as provided in Subsection (4), a guardian has the same powers, rights, and duties
219 respecting the ward that a parent has respecting the parent's unemancipated minor child.

220 (3) In particular, and without qualifying Subsections (1) and (2), a guardian has the following
221 powers and duties, except as modified by order of the court:

222 (a) To the extent that it is consistent with the terms of any order by a court of competent
223 jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody
224 of the person of the ward and may establish the ward's place of abode within or without this
225 state.

226 (b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and
227 maintenance of the ward and, whenever appropriate, arrange for the ward's training and
228 education. Without regard to custodial rights of the ward's person, the guardian shall take
229 reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and
230 commence protective proceedings if other property of the ward is in need of protection.

231 (c) A guardian may give any consents or approvals that may be necessary to enable the ward
232 to receive medical or other professional care, counsel, treatment, or service.

233 (d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or
234 friends.

235 (e) If no conservator for the estate of the ward has been appointed, the guardian may:

236 (i) institute proceedings to compel any person under a duty to support the ward or to pay
237 sums for the welfare of the ward to perform that duty;

238 (ii) compel the production of the ward's estate documents, including the ward's will, trust,
239 power of attorney, and any advance health care directive; and

240 (iii) receive money and tangible property deliverable to the ward and apply the money and
241 property for support, care, and education of the ward:

242 (A) except that the guardian may not use funds from the ward's estate for room and board that
243 the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for
244 the service is approved by order of the court made upon notice to at least one adult relative in the
245 nearest degree of kinship to the ward in which there is an adult; and

246 (B) the guardian shall exercise care to conserve any excess for the ward's needs.

- 247 (f)
- 248 (i) A guardian is required to report the condition of the ward and of the estate that has been
249 subject to the guardian's possession or control, as required by the court or court rule.
- 250 (ii) A guardian is required to immediately notify all interested persons if the guardian
251 reasonably believes that the ward's death is likely to occur within the next 30 days, based on:
- 252 (A) the guardian's own observations; or
- 253 (B) information from the ward's physician or other medical care providers.
- 254 (iii) A guardian is required to immediately notify persons who request notification and are not
255 restricted in associating with the ward pursuant to Section 75-5-312.5 of:
- 256 (A) the ward's admission to a hospital for three or more days or to a hospice program;
- 257 (B) the ward's death; and
- 258 (C) the arrangements for the disposition of the ward's remains .
- 259 (iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of
260 the guardian's intent to move the ward and to ~~serve~~ give the notice in accordance with Rule 5 of
261 the Utah Rules of Probate Procedure, on to all interested persons at least 10 days before the
262 move. The guardian shall take reasonable steps to notify all interested persons and to file the
263 notice with the court as soon as practicable following the earlier of the move or the date when the
264 guardian's intention to move the ward is made known to the ward, the ward's care giver, or any
265 other third party.
- 266 (v)
- 267 (A) If no conservator for the estate of the ward has been appointed, the guardian shall, for all
268 estates in excess of \$50,000, excluding the residence owned by the ward, ~~send~~ file a report with a
269 full accounting to the court on an annual basis.
- 270 (B) For estates less than \$50,000, excluding the residence owned by the ward, the guardian
271 shall fill out an informal annual report and ~~mail~~ file the report ~~to~~ with the court.
- 272 (C) A report under Subsection (3)(f)(v)(A) or (B) shall include a statement of assets at the
273 beginning and end of the reporting year, income received during the year, disbursements for the
274 support of the ward, and other expenses incurred by the estate. The guardian shall also report the
275 physical conditions of the ward, the place of residence, and a list of others living in the same
276 household. The court may require additional information.

277 (D) The forms for both the informal report for estates under \$50,000, excluding the residence
278 owned by the ward, and the full accounting report for larger estates shall be approved by the
279 Judicial Council.

280 (E) An annual report shall be examined and approved by the court.

281 (F) If the ward's income is limited to a federal or state program requiring an annual
282 accounting report, a copy of that report may be submitted to the court in lieu of the required
283 annual report.

284 (vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal
285 report annually to the court. The report shall be examined and approved by the court.

286 (vii) The guardian shall also render an annual accounting of the status of the person to the
287 court that shall be included in the petition or the informal annual report as required under this
288 Subsection (3)(f). If a fee is paid for an accounting of an estate, a fee may not be charged for an
289 accounting of the status of a person.

290 (viii) If a guardian:

291 (A) makes a substantial misstatement on filings of annual reports;

292 (B) is guilty of gross impropriety in handling the property of the ward; or

293 (C) willfully fails to file the report required by this Subsection (3)(f), after receiving written
294 notice from the court of the failure to file and after a grace period of two months has elapsed, the
295 court may impose a penalty in an amount not to exceed \$5,000.

296 (ix) The court may also order restitution of funds misappropriated from the estate of a ward.
297 The penalty shall be paid by the guardian and may not be paid by the estate.

298 (x) The provisions and penalties in this Subsection (3)(f) governing annual reports do not
299 apply if the guardian or a coguardian is the parent of the ward.

300 (xi) For the purposes of Subsections (3)(f)(i), (ii), (iii), and (iv), "interested persons" means
301 those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-
302 309.

303 (g) If a conservator has been appointed:

304 (i) all of the ward's estate received by the guardian in excess of those funds expended to
305 meet current expenses for support, care, and education of the ward shall be paid to the
306 conservator for management as provided in this code; and

307 (ii) the guardian shall account to the conservator for funds expended.

308 (4)

309 (a) A court may, in the order of appointment, place specific limitations on the guardian's
310 power.

311 (b) A guardian may not prohibit or place restrictions on association with a relative or
312 qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-
313 312.5.

314 (c) A guardian is not liable to a third person for acts of the guardian's ward solely by reason
315 of the relationship described in Subsection (2).

316 (5) Any guardian of one for whom a conservator also has been appointed shall control the
317 custody and care of the ward and is entitled to receive reasonable sums for services and for room
318 and board furnished to the ward as agreed upon between the guardian and the conservator, if the
319 amounts agreed upon are reasonable under the circumstances. The guardian may request the
320 conservator to expend the ward's estate by payment to third persons or institutions for the ward's
321 care and maintenance.

322 (6) A person who refuses to accept the authority of a guardian with authority over financial
323 decisions to transact business with the assets of the protected person after receiving a certified
324 copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the
325 court determines that the person did not act in good faith in refusing to accept the authority of the
326 guardian.

327 (7) A guardian shall, to the extent practicable, encourage the ward to participate in decisions,
328 exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to
329 manage the ward's personal affairs. To the extent known, a guardian, in making decisions, shall
330 consider the expressed desires and personal values of the ward.

331 **75-5-312.5. Association between an adult ward and a relative of the adult ward.**

332 (1) As used in this section:

333 (a) "Associate" or "association" means:

334 (i) visitation of an adult ward by a relative or qualified acquaintance; or

335 (ii) communication between an adult ward and a relative or qualified acquaintance in any
336 form, including by telephone, mail, or electronic communication.

337 (b) "Qualified acquaintance" means an individual, other than a relative of the adult ward,
338 who:

339 (i) has established a significant, mutual friendship with the adult ward; or

- 340 (ii) is clergy in the adult ward's religion or religious congregation.
- 341 (c) "Relative" means an adult ward's spouse, parent, step-parent, child, step-child, sibling,
342 step-sibling, half-sibling, grandparent, grandchild, uncle, aunt, nephew, niece, or first cousin.
- 343 (2)
- 344 (a) Except as otherwise provided by court order, a guardian may not restrict or prohibit the
345 right of an adult ward to associate with a relative or qualified acquaintance of the adult ward.
- 346 (b) If an adult ward is unable to express consent to visitation by a relative or a qualified
347 acquaintance of the adult ward, the consent of the adult ward is presumed based on evidence of a
348 prior relationship between the adult ward and the relative or qualified acquaintance of the adult
349 ward.
- 350 (c) A guardian may not permit a relative or qualified acquaintance of an adult ward to
351 associate with the adult ward:
- 352 (i) if a court order prohibits the association;
- 353 (ii) in a manner prohibited by court order; or
- 354 (iii) if the adult ward expresses a desire to not associate with the relative or qualified
355 acquaintance.
- 356 (3) A guardian may, as part of the initial guardianship proceeding, petition the court to issue
357 an order:
- 358 (a) prohibiting or placing conditions on association between an adult ward and a relative or
359 qualified acquaintance of the adult ward; or
- 360 (b) granting the guardian the authority to prohibit or place conditions on association between
361 an adult ward and a relative or qualified acquaintance of the adult ward.
- 362 (4) A guardian may, at any time after the initial guardianship proceeding:
- 363 (a) petition the court to issue an order described in Subsection (3) or to rescind or modify an
364 order described in Subsection (3); or
- 365 (b) petition, subject to notice, the court on an emergency basis to issue a temporary order
366 until further order of the court described in Subsection (3) or to rescind or modify an order
367 described in Subsection (3).
- 368 (5) An adult ward, a relative of an adult ward, or a qualified acquaintance of an adult ward
369 may, at any time after the initial guardianship proceeding, petition the court to rescind or modify
370 an order described in Subsection (3).

- 371 (6) If a guardian violates Subsection (2), the adult ward, a relative of the adult ward, or a
372 qualified acquaintance of the adult ward may do one or more of the following, as applicable:
- 373 (a) petition the court to issue an order to show cause why the guardian should not be held in
374 contempt of court;
- 375 (b) seek an injunction to enforce compliance by the guardian with the law and any applicable
376 court order; or
- 377 (c) petition the court to have the guardian removed as guardian of the adult ward.
- 378 (7) For a hearing on a petition filed under this section, a court:
- 379 (a) may appoint a court visitor in accordance with Rule 13 of the Utah Rules of Probate
380 Procedure to meet with the adult ward to determine the wishes of the adult ward regarding
381 association;
- 382 (b) shall, in accordance with Rule 5 the Utah Rules of Probate Procedure, give notice and
383 provide an opportunity to be heard to the guardian, the adult ward, and the relative or qualified
384 acquaintance;
- 385 (c) shall preserve the right of the adult ward to be present at the hearing; and
- 386 (d) may order supervised visitation by the relative or qualified acquaintance before the
387 hearing.
- 388 (8) A court may not enter an order prohibiting or placing restrictions on association between
389 an adult ward and a relative or qualified acquaintance, unless the court finds by a preponderance
390 of the evidence that:
- 391 (a) the adult ward desires the prohibition or restriction;
- 392 (b) if the adult ward had the capacity to make a knowing and intelligent decision regarding
393 the association, the adult ward would prohibit the association or impose the restriction; or
- 394 (c) the prohibition or restriction is the least restrictive means necessary to protect the health
395 or welfare of the adult ward.
- 396 (9) In making the determination described in Subsection (8), the court may consider any
397 relevant evidence, including:
- 398 (a) the wishes of the adult ward, expressed during or before the guardianship;
- 399 (b) the history of the relationship between the adult ward and the relative or qualified
400 acquaintance;

401 (c) any history of criminal activity, abuse, neglect, or violence by the relative or qualified
402 acquaintance; or

403 (d) whether a protective order was ever issued against the relative or qualified acquaintance
404 with respect to the adult ward.

405 (10) Except as provided in Subsection (11), the guardian shall have the burden of proof when:

406 (a) seeking an order prohibiting association or placing restrictions on association with a
407 relative or qualified acquaintance of the adult ward;

408 (b) modifying an order to place additional prohibitions or restrictions on association with a
409 relative or qualified acquaintance of the adult ward; or

410 (c) opposing an action described in Subsection (6)(a) or (b).

411 (11) The relative or qualified acquaintance shall have the burden of proof if the relative or
412 qualified acquaintance is seeking to modify an order previously entered by a court under this
413 section.

414 (12)

415 (a) If, in a proceeding under this section, the court finds that the petition was filed frivolously
416 or in bad faith, the court shall award attorney fees to a party opposing the petition.

417 (b) If, in a proceeding under this section, the court finds that the guardian is in contempt of
418 court or has acted frivolously or in bad faith in prohibiting or restricting association, the court:

419 (i) may award attorney fees to the prevailing party; and

420 (ii) may impose a sanction, not to exceed \$1,000, against the guardian.

