

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2029

Introduced by

Legislative Management

(Government Finance Committee)

In place of amendment (25.0224.04006) adopted by the House, Reengrossed Senate Bill No. 2029 is amended by amendment (25.0224.04008) as follows:

1 A BILL for an Act to create and enact ~~chapter 27-27.1 and~~ a new subsection to section
2 30.1-28-07 and chapter 54-68 of the North Dakota Century Code, relating to an office of
3 guardianship and conservatorship and the removal of a guardian; to amend and reenact section
4 30.1-29-15 and subsection 1 of section 50-24.1-07 of the North Dakota Century Code, relating
5 to the removal of a conservator and the recovery of medical assistance expenses; to repeal
6 chapter 27-27 and section 54-68-02.1 of the North Dakota Century Code, relating to the task
7 force on guardianship monitoring and transition requirements; to provide a penalty; to provide
8 for a report; to provide an appropriation; ~~and~~ to provide a continuing appropriation; to provide for
9 a transfer; and to provide an effective date.

10 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 ~~SECTION 1. Chapter 27-27.1 of the North Dakota Century Code is created and enacted as~~
12 ~~follows:~~

13 ~~27-27.1-01. Definitions:~~

14 ~~As used in this chapter:~~

15 ~~1. "Agency permit" means temporary authorization given by the office to an employee of~~
16 ~~a professional guardianship or professional conservatorship entity which allows the~~
17 ~~permitholder to provide guardianship or conservatorship services as an agent of the~~
18 ~~entity.~~

19 ~~2. "Board" means the guardianship and conservatorship review board.~~

1 ~~3. "Identifiable information" means an individual's personal details, including the~~
2 ~~individual's name, address, telephone number, facsimile number, social security~~
3 ~~number, electronic mail address, program identification number, or any other unique~~
4 ~~identifying number, characteristic, or code, and any demographic information collected~~
5 ~~about the individual.~~

6 ~~4. "Investigation counsel" means the guardianship and conservatorship counsel.~~

7 ~~5. "Licensed conservator" means a person licensed by the office to provide~~
8 ~~conservatorship services.~~

9 ~~6. "Licensed guardian" means a person licensed by the office to provide guardianship~~
10 ~~services.~~

11 ~~7. "Office" means the office of guardianship and conservatorship.~~

12 ~~8. "Public conservator" means a conservator under contract with the office to provide~~
13 ~~conservatorship services for an individual eligible for public services.~~

14 ~~9. "Public guardian" means a guardian under contract with the office to provide~~
15 ~~guardianship services for an individual eligible for public services.~~

16 ~~10. "Public services" means state or federally funded programs administered by the office~~
17 ~~available to eligible individuals.~~

18 ~~11. "Unlicensed conservator" means a person providing conservatorship services without~~
19 ~~a conservator license.~~

20 ~~12. "Unlicensed guardian" means a person providing guardianship services without a~~
21 ~~guardian license.~~

22 ~~**27-27.1-02. Office of guardianship and conservatorship - Purpose - Powers and**~~
23 ~~**duties - Report - Audit.**~~

24 ~~1. The office of guardianship and conservatorship is created as a division under the~~
25 ~~supreme court to administer the programs assigned by state law or the supreme court.~~

26 ~~2. The office shall:~~

27 ~~a. Develop policies and procedures, including eligibility criteria, for:~~

28 ~~(1) Receiving public services;~~

29 ~~(2) A public guardian or a public conservator;~~

30 ~~(3) A licensed guardian or a licensed conservator; and~~

- 1 ~~———— (4) Distribution of funding for direct payments and expense reimbursements for~~
2 ~~public services.~~
- 3 ~~———— b. Develop ethical standards for:~~
- 4 ~~———— (1) A licensed guardian or a licensed conservator; and~~
- 5 ~~———— (2) An unlicensed guardian or an unlicensed conservator.~~
- 6 ~~———— c. Develop policies and procedures for proceedings when a guardian or a~~
7 ~~conservator is unable to fulfill the duties of a guardian or a conservator.~~
- 8 ~~———— d. Keep accurate records of all financial transactions performed under this chapter~~
9 ~~in the manner required by the office of management and budget.~~
- 10 ~~———— e. Provide a report each biennium to the legislative management regarding the~~
11 ~~operations of the office, including the cost of public guardians and public~~
12 ~~conservators, and any other information requested by the legislative~~
13 ~~management.~~
- 14 ~~———— 3. The office may:~~
- 15 ~~———— a. Recommend rules applicable to a licensed guardian or a licensed conservator.~~
- 16 ~~———— b. Grant licenses to a guardian or conservator and agency permits, including~~
17 ~~revoking or suspending an agency permit.~~
- 18 ~~———— c. Require insurance or bond coverage for a licensed guardian or a licensed~~
19 ~~conservator as a condition for licensure.~~
- 20 ~~———— d. Establish mandatory disclosure and reporting requirements for a licensed~~
21 ~~guardian or a licensed conservator, including a process to disclose information or~~
22 ~~submit reports to the office.~~
- 23 ~~———— e. Provide training for guardians and conservators.~~
- 24 ~~———— f. Monitor guardianship and conservatorship services.~~
- 25 ~~———— g. Provide annual reports to the supreme court.~~
- 26 ~~———— h. Distribute funding for direct payments, expense reimbursements, or other public~~
27 ~~services, including funding for public administrators.~~
- 28 ~~———— i. Establish and collect fees to support guardianship and conservatorship services~~
29 ~~and the duties of the office, which must be deposited in the guardianship and~~
30 ~~conservatorship support fund.~~

