

Fifty-ninth
Legislative Assembly
of North Dakota

Introduced by

Legislative Council

(Criminal Justice Committee)

1 A BILL for an Act to amend and reenact subsection 4 of section 30.1-27-09, subsection 8 of
2 section 30.1-28-12, and sections 30.1-28-12.1 and 30.1-29-19 of the North Dakota Century
3 Code, relating to the filing of annual reports by guardians and conservators.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 4 of section 30.1-27-09 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 4. A guardian ~~must report the condition of the ward and of the ward's estate which~~
8 ~~has been subject to the guardian's possession or control, as ordered by court on~~
9 ~~petition of any person interested in the minor's welfare or as required by court rule~~
10 shall file an annual report with the court informing the court of the status or
11 condition of the ward. The report must include changes that have occurred since
12 the previous reporting period and an accounting of the ward's estate. The filing of
13 a report and its acceptance by the court or clerk of district court does not constitute
14 an adjudication or a determination of the merits of the report nor does the filing of
15 the report constitute the court's approval of the report. The court may approve a
16 report and allow and settle an accounting only upon notice to the ward's guardian
17 ad litem and other interested persons who have made an appearance or requested
18 notice of proceedings. The office of state court administrator shall provide printed
19 forms that may be used to fulfill reporting requirements. The forms must be
20 available in the office of clerk of district court or obtainable through the supreme
21 court's internet web site.

22 **SECTION 2. AMENDMENT.** Subsection 8 of section 30.1-28-12 of the North Dakota
23 Century Code is amended and reenacted as follows:

8. A guardian shall ~~make written reports to~~ file an annual report with the court ~~at such~~
~~times as the court shall require concerning the condition and affairs of the ward.~~

~~The report must include:~~

- ~~a. The name, address, and telephone number of the ward;~~
 - ~~b. The name, address, and telephone number of the guardian;~~
 - ~~c. A brief written description of the condition of the ward;~~
 - ~~d. The name and address of any person or institution having care or custody of the ward;~~
 - ~~e. If the guardian has authority to make residential decisions for the ward, a statement of the nature of the ward's care and of any changes or proposals for changes in the living situation of the ward;~~
 - ~~f. If the guardian has authority to make medical decisions, a summary of the medical treatment authorized by the guardian since the date of the last report;~~
 - ~~g. The guardian's plans for maintaining the well being of the ward and facts indicating the need for continuation or cessation of the guardianship or for any increase or limitation of the powers of the guardian;~~
 - ~~h. A complete accounting of the financial transactions of the guardian undertaken on behalf of the ward or in connection with the guardianship; and~~
 - ~~i. Any other information the court may require~~ informing the court of the status or condition of the ward. The report must include changes that have occurred since the previous reporting period and an accounting of the ward's estate.
- The filing of a report and its acceptance by the court or clerk of district court does not constitute an adjudication or a determination of the merits of the report nor does the filing of the report constitute the court's approval of the report. The court may approve a report and allow and settle an accounting only upon notice to the ward's guardian ad litem and other interested persons who have made an appearance or requested notice of proceedings. The office of the state court administrator shall provide printed forms that may be used to fulfill reporting requirements. The forms must be available in the office of clerk of district court or obtainable through the supreme court's internet web site.

1 **SECTION 3. AMENDMENT.** Section 30.1-28-12.1 of the North Dakota Century Code
2 is amended and reenacted as follows:

3 **30.1-28-12.1. ~~Reports~~ Annual reports and accounts - Failure of guardian to file.**

4 ~~4- If a guardian fails to render any file an annual report or account within the time~~
5 ~~provided by law or the order of the court as required by section 30.1-28-12, or fails~~
6 ~~to settle the provide an accounting of an estate according to the order of the court,~~
7 ~~the court may, upon its own motion; or upon petition of any interested party, may~~
8 ~~issue an order compelling the guardian to show cause why the guardian should not~~
9 ~~immediately make and file the report or account, or be found in contempt for failure~~
10 ~~to comply with the court's previous orders.~~

11 ~~2- If a guardian fails, neglects, or refuses to file a report or accounting after having~~
12 ~~been cited by the court to do so, the court may, upon its own motion or upon the~~
13 ~~motion of any interested party, issue an order to show cause that the guardian be~~
14 ~~brought before the court and show why the guardian should not be held in~~
15 ~~contempt.~~

16 **SECTION 4. AMENDMENT.** Section 30.1-29-19 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **30.1-29-19. (5-419) ~~Accounts~~ Annual reports and accounts.** ~~Every~~ At least once
19 annually and at other times as the court may direct, a conservator must file a report and
20 account to with the court for administration of the trust not less than annually unless the court
21 directs otherwise, upon resignation or removal, and at other times as the court may direct. On
22 termination of the protected person's minority or disability, a conservator may account to the
23 court or to the former protected person or the protected person's personal representative shall
24 file a final report and accounting. The filing of the report or accounting and the acceptance by
25 the court or clerk of district court of the report or accounting does not constitute the court's
26 approval of the report or accounting. The court may approve a report and settle and allow an
27 accounting only upon notice to the protected person and other interested persons who have
28 made an appearance or requested notice of proceedings. Subject to appeal or vacation within
29 the time permitted, an order, made upon notice and hearing, allowing an intermediate account
30 of a conservator, adjudicates as to liabilities concerning the matters considered in connection
31 therewith. An order, made upon notice and hearing, allowing a final account adjudicates as to

1 all previously unsettled liabilities of the conservator to the protected person or the protected
2 person's successors relating to the conservatorship. In connection with any account, the court
3 may require a conservator to submit to a physical check of the estate in the conservator's
4 control, to be made in any manner the court may specify. The office of the state court
5 administrator shall provide printed forms that may be used to fulfill reporting requirements. The
6 forms must be available in the office of clerk of district court or obtainable through the supreme
7 court's internet web site.