421 (c) A court shall prohibit attorney fees awarded under this section from being paid by the
422 adult ward or the adult ward's estate.

423 **75-5-316. Expedited guardianship proceedings.**

424 (1)

425 (a) With regard to persons who are residents of the Utah State Developmental Center, the
426 expedited process provided by this section may be applied to obtain a limited guardianship.

427 (b) For purposes of this section:

428 (i) "Limited guardianship" means a guardianship solely for the purpose of granting consent
429 for medical care and for participation in approval of the ward's individualized program plan.

- 430 (ii) "Ward" means a resident of the Utah State Developmental Center who is the subject of
431 guardianship proceedings under this section.
- 432 (2) Any person interested in the incapacitated person's welfare may file a petition for a
433 finding of incapacity and appointment of a guardian. That person may seek the limited
434 guardianship pro se, using the forms described in this section. Any fee for filing a petition for a
435 limited guardianship shall be waived if the guardian is proceeding under this section.
- 436 (3) Upon filing a petition for limited guardianship under this section, the court shall set a date
437 for hearing.
- 438 (4) The ward has the right to be present at the hearing and to see and hear all evidence
439 relating to his condition.
- 440 (5) At that hearing the court shall review the affidavit of the superintendent of the Utah State
441 Developmental Center, described in Subsection (11), and determine whether notice has been
442 given to the appropriate persons described in Subsection (6).
- 443 (6) If the proposed guardian is not a parent or relative of the ward, ~~personal~~ notice shall be
444 ~~given to~~ served on the ward's spouse, parents, and any adult children of the ward in accordance
445 with Rule 4 of the Utah Rules of Probate Procedure. ~~Personal~~ Notice shall also be given served
446 on ~~to~~ other persons as the court may direct.
- 447 (7) The court may, in its discretion, appoint a guardian ad litem to represent the ward in the
448 hearing, and may request independent evaluation by a physician appointed by the court. The
449 physician shall submit his findings to the court in writing.
- 450 (8) The court may grant the petition for a limited guardianship and sign the Order of
451 Appointment if the court finds that:
- 452 (a) the appropriate parties have been ~~given properly served~~ notice;
- 453 (b) the ward is incapacitated, based on the affidavit of the superintendent of the Utah State
454 Developmental Center and any affidavit or testimony of persons entitled to receive notice or
455 requested to present evidence under this section; and
- 456 (c) it is necessary and desirable to establish the guardianship.
- 457 (9) Venue for these expedited guardianship proceedings shall be the same as that described
458 in Section 75-5-302.
- 459 (10) A petition for a limited guardianship shall include the following information:
- 460 (a) the interest of the petitioner;
- 461 (b) the name, age, residence, and address of the ward;

- 462 (c) verification that the ward is a resident of the Utah State Developmental Center;
- 463 (d) the name and address of the nearest relative of the ward; and
- 464 (e) the reason for appointment of guardianship.
- 465 (11) The petitioner shall also provide the court with an affidavit of the superintendent of the
466 Utah State Developmental Center that includes the following information:
- 467 (a) that the ward is a resident of the Utah State Developmental Center;
- 468 (b) the date the ward was originally admitted to the Utah State Developmental Center;
- 469 (c) the diagnosis of the ward, including a description of the ward's disabling condition, the
470 level of the ward's intellectual disability, and any medical or physical conditions of the ward;
- 471 (d) that the Utah State Developmental Center is certified as an intermediate care facility for
472 people with an intellectual disability;
- 473 (e) that because of that certification, the Utah State Developmental Center receives financial
474 participation from the United States Government for its operation and maintenance costs; and
- 475 (f) that federal regulations under Title XIX require the ward to have a guardian appointed for
476 the sole purpose of giving consent for medical and dental care and of participation in and
477 approval of the ward's individual program plan.
- 478 (12) If the court finds that, under the requirements of this section the proposed limited
479 guardian should be appointed, it shall enter an order establishing that limited guardianship in
480 substantially the following form:
- 481 The court finds that:
- 482 (a) appointment of a limited guardianship for (named ward) is necessary and desirable as a
483 means of providing continuing care and supervision and to ensure his welfare;
- 484 (b) the ward is incapacitated;
- 485 (c) (named guardian) is appointed as the limited guardian of (named ward); and
- 486 (d) the guardianship is a limited guardianship solely for the purpose of:
- 487 (i) granting permission for medical and dental care on behalf of the ward; and
- 488 (ii) participation in the development and approval of the ward's individual program plan.
- 489 (13) Appointment of guardianship under this section places no additional responsibility or
490 liability on the guardian with regard to the ward. The limited guardianship is solely for consent

491 for medical care and approval of the ward's individualized program plan, and shall not be
 492 construed to increase or create liability or responsibility for the guardian.

493 **75-5-402. Protective proceedings -- Jurisdiction of affairs of protected persons.**

494 | After the service of notice, as provided in Rule 4 of the Utah Rules of Probate Procedure, in a
 495 proceeding seeking the appointment of a conservator or other protective order and until
 496 termination of the proceeding, the court in which the petition is filed has:

497 (1) Exclusive jurisdiction to determine the need for a conservator or other protective order
 498 until the proceedings are terminated;

499 (2) Exclusive jurisdiction to determine how the estate of the protected person which is
 500 subject to the laws of this state shall be managed, expended, or distributed to or for the use of the
 501 protected person or any of his dependents;

502 (3) Concurrent jurisdiction to determine the validity of claims against the person or estate of
 503 | the protected person and his title to any property or claim.

504 **75-5-405. Notice.**

505 (1) On a petition for appointment of a conservator or other protective order, the person to be
 506 | protected and his spouse or, if none, ~~his~~ the person's parents, must be served personally with
 507 notice of the proceeding in accordance with Rule 4 of the Utah Rules of Probate Procedure. ~~at~~
 508 ~~least 10 days before the date of the hearing if they can be found within the state, or, if they~~
 509 ~~cannot be found within the state, they must be given notice in accordance with Section 75-1-401.~~
 510 Waiver by the person to be protected is not effective unless ~~he~~ the person attends the hearing or,
 511 unless minority is the reason for the proceeding, waiver is confirmed in an interview with the
 512 | court visitor.

513 (2) Notice of a petition for appointment of a conservator or other initial protective order, and
 514 of any subsequent hearing, must be given to any person who has filed a request for notice under
 515 | Section 75-5-406 and to interested persons and other persons as the court may direct in
 516 accordance with Rule 5 of the Utah Rules of Probate Procedure. ~~Except as otherwise provided in~~
 517 ~~Subsection (1) above, notice shall be given in accordance with Section 75-1-401.~~

518 **75-5-406. Protective proceedings -- Request for notice -- Interested person.**

519 Any interested person who desires to be notified before any order is made in a protective
 520 | proceeding may file with the ~~registrar~~ clerk of court a request for notice subsequent to payment
 521 of any fee required by statute or court rule. In accordance with Rule 5 of the Utah Rules of
 522 Probate Procedure, ~~t~~ The clerk shall mail ~~give a copy of the~~ notice of the demand request to the
 523 conservator if one has been appointed. A request is not effective unless it contains a statement

524 showing the interest of the person making it and his address, or that of his attorney, and is
525 effective only as to matters occurring after the filing. Any governmental agency paying or
526 planning to pay benefits to the person to be protected is an interested person in protective
527 proceedings.

528 **75-5-407. Procedure concerning hearing and order on original petition.**

529 (1) Upon receipt of a petition for appointment of a conservator or other protective order
530 because of minority, the court shall set a date for the hearing on the matters alleged in the
531 petition. If, at any time in the proceeding, the court determines that the interests of the minor are
532 or may be inadequately represented, it may, in accordance with Rule 9 the Utah Rules of Probate
533 Procedure, appoint an attorney to represent the minor, giving consideration to the choice of the
534 minor if 14 years of age or older. An attorney appointed by the court to represent a minor has the
535 powers and duties of a guardian ad litem.

536 (2) Upon receipt of a petition for appointment of a conservator or other protective order for
537 reasons other than minority, the court shall set a date for hearing. Unless the person to be
538 protected has already retained counsel, the court may appoint an attorney to represent the person
539 to be protected who then has the powers and duties of a guardian ad litem.

540 (3) The legal representation of the protected person by an attorney shall terminate upon the
541 appointment of a conservator, unless:

542 (a) there are separate guardianship proceedings still pending before the court subsequent to
543 the appointment of a conservator;

544 (b) there is a timely filed appeal of the appointment of the conservator; or

545 (c) upon an express finding of good cause, the court orders otherwise.

546 (4) If the alleged disability is mental illness, mental deficiency, physical illness or disability,
547 advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person
548 to be protected be examined by a physician designated by the court, preferably a physician who
549 is not connected with any institution in which the person is a patient or is detained. The court
550 may ~~send~~ appoint a visitor to interview the person to be protected in accordance with Rule 13 of
551 the Utah Rules of Probate Procedure. ~~The visitor may be a guardian ad litem or an officer or~~
552 ~~employee of the court.~~

553 (5) After hearing, upon finding that a basis for the appointment of a conservator or other
554 protective order has been established, the court shall make an appointment or other appropriate
555 protective order.

556 **75-5-412. Terms and requirements of bonds.**

557 (1) The following requirements and provisions apply to any bond required under Section 75-
558 5-411:

559 (a) Unless otherwise provided by the terms of the approved bond, sureties are jointly and
560 severally liable with the conservator and with each other;

561 (b) By executing an approved bond of a conservator, the surety consents to the jurisdiction of
562 the court which issued letters to the primary obligor in any proceeding pertaining to the fiduciary
563 duties of the conservator and naming the surety as a party defendant. Notice of the proceeding
564 shall be ~~delivered~~ given to the surety in accordance with Rule 5 of the Utah Rules of Probate
565 Procedure; ~~or mailed to him by registered or certified mail at his address as listed with the court~~
566 ~~where the bond is filed and to his address as then known to the petitioner;~~

567 (c) On petition of a successor conservator or any interested person, a proceeding may be
568 initiated against a surety for breach of the obligation of the bond of the conservator;

569 (d) The bond of the conservator is not void after the first recovery but may be proceeded
570 against from time to time until the whole penalty is exhausted.

571 (2) No proceeding may be commenced against the surety on any matter as to which an action
572 or proceeding against the primary obligor is barred by adjudication or limitation under this code.

573 **75-5-413. Acceptance of appointment -- Consent to jurisdiction.**

574 By accepting appointment, a conservator submits personally to the jurisdiction of the court in
575 any proceeding relating to the estate that may be instituted by any interested person. Notice of
576 any proceeding shall be given ~~delivered~~ to the conservator in accordance with Rule 5 of the Utah
577 Rules of Probate Procedure ~~or mailed to him by registered or certified mail at his address as listed~~
578 ~~in the petition for appointment, or as thereafter reported to the court, and to his address as then~~
579 ~~known to the petitioner.~~

580 **75-5-416. -Petitions for orders subsequent to appointment.**

581 (1) Any person interested in the welfare of a person for whom a conservator has been
582 appointed may file a petition in the appointing court for an order:

583 (a) requiring bond or security or additional bond or security, or reducing bond;

584 (b) requiring an accounting for the administration of the conservatorship estate;

585 (c) directing distribution;

586 (d) removing the conservator and appointing a temporary or successor conservator; or

587 (e) granting other appropriate relief, including any relief available under Title 75, Chapter 7,
588 Utah Uniform Trust Code, if the protected person is a grantor, settlor, trustor, or beneficiary of a
589 trust.

590 (2) A conservator may petition the appointing court for instructions concerning the
591 conservator's fiduciary responsibility.

592 | (3) Upon notice, in accordance with Rule 5 of the Utah Rules of Probate Procedure, and
593 hearing the court may give appropriate instructions or make any appropriate order.

594 **75-5-417. General duty of conservator.**

595 (1) A conservator shall act as a fiduciary and shall observe the standards of care as set forth
596 in Section 75-7-902.

