

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

January 27, 2016

Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB16-026 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, line 4, strike "**guardians and**" and substitute
- 2 "**guardians.**".
- 3 Page 2, line 5, strike "**conservators.**".
- 4 Page 2, line 8, strike "OR CONSERVATOR".
- 5 Page 3, line 7, strike "OR CONSERVATOR".
- 6 Page 3, line 14, strike "OR CONSERVATOR".
- 7 Page 3, line 16, strike "OR CONSERVATOR".
- 8 Page 3, line 18, strike "OR CONSERVATOR".
- 9 Page 3, line 24, strike "GUARDIAN OR CONSERVATOR." and substitute
- 10 "GUARDIAN."
- 11 Page 5, line 7, strike "OR CONSERVATOR".
- 12 Page 5, line 11, strike "OR CONSERVATOR".
- 13 Page 5, line 15, strike "GUARDIAN OR CONSERVATOR'S" and substitute
- 14 "GUARDIAN'S".

- 1 Page 5, line 16, strike "OR CONSERVATOR".
- 2 Page 5, line 18, strike "OR CONSERVATOR".
- 3 Page 6, line 12, strike "OR CONSERVATOR".
- 4 Page 6, line 27, strike "OR CONSERVATOR".
- 5 Page 7, line 3, strike "OR CONSERVATOR".
- 6 Page 7, line 10, strike "**and conservators**".
- 7 Page 7, line 12, strike "OR CONSERVATOR".
- 8 Page 7, line 25, strike "OR CONSERVATOR".
- 9 Page 8, line 2, strike "OR CONSERVATOR".
- 10 Page 8, line 7, strike "OR CONSERVATOR".
- 11 Page 8, line 10, strike "OR CONSERVATOR".
- 12 Page 8, line 13, strike "OR CONSERVATOR".
- 13 Page 8, line 15, strike "OR CONSERVATOR".
- 14 page 8, after line 18 insert:
- 15 "(4) (a) AS USED IN THIS SECTION, UNLESS THE CONTEXT
- 16 OTHERWISE REQUIRES, "CLOSEST FAMILY MEMBER OF THE PROTECTED
- 17 PERSON" MEANS, IN ORDER:
- 18 (I) A SPOUSE OF THE PROTECTED PERSON OR A PARTNER OF THE
- 19 PROTECTED PERSON IN A CIVIL UNION;
- 20 (II) AN ADULT CHILD OF THE PROTECTED PERSON;
- 21 (III) A PARENT OF THE PROTECTED PERSON; OR
- 22 (IV) AN ADULT NEAREST IN KINSHIP TO THE PROTECTED PERSON.
- 23 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (4),
- 24 "CLOSEST FAMILY MEMBER OF THE PROTECTED PERSON" DOES NOT
- 25 INCLUDE AN INDIVIDUAL WHO IS A GUARDIAN OF THE PROTECTED PERSON.
- 26 (c) IF MORE THAN ONE PERSON QUALIFIES AS THE CLOSEST FAMILY
- 27 MEMBER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), THEN:
- 28 (I) IF THERE ARE TWO SUCH PERSONS, THEN NOTICE MUST BE

1 PROVIDED TO BOTH PERSONS; AND
2 (II) IF THERE ARE MORE THAN TWO SUCH PERSONS, THEN NOTICE
3 MUST BE PROVIDED TO THE TWO OLDEST SUCH PERSONS.

4 **SECTION 3.** In Colorado Revised Statutes, **add** 15-14-102.7 as
5 follows:

6 **15-14-102.7. Personal rights of protected persons.**

7 (1) **Obligation of the courts.** THE COURT SHALL CONSTRUE AND APPLY
8 THIS PART 1 AND PARTS 3 AND 4 OF THIS ARTICLE, AND OTHER PROVISIONS
9 OF THIS CODE AS SUCH PROVISIONS RELATE TO A PROTECTED PERSON, IN
10 A MANNER THAT MAXIMIZES THE PROTECTION OF THE PERSONAL RIGHTS
11 OF EACH PROTECTED PERSON.

12 (2) **Declaration - uniform law comments.** THE GENERAL
13 ASSEMBLY DECLARES THAT THE COURTS SHOULD EMBRACE THE
14 COMMENTS OF THE UNIFORM LAW COMMISSION THAT ACCOMPANIED THE
15 REENACTMENT OF THIS ARTICLE IN 2000, WHICH ARE SUPPORTIVE OF THE
16 PERSONAL RIGHTS OF A PROTECTED PERSON.

17 **SECTION 4.** In Colorado Revised Statutes, 15-14-102, **amend**
18 (11); and **add** (10.5) as follows:

19 **15-14-102. Definitions.** In parts 1 to 4 of this article:

20 (10.5) "PERSONAL RIGHTS OF A PROTECTED PERSON" MEANS THE
21 RIGHT TO PERSONAL AUTONOMY AND OTHER RIGHTS THAT ALL
22 INDIVIDUALS ARE ENTITLED TO UNDER THE CONSTITUTION AND LAWS OF
23 THE UNITED STATES AND OF THIS STATE, WHICH RIGHTS INCLUDE, BUT ARE
24 NOT LIMITED TO, EQUALITY OF JUSTICE, FREEDOM OF SPEECH, FREEDOM OF
25 RELIGION, FREEDOM OF ASSOCIATION, RIGHT TO COUNSEL, RIGHT TO
26 PETITION, AND DUE PROCESS OF LAW FOR THE PROTECTION OF LIFE,
27 LIBERTY, AND PROPERTY.

28 (11) "Protected person" means a minor or other individual for
29 whom a conservator has been appointed or other protective order has
30 been made, AND, AS USED IN SECTIONS 15-14-102.7, 15-14-119.5, AND
31 15-14-119.7, INCLUDES A WARD."

32 Page 8, strike lines 19 through 26 and substitute:

33 **"SECTION 5. Safety clause.** The general assembly hereby finds,
34 determines, and declares that this act is necessary for the immediate
35 preservation of the public peace, health, and safety."

36 Strike page 9.

37 Page 1, line 103, strike "OR CONSERVATOR".

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