597 (2) The conservator shall, for all estates in excess of \$50,000, excluding the residence owned
598 | by the ward, ~~send-file~~ a report with a full accounting to the court on an annual basis. For estates
599 less than \$50,000, excluding the residence owned by the ward, the conservator shall fill out an
600 | informal annual report and ~~mail-file~~ the report to the court. The report shall include the
601 | following: a statement of assets at the beginning and end of the reporting year, income received
602 during the year, disbursements for the support of the ward, and other expenses incurred by the
603 estate. The court may require additional information. The forms for both the informal report for
604 estates under \$50,000, excluding the residence owned by the ward, and the full accounting report
605 for larger estates shall be approved by the judicial council. This annual report shall be examined
606 and approved by the court.

607 (3) Corporate fiduciaries are not required to fully petition the court, but shall submit their
608 internal report annually to the court. The report shall be examined and approved by the court.

609 (4)

610 (a) The court may impose a fine in an amount not to exceed \$5,000, if, after receiving
611 written notice of the failure to file and after a grace period of two months have elapsed, a
612 conservator or corporate fiduciary:

613 (i) makes a substantial misstatement on filings of any required annual reports;

614 (ii) is guilty of gross impropriety in handling the property of the ward; or

615 (iii) willfully fails to file the report required by this section.

616 (b) The court may also order restitution of funds misappropriated from the estate of a ward.

617 (c) The penalty shall be paid by the conservator or corporate fiduciary and may not be paid
618 by the estate.

619 (5) These provisions and penalties governing annual reports do not apply if the conservator is
620 the parent of the ward.

621 **75-5-428. Claims against protected person -- Enforcement.**

622 (1) A conservator must pay from the estate all just claims against the estate and against the
623 protected person arising before or after the conservatorship upon their presentation and
624 allowance. A claim may be presented by either of the following methods:

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

627 (b) The claimant may file a written statement of the claim, in the form prescribed by rule,
628 with the clerk of the court and deliver or mail a copy of the statement to the conservator. A claim
629 is considered presented on the first to occur of receipt of the written statement of claim by the
630 conservator, or the filing of the claim with the court.

631 (2) A presented claim is allowed if it is not disallowed by written statement mailed by the
632 conservator to the claimant within 60 days after its presentation. The presentation of a claim tolls
633 any statute of limitation relating to the claim until 30 days after its disallowance.

634 (3) A claimant whose claim has not been paid may petition the court for determination of his
635 claim at any time before it is barred by the applicable statute of limitation, and, upon due proof,
636 procure an order for its allowance and payment from the estate. If a proceeding is pending
637 against a protected person at the time of appointment of a conservator or is initiated against the
638 protected person thereafter, the moving party must give notice of the proceeding to the
639 conservator in accordance with Rule 5 of the Utah Rules of Probate Procedure if the outcome is
640 to constitute a claim against the estate.

641 (4) If it appears that the estate in conservatorship is likely to be exhausted before all existing
642 claims are paid, preference is to be given to prior claims for the care, maintenance, and education
643 of the protected person or his dependents and existing claims for expenses of administration.

644 _____

1 **Draft Rules to Accompany Recommended Changes to Title 75, Chapter 5**

2 **Utah Rules of Probate Procedure**

3 RULE 1. GENERAL PROVISIONS..... 2

4 RULE 2. DEFINITIONS..... 3

5 RULE 3. COMMENCEMENT OF PROBATE PROCEEDING..... 4

6 RULE 4. PROCESS..... 5

7 RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS..... 8

8 RULE 6. TIME..... 11

9 RULE 7. PLEADINGS ALLOWED..... 12

10 RULE 8. HEARINGS..... 13

11 RULE 9. APPOINTMENT OF ATTORNEY FOR RESPONDENT IN GUARDIANSHIP,
12 CONSERVATORSHIP, AND OTHER PROTECTIVE PROCEEDINGS..... 15

13 RULE 10. FORM OF PLEADINGS AND OTHER PAPERS..... 17

14 RULE 11. SIGNING OF PLEADINGS, MOTIONS, AFFIDAVITS, AND OTHER PAPERS;
15 REPRESENTATIONS TO COURT; SANCTIONS..... 18

16 RULE 12. DEFENSES, OBJECTIONS, COUNTERCLAIMS, AND CROSS CLAIMS..... 19

17 RULE 13. COURT VISITOR..... 20

18 RULE 14. CONSOLIDATION..... 23

19

20

21

22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Utah Rules of Probate Procedure, Rule 1

RULE 1. GENERAL PROVISIONS.

(a) **Title.** These rules may be known and cited as the Utah Rules of Probate Procedure, or abbreviated URPP.

(b) **Scope of rules.** These rules govern the procedure in the state courts of Utah in all proceedings filed under Title 75 of the Utah Code.

(c) **Purpose of rules.** The purpose of the probate rules is to provide the fair, prompt, economical, and equitable resolution of proceedings and they shall be liberally construed and applied to achieve those purposes.

(d) **Effective date.** These rules govern all petitions filed after the rules take effect and all further activity in proceedings then pending. If, in the opinion of the court, applying a rule in a pending proceeding when the rule takes effect would not be feasible or would be unjust, the Utah Rules of Civil Procedure apply.

(e) **Jurisdiction and venue unaffected.** These rules shall not be construed to extend or limit the jurisdiction of the courts of this state or the venue of actions therein.

(f) **Probate Proceeding.** A probate proceeding is a civil action.

44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61

Utah Rules of Probate Procedure, Rule 2

RULE 2. DEFINITIONS.

For purposes of these rules:

1) “Interested person,” as that term is defined in Utah Code Section 75-1-201, is a person or entity who is required to be served notice under Title 75 or, who has participated in the proceedings. The meaning of “interested person” as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.

2) “Participated in the proceedings” means filing a request for notice of the proceedings or filing a written objection or written response to a petition filed under Title 75 of the Utah Code.

3) “Parties” means, in proceedings under Title 75 of the Utah Code, the petitioner, respondent, and interested persons. “Party” means any one of the parties.

4) “Respondent” means “allegedly incapacitated person,” “incapacitated person,” “person alleged to be incapacitated,” “person to be protected,” “protected person,” and “ward” as those terms are used in Title 75, Chapter 5 of the Utah Code. “Respondent” also means, in proceedings under the other chapters of Title 75, a person or entity who has the legal right to respond to an informal or formal probate petition.

62

Utah Rules of Probate Procedure, Rule 3

63

RULE 3. COMMENCEMENT OF PROBATE PROCEEDING.

64

(a) How commenced. A proceeding under Title 75 of the Utah Code is commenced by the filing of a petition with the court, together with the tender of the appropriate filing fee.

65

66

(b) Dishonored payment. If a check or other form of payment tendered as a filing fee is dishonored, the party shall pay the fee by cash or cashier's check within 10 days after notification by the court. Dishonor of a check or other form of payment does not affect the validity of the filing, but may be grounds for such sanctions as the court deems appropriate, which may include dismissal of the action.

67

68

69

70

71

(b) Time of jurisdiction. The court shall have jurisdiction from the time of filing of the petition.

72

73

DRAFT

Utah Rules of Probate Procedure, Rule 4

RULE 4. PROCESS.

(a) Requirement for, and signing of, summons. In proceedings where a summons is required, the summons must be signed and issued by the petitioner or the petitioner's attorney. Separate summonses may be signed and issued.

(b) Time of service. Unless the summons and petition are accepted in accordance with paragraph (d)(3), a copy of the summons and petition in a proceeding commenced under [Rule 3](#) must be served no later than 120 days after the petition is filed, unless the court orders a different period under [Rule 6](#).

(c) Contents of summons.

(c)(1) The summons must:

(c)(1)(A) contain the name and address of the court, the names of the parties to the action, and the county in which it is brought;

(c)(1)(B) be directed to the respondent and any person required to be served in accordance with this rule or served personally under Title 75;

(c)(1)(C) state the name, address and telephone number of the petitioner's attorney, if any, and otherwise the petitioner's address and telephone number;

(c)(1)(D) state the time within which the respondent and any interested person is required to respond or object to the petition in writing;

(c)(1)(E) notify the respondent and any interested person that a failure to respond in writing to the petition, may result in action being taken that adversely affects the respondent's or interested person's rights or abilities to dispute the relief sought; and

(c)(1)(F) state that the petition is on file with the court.

(c)(2) If service is by publication, the summons must also briefly state the subject matter and the relief demanded, and that the petition is on file with the court.

(d) Methods of service. The summons and petition may be served in any state or judicial district of the United States. Unless service is accepted, service of the summons and petition must be by one of the following methods:

(d)(1) *Personal service.* The summons and petition may be served by any person 18 years of age or older at the time of service and not a party to the action or a party's attorney. If the person to be served refuses to accept a copy of the summons and petition, service is sufficient if the person serving them states the name of the process and offers to deliver them. Personal service must be made as follows:

107 (d)(1)(A) Upon any individual other than one covered by paragraphs (d)(1)(B),
108 (d)(1)(C) or (d)(1)(D), by delivering a copy of the summons and petition to the individual
109 personally, or by leaving them at the individual's dwelling house or usual place of abode
110 with a person of suitable age and discretion who resides there, or by delivering them to an
111 agent authorized by appointment or by law to receive process;

112 (d)(1)(B) Upon a minor under 14 years old by delivering a copy of the summons and
113 petition to the minor and also to the minor's father, mother, or guardian or, if none can be
114 found within the state, then to any person having the care and control of the minor, or
115 with whom the minor resides, or by whom the minor is employed;

116 (d)(1)(C) Upon an individual judicially declared to be incapacitated, of unsound
117 mind, or incapable of conducting the individual's own affairs, by delivering a copy of the
118 summons and petition to the individual and to the guardian or conservator of the
119 individual if one has been appointed; the individual's legal representative if one has been
120 appointed, and, in the absence of a guardian, conservator, or legal representative, to the
121 person, if any, who has care, custody, or control of the individual;

122 (d)(1)(D) Upon an individual incarcerated or committed at a facility operated by the
123 state or any of its political subdivisions, by delivering a copy of the summons and petition
124 to the person who has the care, custody, or control of the individual, or to that person's
125 designee or to the guardian or conservator of the individual if one has been appointed.
126 The person to whom the summons and petition are delivered must promptly deliver them
127 to the individual;

128 (d)(1)(E) Upon other persons or entities as provided in rule 4(d)(1) or Rule 4(d)(2)(B)
129 of the Utah Rules of Civil Procedure.

130 (d)(2) *Service by mail or commercial courier service.*

131 (d)(2)(A) The summons and petition may be served upon an individual other than one
132 covered by paragraphs (d)(1)(B) or (d)(1)(C) by mail or commercial courier service in
133 any state or judicial district of the United States provided the defendant signs a document
134 indicating receipt.

135 (d)(2)(B) Service by mail or commercial courier service shall be complete on the date
136 the receipt is signed as provided by this rule.

137 (d)(3) *Acceptance of service.*

138 (d)(3)(A) Duty to avoid expenses. All parties have a duty to avoid unnecessary
139 expenses of serving the summons and petition.

140 (d)(3)(B) Acceptance of service by party. Unless the person to be served is a minor
141 under 14 years old or an individual judicially declared to be incapacitated, of unsound
142 mind, or incapable of conducting the individual's own affairs, a party may accept service
143 of a summons and petition by signing a document that acknowledges receipt of the
144 summons and petition.

145 (d)(3)(C) Acceptance of service by attorney for party. An attorney may accept service
146 of a summons and petition on behalf of the attorney's client by signing a document that
147 acknowledges receipt of the summons and petition.

148 (d)(3)(D) Effect of acceptance, proof of acceptance. A person who accepts service of
149 the summons and petition retains all defenses and objections, except for adequacy of
150 service. Service is effective on the date of the acceptance. Filing the acceptance of service
151 with the court constitutes proof of service under Rule 4(e).

152 (d)(4) *Service in a foreign country.* Service in a foreign country must be in accordance
153 with rule 4(d)(4) of the Utah Rules of Civil Procedure.

154 (d)(5) *Other service.* If the identity or whereabouts of a party is unknown and cannot be
155 ascertained through reasonable diligence, if service upon all of the parties is impracticable
156 under the circumstances, or if there is good cause to believe that a party is avoiding service,
157 the party seeking service may file a motion to allow service by some other means in
158 accordance with rule 4(d)(5) of the Utah Rules of Civil Procedure.

159 **(e) Proof of service.**

160 (e)(1) The person effecting service must file proof of service stating the date, place, and
161 manner of service, including a copy of the summons. If service is made by a person other
162 than by an attorney, sheriff, constable, United States Marshal, or by the sheriff's, constable's
163 or marshal's deputy, the proof of service must be by affidavit or unsworn declaration as
164 described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act.

165 (e)(2) Proof of service in a foreign country must be made as prescribed in these rules for
166 service within this state, or by the law of the foreign country, or by order of the court.

167 (e)(3) When service is made pursuant to paragraph (d)(2)(C), proof of service must
168 include a receipt signed by the addressee or other evidence of delivery to the addressee
169 satisfactory to the court.

170 (e)(4) Failure to file proof of service does not affect the validity of the service. The court
171 may allow proof of service to be amended.

172
173
174

Utah Rules of Probate Procedure, Rule 5

RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a) When service is required.

(a)(1) *Initiating petition and other notices.* Any person required under Title 75 to be given an initiating petition or other notice other than personally or in accordance with Rule 4 must be served in accordance with this rule.

(a)(2) *Papers that must be served.* Except as otherwise provided in these rules or as otherwise directed by the court, the following papers must be served on every party:

(a)(2)(A) a petition after the initiating petition has been filed;

(a)(2)(B) an objection, response, counter-petition, or amended petition;

(a)(2)(C) a notice of hearing in accordance with Rule 8;

(a)(2)(D) a notice of mediation;

(a)(2)(E) a paper relating to disclosure or discovery;

(a)(2)(F) a motion filed with the court other than a motion that may be heard *ex parte*; and

(a)(2)(G) a written notice, appearance, demand, offer of judgment, or similar paper.

(a)(3) *Serving interested persons who have not appeared or filed a request for notice.* No service is required on an interested person who has not appeared or filed a request for notice except that:

(a)(3)(A) an interested person must be served as ordered by the court; and

(a)(3)(B) an interested person who has appeared or filed a request for notice must be served as provided in paragraph (b).

(b) How service is made.

(b)(1) *Whom to serve.* If a party is represented by an attorney, a paper served under this rule must be served upon the attorney unless the court orders service upon the party. Service must be made upon the attorney and the party if:

(b)(1)(A) an attorney has filed a Notice of Limited Appearance under [Rule 75 of the Utah Rules of Civil Procedure](#) and the papers being served relate to a matter within the scope of the Notice; or

204 (b)(1)(B) a final judgment has been entered in the action and more than 90 days has
205 elapsed from the date a paper was last served on the attorney.

206 (b)(2) *When to serve.* If a hearing or other event is scheduled 10 days or less from the
207 date of service, a party must serve a paper related to the hearing or other event by the method
208 most likely to be promptly received. Otherwise, a paper that is filed with the court must be
209 served before or on the same day that it is filed.

210 (b)(3) *Methods of service.* A paper is served under this rule by:

211 (b)(3)(A) except in the juvenile court, submitting it for electronic filing, or the court
212 submitting it to the electronic filing service provider, if the person being served has an
213 electronic filing account;

214 (b)(3)(B) emailing it to

215 (b)(3)(B)(i) the most recent email address provided by the person to the court
216 under [Rule 10\(a\)\(3\)](#) or [Rule 76 of the Utah Rules of Civil Procedure](#), or

217 (b)(3)(B)(ii) to the email address on file with the Utah State Bar;

218 (b)(3)(C) mailing it to the person's last known address;

219 (b)(3)(D) handing it to the person;

220 (b)(3)(E) leaving it at the person's office with a person in charge or, if no one is in
221 charge, leaving it in a receptacle intended for receiving deliveries or in a conspicuous
222 place;

223 (b)(3)(F) leaving it at the person's dwelling house or usual place of abode with a
224 person of suitable age and discretion who resides there; or

225 (b)(3)(G) any other method agreed to in writing by the parties.

226 (b)(4) *When service is effective.* Service by mail or electronic means is complete upon
227 sending.

228 (b)(5) *Who serves.* Unless otherwise directed by the court:

229 (b)(5)(A) every paper required to be served must be served by the party preparing it;
230 and

231 (b)(5)(B) every paper prepared by the court will be served by the court.

232 (c) **Serving numerous interested persons.** If a proceeding involves an unusually large
233 number of parties, the court, upon motion or its own initiative, may make appropriate orders
234 regarding service under this rule:

235 (d) **Certificate of service.** A paper required by this rule to be served, including electronically

236 filed papers, must include a signed certificate of service showing the name of the document
237 served, the date and manner of service and on whom it was served. Except in the juvenile court,
238 this paragraph does not apply to papers required to be served under paragraph (b)(5)(B) when
239 service to all parties is made under paragraph (b)(3)(A).

240 **(e) Filing.** Except as provided in [Rule 7 [orders] and Rule 26 [filing of disclosures,
241 discovery]], all papers after the initiating petition that are required to be served must be filed
242 with the court. Parties with an electronic filing account must file a paper electronically. A party
243 without an electronic filing account may file a paper by delivering it to the clerk of the court or
244 to a judge of the court. Filing is complete upon the earliest of acceptance by the electronic filing
245 system, the clerk of court or the judge.

246 **(f) Filing an affidavit or declaration.** If a person files an affidavit or declaration, the filer
247 may:

248 (f)(1) electronically file the original affidavit with a notary acknowledgment as provided
249 by [Utah Code Section 46-1-16\(7\)](#);

250 (f)(2) electronically file a scanned image of the affidavit or declaration;

251 (f)(3) electronically file the affidavit or declaration with a conformed signature; or

252 (f)(4) if the filer does not have an electronic filing account, present the original affidavit
253 or declaration to the clerk of the court, and the clerk will electronically file a scanned image
254 and return the original to the filer.

255 The filer must keep an original affidavit or declaration of anyone other than the filer safe and
256 available for inspection upon request until the action is concluded, including any appeal or until
257 the time in which to appeal has expired.

258

259

Utah Rules of Probate Procedure, Rule 6

260

RULE 6. TIME.

261 To be drafted.

262

DRAFT

263

Utah Rules of Probate Procedure, Rule 7

264

RULE 7. PLEADINGS ALLOWED.

265 To be drafted.

266

DRAFT

267 Utah Rules of Probate Procedure, Rule 8

268 **RULE 8. HEARINGS.**

269 (a) **Hearing upon filing of initiating petition.** Upon the filing of an initiating petition, the
270 probate clerk shall schedule a hearing on the petition.

271 (a)(1) The petitioner shall give notice of the time and place of the hearing in accordance
272 with Rule 5 of these rules.

273 (a)(2) The notice shall be in plain language and large type. The notice shall state the time
274 and place of the hearing, the respondent's rights, and the possible adverse consequences of
275 being subject to the guardianship or conservatorship or other protective proceedings. The
276 notice shall include a copy of the petition.

277 (b) **Respondent's presence at hearing on initiating petition.** In guardianship,
278 conservatorship, or other protective proceedings, the respondent and the proposed guardian or
279 conservator shall attend the hearing on the initiating petition unless excused by the court for
280 good cause prior to the hearing.

281 (b)(1) If the petitioner moves to excuse the respondent's presence at the hearing, the court
282 shall order an investigation by a court visitor in accordance with Rule 13 unless a court
283 visitor is not required under Utah Code Section 75-5-303(5)(b).

284 (b)(2) The respondent is entitled to be represented by counsel at the hearing.

285 (b)(3) The hearing may be held in a location convenient to the respondent and may be
286 closed upon the request of the respondent and a showing of good cause.

287 (c) **Trial on respondent's alleged incapacity.** In guardianship or conservatorship
288 proceedings, if the respondent or an interested person objects to the petition on the ground that
289 the respondent is not incapacitated, the court shall schedule a trial on the issue in accordance
290 with [Rule ___ [trial rule] of the Utah Rules of Probate Procedure.]

291 (d) **Hearings on subsequent petitions or motions.** The court may hold a hearing on any
292 subsequent petition or motion filed in a probate proceeding.

293 (d)(1) *Request for hearing.* A party may request a hearing in the motion or petition, in a
294 memorandum or objection, or in the request to submit for decision. A request for a hearing
295 must be separately identified in the caption of the document containing the request.

296 (d)(2) *Notice of hearing on subsequent petitions or motions.* Notice of a hearing on any
297 subsequent petition or motion shall be provided to the petitioner, the respondent and any

298 interested person who has filed an answer or objection to the initiating petition or requested
299 notice in accordance with Title 75 of the Utah Code.

300 (e) **Hearing on emergency guardian.** If the court, without notice, has appointed an
301 emergency guardian for the respondent pursuant to Utah Code Section 75-5-310, the court shall
302 hold a hearing on the initiating petition within 14 days or as soon as practicable, but no later than
303 30 days after the appointment.

304 (f) **Postponement of hearing.** The court may postpone a hearing for good cause upon such
305 terms as are just.

306

DRAFT

307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339

Utah Rules of Civil Procedure, Rule 9

RULE 9. APPOINTMENT OF ATTORNEY FOR RESPONDENT IN GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE PROCEEDINGS.

(a) **Adult respondents.** Unless an adult respondent has counsel of his or her own choice or the court determines that counsel is not required under Utah Code Section 75-5-303(5)(d), the court shall appoint a qualified attorney to represent the respondent in guardianship proceedings, the cost of which shall be paid by the respondent unless the respondent and the respondent's parents are indigent. The court may appoint a qualified attorney to represent the respondent in conservatorship and other protective proceedings, the cost of which shall be paid by the respondent unless the respondent and the respondent's parents are indigent.

(a)(1) The attorney's representation of the respondent shall terminate upon the appointment of a guardian or conservator unless:

(a)(1)(i) there are other pending protective proceedings,

(a)(1)(ii) there is a timely appeal of the appointment of the guardian or conservator or the determination of incapacity, or

(a)(1)(iii) the court determines otherwise upon an express finding of good cause.

(a)(2) If the court determines the petition is without merit, the fees and costs of the respondent's attorney shall be paid by the petitioner.

(b) Minor respondents.

(b)(1) If, at any time during a guardianship, conservatorship, or other protective proceedings involving a minor respondent, the court determines that the respondent's interests are or may be inadequately represented, it may appoint a qualified attorney to represent the respondent, the cost of which shall be paid by the respondent unless the respondent and the respondent's parents are indigent.

(b)(2) If the minor respondent is 14 years of age or older, the court shall give consideration to the minor's choice of counsel.

(b)(3) An attorney appointed by the court to represent a minor respondent has the powers and duties of a guardian ad litem.

(b)(4) The attorney's representation of the minor respondent shall terminate upon the appointment of a guardian or conservator unless there are other pending protective proceedings, a timely appeal of the appointment of the guardian or conservator or the determination of incapacity, or the court determines otherwise upon an express finding of good cause.

340 (b)(5) If the court determines the petition is without merit, the fees and costs of the
341 respondent's attorney shall be paid by the petitioner.

342 (c) **Appointment of qualified attorneys.** If the court appoints an attorney under paragraphs
343 (a) or (b), the court shall appoint a qualified attorney, as defined in this paragraph, to represent
344 the respondent.

345 (c)(1) An attorney is qualified to represent respondents in guardianship, conservatorship,
346 and other protective proceedings if the attorney:

347 (c)(1)(A) has relevant training, knowledge, and experience in guardianship,
348 conservatorship, and protective proceedings or has other qualifications deemed
349 acceptable by the court;

350 (c)(1)(B) is disinterested; and

351 (c)(1)(C) agrees to comply with the Utah Rules of Professional Conduct,
352 generally, and with Rules 1.6, 1.7, 1.8, and 1.14 of the Utah Rules of Professional
353 Conduct specifically.

354 (c)(2) A motion seeking appointment of a specific attorney shall be supported by an
355 affidavit or declaration establishing that the proposed attorney is qualified under this rule. If
356 the respondent is indigent, the motion shall include an affidavit of impecuniosity.

357
358

359

Utah Rules of Civil Procedure, Rule 10

360

RULE 10. FORM OF PLEADINGS AND OTHER PAPERS.

361 To be drafted.

362

DRAFT

363

Utah Rules of Probate Procedure, Rule 11

364

RULE 11. SIGNING OF PLEADINGS, MOTIONS, AFFIDAVITS, AND OTHER

365

PAPERS; REPRESENTATIONS TO COURT; SANCTIONS.

366

To be drafted.

367

368

DRAFT

369

Utah Rules of Civil Procedure, Rule 12

370

RULE 12. DEFENSES, OBJECTIONS, COUNTERCLAIMS, AND CROSS CLAIMS.

371

372 To be drafted.

373

374

DRAFT

Utah Rules of Probate Procedure, Rule 13

RULE 13. COURT VISITOR.

(a) **Definition.** “Court visitor” means a person appointed by the court in guardianship or conservatorship proceedings who has no personal interest in the proceeding and who has been trained or has the expertise to appropriately evaluate the needs of the respondent. A court visitor may include, but is not limited to, an attorney, psychologist, social worker, developmental incapacity professional, physical and occupational therapist, educator, or rehabilitation worker.

(b) **Appointment and role of court visitor.** Upon its own initiative or motion of a party, the court may appoint a court visitor in a guardianship or conservatorship proceeding to conduct an inquiry into the following:

(b)(1) whether to excuse the respondent from attending the hearing under Section 75-5-303(5)(a);

(b)(2) to confirm a waiver of notice submitted by the respondent in a guardianship or conservatorship proceeding under Sections 75-5-309(3) or 75-5-405(1);

(b)(3) to investigate the respondent’s circumstances and well-being, [if an attorney is not appointed under 75-5-303(d)];

(b)(4) to review annual reports from the guardian and conservator or gather additional financial information;

(b)(5) to locate guardians, conservators, and respondents;

(b)(6) to investigate the proposed guardian’s future plans for the respondent’s residence under Section 75-5-303(4); or

(b)(7) to conduct any other investigation or observation as directed by the court.

(c) **Motion to excuse respondent or confirm waiver of hearing.** The petitioner, the respondent, or any interested person seeking to excuse the respondent or confirm a waiver of hearing, shall file an ex parte motion at least 21 days prior to the hearing.

400 (c)(1) Upon receipt of the motion, the court shall appoint a court visitor to conduct an
401 investigation in accordance with paragraph (b) unless one is not required under Utah Code
402 section 75-5-303.

403 (c)(2) Upon appointment to conduct an inquiry into whether to excuse the respondent
404 from the hearing, the court visitor will:

405 (c)(2)(i) interview the petitioner, the proposed guardian, and the respondent;

406 (c)(2)(ii) visit the respondent's present dwelling or any dwelling in which the
407 respondent will reside if the appointment is made;

408 (c)(2)(iii) interview any physician or other person who is known to have treated,
409 advised, or assessed the respondent's relevant physical or mental condition;

410 (c)(2)(iv) confirm a waiver of notice if submitted by the respondent; and

411 (c)(2)(iv) conduct any other investigation the court directs.

412 **(d) Other inquiries.** If the court appoints a visitor under paragraphs (b)(3) through (b)(7),
413 the court visitor will conduct the inquiry in accordance with the court's order or appointment.

414 **(e) Language access.** If the court visitor does not speak or understand the respondent's,
415 proposed guardian's, proposed conservator's, or petitioner's primary language, the court visitor
416 must use an interpretation service approved by the Administrative Office of the Courts to
417 communicate with the respondent, proposed guardian, proposed conservator, or petitioner.

418 **(f) Court visitor's report.**

419 (f)(1) A report made by the court visitor must be filed and served upon all parties in
420 accordance with Rule 5 of these rules.

421 (f)(2) Unless the court does not need to act on the report, the court visitor will file with
422 the report a notice of filing, which the clerk of court will treat as a request to submit for
423 decision. In cases involving a motion to excuse the respondent from the hearing, the court
424 visitor will also file with the report a court-approved proposed order.

425 (g) **Termination of court visitor appointment.** The appointment of the court visitor
426 terminates and the court visitor is discharged from the court visitor's duties upon the date
427 identified in the order of appointment. The court may extend the appointment with or without a
428 request from a party.

429 (h) **Court findings.** The court will make findings and an order based on the report of the
430 court visitor at least two days prior to any hearing related to a report or within fourteen days of
431 receiving the report if no hearing is scheduled.

432

DRAFT

433

Utah Rules of Probate Procedure, Rule 14

434

RULE 14. CONSOLIDATION.

435

436

437

438

439

(a) Consolidation. When multiple protective proceedings as to the same person are commenced or pending in the same court, the court may order a joint hearing or trial of any or all the matters in issue in the proceedings; it may order all the proceedings consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

440

441

442

(a)(1) A motion to consolidate cases shall be heard by the judge assigned to the first case filed. Notice of a motion to consolidate cases shall be given to all parties in each case. The order denying or granting the motion shall be filed in each case.

443

444

445

(a)(2) If a motion to consolidate is granted, the case number of the first case filed shall be used for all subsequent papers and the case shall be heard by the judge assigned to the first case. The presiding judge may assign the case to another judge for good cause.

446

447

448

(b) Separate trials. The court in furtherance of convenience or to avoid prejudice may order a separate trial of any claim, cross claim, counterclaim, or of any separate issue or of any number of claims, cross claims, counterclaims, or issues.

449

1
2
3
4
5
6
7
8
9
10
11
12
13

Draft Probate Legislation: Title 75, Chapter 5

Amended Code Sections

75-5-208. Consent to service by acceptance of appointment -- Notice. 2

75-5-303. Procedure for court appointment of a guardian of an incapacitated person. 2

75-5-305. Disclosure of bankruptcy or criminal history, acceptance of appointment, consent to jurisdiction. 4

75-5-309. Notices in guardianship proceedings..... 5

75-5-311. Who may be guardian—Priorities. 5

75-5-312. General powers and duties of guardian -- Penalties. 7

75-5-413. Disclosure of bankruptcy or criminal history, acceptance of appointment, consent to jurisdiction. 11

14 ~~75-5-208. Consent to service by acceptance of appointment — Notice.~~

15 ~~— By accepting a testamentary, instrumental, or court appointment as guardian, a guardian~~
16 ~~submits personally to the jurisdiction of the court in any proceeding relating to the guardianship~~
17 ~~that may be instituted by any interested person or any person interested in the welfare of the~~
18 ~~minor. Notice of any proceeding shall be delivered to the guardian or mailed to him by ordinary~~
19 ~~mail at his address as listed in the court records and to his address as then known to the~~
20 ~~petitioner. Letters of guardianship shall indicate whether the guardian was appointed nominated~~
21 ~~by will, written instrument, or by court order.~~

22 **75-5-303. Procedure for court appointment of a guardian of an incapacitated person.**

- 23 (1) An incapacitated person or any person interested in the incapacitated person's welfare
24 may petition for a finding of incapacity and appointment of a guardian.
- 25 (2)
- 26 (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of
27 incapacity.
- 28 (b) Unless the allegedly incapacitated person has counsel of the person's own choice, the
29 court shall appoint an attorney to represent the person in the proceeding the cost of which shall
30 be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and
31 the allegedly incapacitated person's parents are indigent.
- 32 (c) If the court determines that the petition is without merit, the attorney fees and court costs
33 shall be paid by the person filing the petition.
- 34 (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the
35 incapacitated person, regardless of whether the nominee is specified in the moving petition or
36 nominated during the proceedings, the petitioner shall be entitled to receive from the
37 incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting,
38 or defending the petition.
- 39 (3) The legal representation of the incapacitated person by an attorney shall terminate upon
40 the appointment of a guardian, unless:
- 41 (a) there are separate conservatorship proceedings still pending before the court subsequent
42 to the appointment of a guardian;
- 43 (b) there is a timely filed appeal of the appointment of the guardian or the determination of
44 incapacity; or
- 45 (c) upon an express finding of good cause, the court orders otherwise.
- 46 (4)

Comment [NS1]: Assignment: Look for other places this occurs. Guardians are appointed by the court but can be nominated, not appointed, by will.

Comment [NS2]: Results of assignment: I looked for other areas where this arose but became concerned that the idea of appointment by will or written instrument is pretty engrained in Title 75, Chapter 5, Part 2. Section 75-5-202.5 provides the procedure by which an appointment by these means becomes effective. There are two steps: the written instrument is filed with a minor guardianship petition in the court, and the appointee files an affidavit of acceptance with the court. I don't think we can change "appointed" to "nominated" without upsetting the whole apple cart.

47 (a) The person alleged to be incapacitated may be examined by a physician appointed by the
48 court. The physician who shall submit a report in writing to the court.

Comment [NS3]: The court will only appoint a physician if there are competing requests.

49 (b) The person alleged to be incapacitated and may be interviewed by a visitor sent by the court.
50 The visitor also may interview the person seeking appointment as guardian, visit the present
51 place of abode of the person alleged to be incapacitated and the place it is proposed that the
52 person will be detained or reside if the requested appointment is made, conduct other
53 investigations or observations as directed by the court, and submit a report in writing to the court.

Comment [NS4]: This is not a pressing issue. There was a request made to make this a "shall" but the committee thought "may" was still a better approach because it gives the court discretion to order a physician's report.

54 (5)

55 (a) The person alleged to be incapacitated shall be present at the hearing in person and see or
56 hear all evidence bearing upon the person's condition. If the person seeking the guardianship
57 requests a waiver of presence of the person alleged to be incapacitated, the court shall order an
58 investigation by a court visitor, the costs of which shall be paid by the person seeking the
59 guardianship.

60 (b) The investigation by a court visitor is not required if there is clear and convincing
61 evidence from a physician that the person alleged to be incapacitated has

Comment [NS5]: This is based on Allison's conversations with Dr. Foster. The committee contemplated modifying the definition of "Health care decision making capacity" in Utah Code § 75-2a-103 (Advance Healthcare Directive Act) as follows:
"does not have decision making capacity, meaning the ability to:
(i) understand the nature, extent, or probable consequences of a guardianship and guardianship alternatives;
(ii) make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting a guardianship; and
(iii) communicate a decision."

62 (i) ~~fourth stage Alzheimer's Disease;~~

63 (ii) extended comatosis; or

64 (iii)

65 (A) an intellectual disability; and

66 (B) an intelligence quotient score under 25.

But the committee became concerned about the decision making required of the judge at the stage of automatically excusing the respondent from the hearing.

67 (c) The person alleged to be incapacitated is entitled to be represented by counsel, to present
68 evidence, to cross-examine witnesses, including the court-appointed physician and the court
69 visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the
70 person alleged to be incapacitated or the person's counsel so requests.

The committee also considered the following instead of fourth stage Alzheimer's Disease (which doesn't exist):

71 (d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-
72 201(22), is not required if:

"(i) a diagnosis of significant cognitive impairment that precludes the person from meaningfully participating in the hearing;"

73 (i) the person is the biological or adopted child of the petitioner;

74 (ii) the value of the person's entire estate does not exceed \$20,000 as established by an
75 affidavit of the petitioner in accordance with Section 75-3-1201;

The committee ultimately elected to remove the fourth stage Alzheimer's Disease language completely since any new language could cause satellite litigation around whether a person should be automatically excused or whether a visitor should be appointed to investigate.

76 (iii) the person appears in court with the petitioner;

- 77 (iv) the person is given the opportunity to communicate, to the extent possible, the person's
- 78 acceptance of the appointment of petitioner;
- 79 (v) no attorney from the state court's list of attorneys who have volunteered to represent
- 80 respondents in guardianship proceedings is able to provide counsel to the person within 60 days
- 81 of the date of the appointment described in Subsection (2);
- 82 (vi) the court is satisfied that counsel is not necessary in order to protect the interests of the
- 83 person; and
- 84 (vii) the court appoints a visitor under Subsection (4)

85 **75-5-305. Disclosure of bankruptcy or criminal history, ~~A~~acceptance of appointment, ~~—~~**
86 **~~C~~consent to jurisdiction.**

87 (1) Before accepting appointment as a guardian, a person shall disclose to the court whether the
88 person:

89 (a) is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding;

90 (b) has been the subject of a supported finding by the Division of Child and Family Services or
91 Adult Protective Services; or

92 (c) been convicted of:

93 (i) a felony;

94 (ii) a crime involving dishonesty, neglect, violence, or use of physical force; or

95 (iii) other crime relevant to the functions the individual would assume as guardian.

96 (2) A guardian that engages or anticipates engaging an agent the guardian knows has been
97 convicted of a felony, a crime involving dishonesty, neglect, violence, or use of physical force,
98 or other crime relevant to the functions the agent is being engaged to perform promptly shall
99 disclose that knowledge to the court.

100 (3) By accepting appointment, a guardian submits personally to the jurisdiction of the court in
101 any proceeding relating to the guardianship that may be instituted by any interested person or
102 any person interested in the welfare of the ward. Notice of any proceeding shall be delivered to
103 the guardian or mailed to him by ordinary mail at his address as listed in the court records and to
104 his address as then known to the petitioner.

Comment [NS6]: This language is from the UGCOPAA, section 117, with slight modification to add DCFS and APS supported findings.

105 **75-5-309. Notices in guardianship proceedings.**

106 (1) In a proceeding for the appointment or removal of a guardian of an incapacitated person
107 other than the appointment of an emergency guardian or temporary suspension of a guardian,
108 notice of hearing shall be given to each of the following:

109 (a) the ward or the person alleged to be incapacitated and spouse, parents, ~~and~~ adult children,
110 and siblings of the ward or person;

Comment [NS7]: This was an addition on 9/20/19

111 (b) any person who is serving as guardian or conservator or who has care and custody of the
112 ward or person;

113 (c) in case no other person is notified under Subsection (1)(a), at least one of the closest adult
114 relatives, if any can be found;

115 (d) any guardian ~~appointed~~ nominated by the will of the parent who died later or spouse of
116 the incapacitated person; and

117 (e) Adult Protective Services if Adult Protective Services has received a referral under Title
118 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult, concerning the
119 welfare of the ward or person alleged to be incapacitated or concerning the guardian or
120 conservator or proposed guardian or conservator.

121 (2) The notice shall be in plain language and large type and the form shall have the final
122 approval of the Judicial Council. The notice shall indicate the time and place of the hearing, the
123 possible adverse consequences to the person receiving notice of rights, a list of rights, including
124 the person's own or a court appointed counsel, and a copy of the petition.

125 (3) Notice shall be served personally on the alleged incapacitated person and the person's
126 spouse and parents if they can be found within the state. Notice to the spouse and parents, if they
127 cannot be found within the state, and to all other persons except the alleged incapacitated person
128 shall be given as provided in Section 75-1-401. Waiver of notice by the person alleged to be
129 incapacitated is not effective unless the person attends the hearing or the person's waiver of
130 notice is confirmed in an interview with the visitor appointed pursuant to Section 75-5-303.

131 **75-5-311. Who may be guardian—Priorities.**

132 (1) As used in this section:

133 (a) "Specialized care professional" means a person who is certified as a National Certified
134 Guardian or National Master Guardian by the Center for Guardianship Certification or similar
135 organization.

136 (b) "Suitable institution" means any nonprofit or for profit corporation, partnership, sole
137 proprietorship, or other type of business organization that is owned, operated by, or employs a
138 specialized care professional.

139 (2) The court shall appoint a guardian in accordance with the incapacitated person's most recent
140 nomination, unless that person is disqualified or the court finds other good cause why the person
141 should not serve as guardian. That nomination shall have been made prior to the person's
142 incapacity, shall be in writing and shall be signed by the person making the nomination. The
143 nomination shall be in substantially the following form:

144 Nomination of Guardian by an Adult

145 I, (Name), being of sound mind and not acting under duress, fraud, or other undue influence, do
146 hereby nominate (Name, current residence, and relationship, if any, of the nominee) to serve as
147 my guardian in the event that after the date of this instrument I become incapacitated.

148 Executed at _____ (city, state) on this _____ day of
149 _____

150

151 (Signature)

152 | (3)(a) Except as provided in Subsection (2), persons who are not disqualified have priority for
153 appointment as guardian in the following order:

154 | (a) a person who has been nominated by the incapacitated person, by any means other than that
155 described in Subsection (2), if the incapacitated person was 14 years of age or older when the
156 nomination was executed and, in the opinion of the court, that person acted with sufficient
157 mental capacity to make the nomination;

158 | (b) the spouse of the incapacitated person;

159 | (c) an adult child of the incapacitated person;

160 | (d) a parent of the incapacitated person, including a person nominated by will, written
161 instrument, or other writing signed by a deceased parent;

162 | (3)(b) If any of the above persons are not available to serve as guardian, the court may consider
163 any of the following to serve as guardian without regard to priority:

164 | (e) any relative of the incapacitated person with whom ~~he~~ the incapacitated person has resided
165 for more than six months prior to the filing of the petition;

166 | (f) a family member or other individual who has shown special care and concern for the
167 incapacitated person;

Comment [NS8]: The committee thought the better approach in paragraph 3 was to carve out who really has priority as guardian and then if any of those persons are not available, give the court wiggle room to decide among the other listed persons/entities.

Comment [NS9]: This language is found in Section 309 of the UGCOPAA.

- 168 | ~~(fii)~~ a person nominated by the incapacitated person's caretaker person who is caring for him or
- 169 | representative payeepaying benefits to him;
- 170 | ~~(giv)~~ a specialized care professional, so long as the specialized care professional does not:
- 171 | ~~(iA)~~ profit financially or otherwise from or receive compensation for acting in that capacity,
- 172 | except for the direct costs of providing guardianship or conservatorship services; or
- 173 | ~~(iiB)~~ otherwise have a conflict of interest in providing those services;
- 174 | ~~(kv)~~ any competent person or suitable institution; or
- 175 | ~~(ivi)~~ the Office of Public Guardian under Title 62A, Chapter 14, Office of Public Guardian Act.
- 176 |

177 | **75-5-312. General powers and duties of guardian -- Penalties.**

178 | (1) A guardian of an incapacitated person has only the powers, rights, and duties respecting
179 | the ward granted in the order of appointment under Section 75-5-304. A guardian for an adult
180 | may not initiate the commitment of the adult to a local mental health facility except in
181 | accordance with Utah Code Section 62A-15-628.

Comment [NS10]: Found in Section 315 of UGCOPAA.

182 | (2) Except as provided in Subsection (4), a guardian has the same powers, rights, and duties
183 | respecting the ward that a parent has respecting the parent's unemancipated minor child.

184 | (3) In particular, and without qualifying Subsections (1) and (2), a guardian has the following
185 | powers and duties, except as modified by order of the court:

186 | (a) To the extent that it is consistent with the terms of any order by a court of competent
187 | jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody
188 | of the person of the ward and may establish the ward's place of abode within or without this
189 | state.

190 | (b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and
191 | maintenance of the ward and, whenever appropriate, arrange for the ward's training and
192 | education. Without regard to custodial rights of the ward's person, the guardian shall take
193 | reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and
194 | commence protective proceedings if other property of the ward is in need of protection.

195 | (c) A guardian may give any consents or approvals that may be necessary to enable the ward
196 | to receive medical or other professional care, counsel, treatment, or service.

197 | (d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or
198 | friends.

- 199 (e) If no conservator for the estate of the ward has been appointed, the guardian may:
- 200 (i) institute proceedings to compel any person under a duty to support the ward or to pay
201 sums for the welfare of the ward to perform that duty;
- 202 (ii) compel the production of the ward's estate documents, including the ward's will, trust,
203 power of attorney, and any advance health care directive; and
- 204 (iii) receive money and tangible property deliverable to the ward and apply the money and
205 property for support, care, and education of the ward:
- 206 (A) except that the guardian may not use funds from the ward's estate for room and board that
207 the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for
208 the service is approved by order of the court made upon notice to at least one adult relative in the
209 nearest degree of kinship to the ward in which there is an adult; and
- 210 (B) the guardian shall exercise care to conserve any excess for the ward's needs.
- 211 (f)
- 212 (i) A guardian is required to report the condition of the ward and of the estate that has been
213 subject to the guardian's possession or control, as required by the court or court rule.
- 214 (ii) A guardian is required to immediately notify all interested persons if the guardian
215 reasonably believes that the ward's death is likely to occur within the next 30 days, based on:
- 216 (A) the guardian's own observations; or
- 217 (B) information from the ward's physician or other medical care providers.
- 218 (iii) A guardian is required to immediately notify persons who request notification and are not
219 restricted in associating with the ward pursuant to Section 75-5-312.5 of:
- 220 (A) the ward's admission to a hospital for three or more days or to a hospice program;
- 221 (B) the ward's death; and
- 222 (C) the arrangements for the disposition of the ward's remains .
- 223 (iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of
224 the guardian's intent to move the ward and to serve the notice on all interested persons at least 10
225 days before the move. The guardian shall take reasonable steps to notify all interested persons
226 and to file the notice with the court as soon as practicable following the earlier of the move or the
227 date when the guardian's intention to move the ward is made known to the ward, the ward's care
228 giver, or any other third party.

229 (v)

230 (A) If no conservator for the estate of the ward has been appointed, the guardian shall, for all
231 | estates in excess of \$50,000, excluding the residence owned by the ward, ~~send~~file a report with a
232 full accounting to the court on an annual basis.

233 (B) For estates less than \$50,000, excluding the residence owned by the ward, the guardian
234 shall fill out an informal annual report and mail the report to the court.

235 (C) A report under Subsection (3)(f)(v)(A) or (B) shall include a statement of assets at the
236 beginning and end of the reporting year, income received during the year, disbursements for the
237 support of the ward, and other expenses incurred by the estate. The guardian shall also report the
238 physical conditions of the ward, the place of residence, and a list of others living in the same
239 household. The court may require additional information.

240 (D) The forms for both the informal report for estates under \$50,000, excluding the residence
241 owned by the ward, and the full accounting report for larger estates shall be approved by the
242 Judicial Council.

243 (E) An annual report shall be examined and approved by the court.

244 (F) If the ward's income is limited to a federal or state program requiring an annual
245 accounting report, a copy of that report may be submitted to the court in lieu of the required
246 annual report.

247 (vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal
248 report annually to the court. The report shall be examined and approved by the court.

249 (vii) The guardian shall also render an annual accounting of the status of the person to the
250 court that shall be included in the petition or the informal annual report as required under this
251 Subsection (3)(f). If a fee is paid for an accounting of an estate, a fee may not be charged for an
252 accounting of the status of a person.

253 (viii) If a guardian:

254 (A) makes a substantial misstatement on filings of annual reports;

255 (B) is guilty of gross impropriety in handling the property of the ward; or

256 (C) willfully fails to file the report required by this Subsection (3)(f), after receiving written
257 notice from the court of the failure to file and after a grace period of two months has elapsed, the
258 court may impose a penalty in an amount not to exceed \$5,000.

259 (ix) The court may also order restitution of funds misappropriated from the estate of a ward.
260 The penalty shall be paid by the guardian and may not be paid by the estate.

- 261 (x) The provisions and penalties in this Subsection (3)(f) governing annual reports do not
262 apply if the guardian or a coguardian is the parent of the ward.
- 263 (xi) For the purposes of Subsections (3)(f)(i), (ii), (iii), and (iv), "interested persons" means
264 those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-
265 309.
- 266 (g) If a conservator has been appointed:
- 267 (i) all of the ward's estate received by the guardian in excess of those funds expended to
268 meet current expenses for support, care, and education of the ward shall be paid to the
269 conservator for management as provided in this code; and
- 270 (ii) the guardian shall account to the conservator for funds expended.
- 271 (4)
- 272 (a) A court may, in the order of appointment, place specific limitations on the guardian's
273 power.
- 274 (b) A guardian may not prohibit or place restrictions on association with a relative or
275 qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-
276 312.5.
- 277 (c) A guardian is not liable to a third person for acts of the guardian's ward solely by reason
278 of the relationship described in Subsection (2).
- 279 (5) Any guardian of one for whom a conservator also has been appointed shall control the
280 custody and care of the ward and is entitled to receive reasonable sums for services and for room
281 and board furnished to the ward as agreed upon between the guardian and the conservator, if the
282 amounts agreed upon are reasonable under the circumstances. The guardian may request the
283 conservator to expend the ward's estate by payment to third persons or institutions for the ward's
284 care and maintenance.
- 285 (6) A person who refuses to accept the authority of a guardian with authority over financial
286 decisions to transact business with the assets of the protected person after receiving a certified
287 copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the
288 court determines that the person did not act in good faith in refusing to accept the authority of the
289 guardian.
- 290 (7) A guardian shall, to the extent practicable, encourage the ward to participate in decisions,
291 exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to
292 manage the ward's personal affairs. To the extent known, a guardian, in making decisions, shall
293 consider the expressed desires and personal values of the ward.

Comment [NS11]: Add requirement of counsel

294 **75-5-401. Protective proceedings.**

295 (1) Upon petition and after notice and hearing in accordance with the provisions of this part, the court
296 may appoint a conservator or make other protective order for cause as follows:

297 (a) Appointment of a conservator or other protective order may be made in relation to the estate and
298 affairs of a minor if the court determines that a minor owns money or property that requires management
299 or protection which cannot otherwise be provided, has or may have business affairs which may be
300 jeopardized or prevented by minority, or that funds are needed for the minor's support and education and
301 protection is necessary or desirable to obtain or provide funds.

302 (b) The provisions of Subsection (1)(a) may be applied to a person beyond minority up to age 21
303 under special circumstances as determined by the court.

304 (2) Appointment of a conservator or other protective order may be made in relation to the estate and
305 affairs of a person if the court determines that the person:

306 (a) is unable to manage the person's property and affairs effectively for reasons such as mental
307 illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication,
308 confinement, detention by a foreign power, or disappearance; and

309 (b) has property which will be wasted or dissipated unless proper management is provided or that
310 funds are needed for the support, care, and welfare of the person or those entitled to be supported by the
311 person and protection is necessary or desirable to obtain or provide funds.

312 (3) Appointment of a conservator or other protective order may not be denied solely on the basis that
313 the person for whom the conservatorship or other protective order is sought has a valid power of attorney
314 in effect.

315 **75-5-405. Notice.**

316 (1) On a petition for appointment of a conservator or other protective order, the person to be
317 protected and his spouse or, if none, his parents, must be served personally with notice of the
318 proceeding at least 10 days before the date of the hearing if they can be found within the state,
319 or, if they cannot be found within the state, they must be given notice in accordance with Section
320 75-1-401. Waiver by the person to be protected is not effective unless he attends the hearing or,
321 unless minority is the reason for the proceeding, waiver is confirmed in an interview with the
322 visitor.

323 (2) Notice of a petition for appointment of a conservator or other initial protective order, and
324 of any subsequent hearing, must be given to any person who has filed a request for notice under
325 Section 75-5-406 and to interested persons and other persons as the court may direct. Except as
326 otherwise provided in Subsection (1) above, notice shall be given in accordance with Section 75-
327 1-401.

Comment [NS12]: Mirror notice provisions of 75-5-309.

328 **75-5-413. Disclosure of bankruptcy or criminal history, Acceptance of appointment, --**
329 **Consent to jurisdiction.**
330 (1) Before accepting appointment as a conservator, a person shall disclose to the court whether
331 the person:
332 (a) is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding;
333 (b) has been the subject of a supported finding by the Division of Child and Family Services or
334 Adult Protective Services; or
335 (c) been convicted of:
336 (i) a felony;
337 (ii) a crime involving dishonesty, neglect, violence, or use of physical force; or
338 (iii) other crime relevant to the functions the individual would assume as conservator.
339 (2) A conservator that engages or anticipates engaging an agent the conservator knows has been
340 convicted of a felony, a crime involving dishonesty, neglect, violence, or use of physical force,
341 or other crime relevant to the functions the agent is being engaged to perform promptly shall
342 disclose that knowledge to the court.
343 (3) If a conservator engages or anticipates engaging an agent to manage finances of the
344 individual subject to conservatorship and knows the agent is or has been a debtor in a
345 bankruptcy, insolvency, or receivership proceeding, the conservator promptly shall disclose that
346 knowledge to the court.
347 (4) By accepting appointment, a conservator submits personally to the jurisdiction of the court in
348 any proceeding relating to the estate that may be instituted by any interested person. Notice of
349 any proceeding shall be delivered to the conservator or mailed to him by registered or certified
350 mail at his address as listed in the petition for appointment, or as thereafter reported to the court,
351 and to his address as then known to the petitioner.

Comment [NS13]: This language is from the UGCOPAA, section 117, with slight modification to add DCFS and APS supported findings.

Utah WINGS Bylaws, Proposed Revision

Utah WINGS

Working Interdisciplinary Network of Guardianship Stakeholders

ORGANIZATIONAL BYLAWS

MISSION

The mission of **Utah WINGS** is to bring together stakeholders from various disciplines to improve the state's guardianship and conservatorship services and processes.

OBJECTIVES

To carry out its mission, **Utah WINGS** shall:

- Support policy initiatives for the enhancement of guardianship and related infrastructure;
- Identify and develop education and outreach opportunities regarding guardianships, conservatorships, and their alternatives;
- Provide training and support to those engaging the guardianship/conservatorship system;
- Identify resources that may be available in emergency cases where persons of limited decision making capacity have no guardian;
- Promote high standards for guardians and conservators;
- Promote collaboration between **Utah WINGS** members and other stakeholders; and
- Regularly assess the needs and priorities of **Utah WINGS**'s efforts.

MEMBERSHIP

Utah WINGS will strive to maintain interdisciplinary representation of 15 members drawn from the following organizations, entities, and individuals, acknowledging that other members may be added from time to time.

- AARP
- Adult Protective Services
- Center for Alzheimer's Care, Imaging, and Research
- Centro de la Familia
- Disability Law Center
- Division of Aging and Adult Services
- Faculty member from one of Utah's institutions of higher education, such as the colleges of social work and law
- Jewish Family Services
- A law enforcement agency
- Long-term Care Ombudsman
- National Alliance on Mental Illness

- Office of Public Guardian
- A private probate attorney
- A private guardian/care manager
- A probate judge
- A resident of a rural community
- Tribal Groups
- Utah Commission on Aging
- University of Utah Center on Aging
- Utah Aging and Disability Resource Center
- Utah Healthcare Association
- Utah Parent Center
- Utah State Legislature
- Veteran’s Affairs Administration
- Volunteer Court Visitor Program

Succession Plan

While **Utah WINGS** is housed under the judiciary, the **Utah WINGS** chair shall be a judge who is well versed in probate matters. The chair shall serve a term of three years—with an option to renew for a subsequent term—and at the conclusion of his or her service, appoint a successor with the same, or similar, qualifications.

Individual members shall serve a term of three years, and may serve up to two terms at the Executive Committee’s election. When a vacancy arises, a new member who can provide the same or similar representation shall be sought within sixty days. **Individuals serving as representatives of their organizations may continue to serve for a longer term, as determined by their organization.** Members are expected to attend the meetings and may be released from the committee by the chair for failing to attend three meetings in a calendar year.

MEETINGS

Full Utah WINGS meetings

Utah WINGS shall meet approximately every two months. The meeting agenda shall be determined by the executive committee and circulated in advance of the full meeting.

Executive Committee

While **Utah WINGS** is housed under the judiciary, the Executive Committee shall consist of the **Utah WINGS** chair, the Court Visitor Coordinator, a staff attorney from the Administrative Office of the Courts, and up to three members of **Utah WINGS**, as determined by the chair.

Annual Open Invitation Meeting

Every November, or on some other annual basis, **Utah WINGS** shall invite to its full meeting community members and agency partners who are not **Utah WINGS** members but who engage with guardianship or conservatorship issues on a regular basis. The purpose of this annual meeting shall be to raise awareness of **Utah WINGS**’s efforts, to listen to the challenges facing those dealing with guardianship and conservatorship issues, and to identify potential projects that

fall within the bounds of **Utah WINGS**'s objectives. This section is not intended to limit the ability of guests to attend and participate in **Utah WINGS**'s other regular meetings throughout the year.

Annual Assessment Meeting

Every January, or on some other annual basis, **Utah WINGS** shall hold an assessment meeting to determine how well the committee is meeting its objectives and whether **Utah WINGS**'s needs and priorities have—or should be—changed.

Sub-Committee Assignments

Standing and ad hoc sub-committees shall be created for the purpose of carrying out the objectives of **Utah WINGS** and will meet as necessary, either in person or by electronic means. The Executive Committee shall review sub-committee projects for consistency with **Utah WINGS**'s objectives, particularly within the judiciary's constraints. A *standing education sub-committee* is hereby created.

Quorum

A simple majority of members present shall constitute a quorum for purposes of voting on and approving **Utah WINGS** minutes and all **Utah WINGS** projects.

CONSTRAINTS ON THE JUDICIARY

Utah WINGS recognizes that the following activities may be important to its members, but as long as **Utah WINGS** is housed under the judiciary, which must maintain its neutrality, the group may not engage in them as official **Utah WINGS** projects:

- Advocate for the rights of individuals with decisional impairments;
- Promote independence to the greatest extent possible for those experiencing incapacities, unless it takes the form of public education about alternatives to guardianships and conservatorships or established standards for a guardian's conduct;
- Lobby the legislature for changes to guardianship policy; and
- Any other activity that may call into question the judiciary's neutrality.

Individual members may engage in these activities on behalf of their own organizations.

Utah WINGS Update – Judicial Council

Utah WINGS Update

Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) is a multi-disciplinary problem solving body that relies on court-community partnerships to:

- Oversee guardianship practice
- Address key policy issues
- Improve the current system of guardianship and less restrictive alternatives
- Engage in outreach, education
- Enhance the quality of care and quality of life of vulnerable adults

WINGS Executive Committee:

1.	Keith Kelly	Judge, WINGS Chair	3 rd District
2.	Kent Alderman	Attorney/Partner	Lewis/Hansen Law Firm
3.	Nels Holmgren	Director	Division of Adult and Aging Services
4.	Nan Mendenhall	Director	Adult Protective Services
5.	Andrew Riggle	Public Policy Analyst	Disability Law Center
6.	Shonna Thomas	GRAMP Program Coordinator	Administrative Office of the Courts

Steering Committee:

1.	James Brady	Presiding Judge	4 th District
2.	David Connors	Presiding Judge	2 nd District
3.	Shane Bahr	District Court Administrator	Administrative Office of the Courts
4.	Jean Boyack	Legal Services Developer	Division of Aging and Adult Services
5.	TantaLisa Clayton	Attorney / Director	Utah Legal Services
6.	Rob Denton	Attorney at Law	
7.	Jeff Daybell	Staff Attorney	Access to Justice, Utah State Bar
8.	Rob Ence	Director	Utah Commission on Aging
9.	Xia Erickson	Director	Office of Public Guardian
10.	Wendy Fayles	Criminal Justice / Mentor	National Alliance on Mental Illness
11.	Cora Gant	Deputy Court Clerk	4 th District
12.	Michelle Miranda	Clinical Neuropsychologist	
13.	Daniel Musto	Administrator	Long-term Care Ombudsman
14.	Alan Ormsby	State Director	AARP
15.	Joanne Sayre	Judicial Case Manager	3 rd District
16.	Nancy Sylvester	Associate General Counsel	Administrative Office of the Courts
17.	James Toledo	Program Manager	Utah Division of Indian Affairs
18.	Norma Valavala-Ballard	Judicial Case Manager	4 th District
19.	Todd Weiler	Senator	23 rd District
20.	Michelle Wilkes	Court Visitor Program Coordinator	Administrative Office of the Courts
21.	KayeLynn Wootton	Assistant Attorney General	Medicaid Fraud Control Unit

Accomplishments:

1. January 2019 – WINGS Subcommittee on Collaboration with Native American Tribes identified specific goals for working with the tribal population including:
 - a. Improving understanding of state and tribal systems to resolve issues
 - b. Establishing communication with tribes and learn about tribal needs
 - c. Establishing a referral procedure
 - d. Improving education about state resources and services available to assist tribes in protecting vulnerable adults
2. March 2019 – An interdisciplinary team was formed to participate in the Strategies and Training to Advance Greater Elder Safety (STAGES) conference in Charlottesville, VA. WINGS participants included representatives from Adult Protective Services, Attorney General’s office – Medicaid Fraud Control Unit, and the Administrative Office of the Courts, as well as a probate judge, clerk, and private probate attorney.
3. May 2019 – WINGS representatives presented on guardianship in Park City at the Elder Justice Conference - “Elevating Utah’s Seniors.”
4. June 2019 – A CLE was held in St. George to recruit volunteers for the Guardianship Signature Program.
5. August 2019 – Advanced record-sharing processes were developed. Collaboration took place between Adult Protective Services, Office of Public Guardian, the Attorney General’s Office, and the Court Visitor Program to develop an internal policy.
6. December 2019 – Revision to the WINGS Bylaws to better reflect the membership needs of the committee.

Current & Upcoming Projects:

- Clerical Education – The guardianship manual for clerks was first developed in 2013 and is in need of revision. The Clerical Education Subcommittee is working to develop a revised draft, using input from probate clerical staff.
- Guardianship Signature Program (GSP) – Ongoing discussion and recommendations on improving the GSP, and expanding the network, especially in rural areas.
- Annual Reports and Court Visitor Review Process – Identifying concerns with the various processes in place in the districts for reviewing guardianship annual reports and the reports submitted by Court Visitors. Problem-solving ways to address the gaps, and developing a set of recommendations.
- Judicial Training – Ongoing discussion about turnover and the continual training needs and deficits for new court staff. Discussion of how incomplete training affects operations, and developing suggestions for improvement. Reaching out to the Board of District Court Judges, asking for feedback on providing district court judges with resources that are useful and helpful on guardianship.
- Tribal Outreach – Collecting information and developing strategies to address guardianship needs. Areas identified through outreach include increased education and clarification on how to handle guardianship cases, and trainings and resources for their specific areas, taking into account sporadic/limited internet access. Working to develop assorted materials, including: (1) tribal contacts and communication flow chart for state agencies, (2) resource table for tribes, (3) map with the areas covered by tribal laws.

- Financial Exploitation – A need was highlighted for training on accounting/financial issues, to aid Court Visitors in their work on Audit cases. Adult Protective Services and the Court Visitor Program are working together to coordinate Financial Exploitation Training to offer both in-person and a recorded version. The Commission on Aging is developing additional training opportunities for attorneys and the public related to financial exploitation.

DRAFT

WINGS Strategic Goals: 2013 – 2019

Working Interdisciplinary Networks of Guardianship Stakeholders

April 17, 2013 summary minutes

- I. The members introduced themselves.
- II. Tim Shea explained the purpose of the WINGS grant and the initial effort to hold a statewide summit on guardianship topics in November. He opened the meeting to a general discussion of the topics members thought were most important to address at the summit and beyond.
- III. Topics identified included:
 1. The importance of early recognition and prevention of Alzheimer's disease.
 2. Identify medical evidence of cognitive decline in dementias, mental illness, etc. as part of the appointment of a guardian and evidence of regained capacity for termination of the appointment. Identify qualified medical professionals for better judicial decisions.
 3. Improve monitoring of and help for guardians, possibly an ombudsman within the courts or Department of Human Services, or a network of agencies. The objective would be to connect vulnerable adults, guardians and caregivers to the resources available in the community, conduct investigations and provide ongoing monitoring.
 4. Examine the role of the courts in monitoring guardians after appointment.
 5. Develop a system of sharing medical records between hospitals, courts, and law enforcement. Create a uniform record for advance healthcare directives and similar documents that will be accessible through the system.
 6. Expand "Safe Return" programs beyond Alzheimer's disease to include mental illness, developmental disabilities, etc. The program might provide a safety net by having a 24-hour toll-free number and registration in a national database.
 7. Establish a pool of advocates for vulnerable adults, such as an Office of the Guardian Ad Litem for Incapacitated Adults.
 8. Work with the Utah State Bar to provide representation and legal services for vulnerable adults.
 9. Educate lawyers on guardianship proceedings with an emphasis on serving as the attorney for the respondent in such proceedings, developing person-centered plans and orders, and alternatives to guardianship.
 10. Develop a mechanism that would assist law enforcement agencies in working with victims of abuse, neglect and exploitation who need guardianship services and in directing vulnerable adults with mental illnesses and substance abuse to the needed services.

11. Educate the public and stakeholder groups on alternatives to guardianship, person-centered planning, guardianship proceedings, and the guardian's responsibilities.
12. Attempt to involve relevant government agencies, especially those providing benefits to vulnerable and incapacitated adults, like the VA and the SSA.
13. Involve other stakeholder groups such as family caregivers and guardians and representatives from minority and ethnic communities, especially from the Hispanic community and the LGBT community.
14. Establish a framework to continue the effort to explore issues.

IV. The group agreed to develop a matrix from which to select summit topics. The matrix will identify the various stakeholder groups and how the specific interests, needs and issues identified in our discussion intersect across the guardianship continuum. Mary Jane Ciccarello and Sally Hurme will develop the initial draft and email it to the group.

V. The statewide guardianship summit was scheduled for Wednesday, November 6, 2013. A proposed WINGS meeting schedule was confirmed: June 19, August 21, September 18 and October 16, 2013.

VI. Meeting adjourned.

Utah WINGS Strategic Goals Chart FY 2018-2019

	Strategic Goal	Activities	Outcome Measures	Organization, person	Deadline
E V A L U A T I O N	Evaluate Court Visitor Volunteer Program	Partnership with Gerontology Program to identify Court follow up and possible red flags in cases where visitor was assigned.	✓ One evaluation report	Graduate Intern, Karolina Abuzyarova	Dec. 31, 2017 Completed
	Provide Representation	1. Reassess attorney appointment process with the Program Board. 2. Recruit attorneys through CLEs.	✓ 100% representation for guardianship respondents	Karolina Abuzyarova Nicholas Stiles	FY 2018-2019 Ongoing
	Track number of guardianship petitions	Make quarterly reports	✓ Regular quarterly reports to be presented to Judicial Council and Legislature for permanent funding	Judge Brady	Every quarter Ongoing
E D U C A T I O N	Build capacity of the judiciary	Provide continuing education to judges (Elder Justice Innovation grant, ABA) at the bench meetings (limited Guardianship; Referral Flowchart)	Number trained by profession: 89 District Court judges and to 20 probate courts and clerks Total # of Trainings: Average training time: 40 mins.	Karolina, Mary Jane Ciccarello, Judge David Connors, Judge James Brady, Kent Alderman	Classes and online materials completed
	Provide educational support to family guardians and caregivers	1. Developed Online Training Program (OTP) and posted on the Court website: (a) Advance Life; (b) Planning, Guardianship Procedures; and (c) Serving As Court-Appointed Guardian. 2. Translate OTP into Spanish 3. Link OTP to Guardianship Test	1. Online Training Program (x unique visitors) 1. Spanish Training Program (x unique visitors) (in progress) 1. Link to Guardianship Test	Education Subcommittee, Court Online Training Specialist	Completed, Online materials translated and posted

E D U C A T I O N	Offer guardianship training to professionals	<ol style="list-style-type: none"> 1. Conducted classes with the Utah State University’s grant support. 2. Plan and convene a roundtable 3. Implement action plan of the roundtable “Crossroads of Guard-p, Involuntary Commitment and Essential Treatment” 	<ol style="list-style-type: none"> 1. Trained 234 Professionals and Caregivers on life planning and guardianship processes. 2. Completed 1 roundtable 3. One roundtable report with action steps 4. One educational subcommittee created 	1. Education Subcommittee	Completed except follow up on roundtable – postponed until after legislative session
	Outreach to court clerks, professionals, minorities on updated online resources on guardianship	<ol style="list-style-type: none"> 1. Educate Court clerks and Self-help Center staff on most recent OTP. 2. Educate minority group leaders on availability of information in Spanish. 	Train xx District Court clerks on OTP and Court Visitor program Total Trainings: 8 Average training time: 30 mins. Make presentations to 3 non-profit target community groups	WINGS organizations	December 2018 – postponed until after legislative session
	Establish partnership between Tribal Courts, District Courts and Aging/Adult Protective Services	Map out the jurisdiction of tribal courts and district court and referrals of abuse and exploitation on tribal land	One jurisdiction chart and referral created X Presentations to Tribal Leaders; Formed Subcommittee	James Toledo Nan Mendenhall	FY 2018-2019
R E G U L A T I O N	Document the number of limited guardianship	Track limited appointments in CORIS.	New data element in CORIS	Clayson Quigley	In progress
	Track cases where guardianship is terminated.	Document restoration of rights and reasons	New data elements in CORIS	Clayson Quigley	In progress
	Adoption of the Uniform Guardianship Act in Utah	Legislative session 2019, passing HB53	Funds appropriated to a fiscal note attached to the bill; Statutory changes	Disability Law Center, Senator Weiler, Michael Drechsel	March 2019

WINGS Membership

WINGS: MEMBERSHIP LIST

Members (per Bylaws)		
Organization / Group	Name	Title/Role
AARP	• Alan Ormsby	• State Director
Adult Protective Services	• Nan Mendenhall	• Director
Center for Alzheimer’s Care, Imaging, and Research	• Dustin Hammers (retiring) • Michelle Miranda	• Clinical Neuropsychologist
Centro de la Familia	•	•
Disability Law Center	• Andrew Riggle	• Public Policy Advocate
Division of Aging and Adult Services	• Nels Holmgren	• Division Director
	• Jean Boyack	• Legal Services Developer
Faculty Member – Utah institution of higher education (e.g., colleges of social work and law)	•	•
Jewish Family Services	•	•
Law enforcement agency	•	•
Long-term Care Ombudsman	• Daniel Musto	• Administrator
National Alliance on Mental Illness	• Wendy Fayles	• Criminal Justice / Mentor
Office of Public Guardian	• Xia Erickson	• Director
Private probate attorney	• Kent Alderman	• Attorney/Partner Lewis Hansen Law Firm
	• Rob Denton	• Attorney at Law
Private guardian / care manager	•	•
Probate judge	•	•
Resident of a rural community	•	•
Tribal Groups	•	•
Utah Commission on Aging	• Rob Ence	• Director
University of Utah Center on Aging	•	•
Utah Aging and Disability Resource Center	•	•
Utah Healthcare Association	•	•
Utah Parent Center	•	•
Utah State Legislature	• Todd Weiler	• Senator, 23 rd District Salt Lake & Davis County
Veteran’s Affairs Administration	•	•
Volunteer Court Visitor Program	• Michelle Wilkes	• Court Visitor Program Coordinator

Other Members

Organization / Group	Name	Title/Role
District Court - Judges	• Keith Kelly	• 3 rd District Judge, WINGS Chair
	• James Brady	• Presiding Judge, 4 th District
	• David Connors	• Presiding Judge, 2 nd District
District Court - Administration	• Joanne Sayre	• Judicial Case Manager – 3 rd
	• Cora Gant	• Deputy Court Clerk – 4 th
	• Norma Valavala-Ballard	• Judicial Case Manager – 4 th
Medicaid Fraud Control Unit	• KayeLynn Wootton	• Assistant Attorney General
Utah Legal Services	• TantaLisa Clayton	• Attorney / Director
Utah State Bar	• Jeff Daybell	• Access to Justice Staff Attorney
Utah Division of Indian Affairs	• James Toledo	• Program Manager
Administrative Office of the Courts	• Nancy Sylvester	• Associate General Counsel
	• Shonna Thomas	• GRAMP Program Coordinator
	• Shane Bahr	• District Court Administrator