- 1 ~~j. Seek and apply for private, federal, or other funds to help support guardians and~~
2 ~~conservators and to safeguard the rights of individuals who receive public~~
3 ~~services.~~
- 4 ~~k. Accept private funds for deposit in the guardianship and conservatorship support~~
5 ~~fund.~~
- 6 ~~4. The office may not authorize payment for services for any public guardian or public~~
7 ~~conservator that provides services for more individuals than allowed through statute,~~
8 ~~regulation, court rule, or policy adopted by the office.~~
- 9 ~~5. The office, its officers, or its employees, may not act as a public guardian or a public~~
10 ~~conservator or act in any other representative capacity for any individual. This~~
11 ~~subsection does not prohibit an officer or employee from acting as a guardian or~~
12 ~~conservator in a personal capacity apart from any duties as an officer or employee.~~
- 13 ~~6. The office is subject to audits by the state auditor under chapter 54-10.~~
- 14 ~~**27-27.1-03. Guardianship and conservatorship support fund - Continuing**~~
15 ~~**appropriation.**~~
- 16 ~~There is created in the state treasury the guardianship and conservatorship support fund.~~
17 ~~The fund consists of all moneys transferred to the fund by the legislative assembly, interest~~
18 ~~upon moneys in the fund, fee collections, donations, grants, and other contributions received for~~
19 ~~deposit in the fund. All moneys in the fund are appropriated on a continuing basis to the judicial~~
20 ~~branch to defray the expenses of the office for supporting guardianship and conservatorship~~
21 ~~services, including guardianship and conservatorship training and monitoring.~~
- 22 ~~**27-27.1-04. Records - Confidentiality - Disclosure - Penalty.**~~
- 23 ~~1. Identifiable information concerning an individual who is applying for or receiving public~~
24 ~~services under this chapter is confidential and may be disclosed only:~~
- 25 ~~a. In the administration of any program under the supervision or administration of~~
26 ~~the office.~~
- 27 ~~b. When authorized by a policy or procedure of the office.~~
- 28 ~~c. When allowed or required by rule or law.~~
- 29 ~~2. A report concerning an applicant, provider, or recipient of public services is confidential~~
30 ~~if the report is made in good faith and may be disclosed only to:~~

- 1 ~~a. Authorized staff and agents of the office, who may further disclose the~~
2 ~~information to a person that has a definite interest in the well-being of the~~
3 ~~individual concerned, is in a position to serve the individual's interests, and that~~
4 ~~needs to know the contents of the records to assure the well-being and interests~~
5 ~~of the individual concerned.~~
- 6 ~~b. An individual who is the subject of the report, if the identity of the person~~
7 ~~reporting or supplying information under this chapter is protected until the~~
8 ~~information is needed for use in an administrative, legal, or disciplinary~~
9 ~~proceeding arising out of the report.~~
- 10 ~~c. A public official and the public official's authorized agent who requires the~~
11 ~~information in connection with the discharge of official duties.~~
- 12 ~~d. A court when the court determines the information is necessary for the~~
13 ~~determination of an issue before the court.~~
- 14 ~~e. The investigation counsel.~~
- 15 ~~3. The investigation counsel may disclose information uncovered during a disciplinary~~
16 ~~investigation to the attorney general or bureau of criminal investigation related to a~~
17 ~~criminal investigation when the investigation counsel suspects the subject of the~~
18 ~~investigation has committed a crime.~~
- 19 ~~4. A person that discloses, authorizes, or knowingly allows, participates in, or acquiesces~~
20 ~~in the disclosure of confidential information in violation of this section is guilty of a~~
21 ~~class C felony.~~
- 22 ~~**27-27.1-05. Guardianship and conservatorship limitations - Representation to the**~~
23 ~~**public - Exemption.**~~
- 24 ~~1. A person may not serve as a guardian or a conservator for three or more adult~~
25 ~~individuals at the same time unless that person is a licensed guardian or a licensed~~
26 ~~conservator or has an agency permit.~~
- 27 ~~2. A public guardian or a public conservator may not provide services to a minor unless~~
28 ~~authorized by a proceeding under section 30.1-28-03.3.~~
- 29 ~~3. A person must be a licensed guardian or a licensed conservator to offer guardianship~~
30 ~~or conservatorship services to the public.~~
- 31 ~~4. This section does not apply to:~~

1 ~~_____ a. A federal or state agency.~~

2 ~~_____ b. A financial institution under section 6-08.1-01 when appointed as a conservator.~~

3 ~~_____ c. An individual appointed as a guardian or conservator for a family member.~~

4 ~~_____ 5. A person who violates this section after August 1, 2026, is guilty of a class B-~~
5 ~~_____ misdemeanor.~~

6 ~~_____ **27-27.1-06. Immunity.**~~

7 ~~_____ A person who in good faith provides information or testimony regarding a guardian's or~~
8 ~~_____ conservator's misconduct or lack of professionalism is not subject to civil liability.~~

9 ~~_____ **27-27.1-07. Jurisdiction - Waiver of court costs - Applicability.**~~

10 ~~_____ 1. The supreme court has original jurisdiction to revoke or suspend a guardian or a~~
11 ~~_____ conservator license.~~

12 ~~_____ 2. The supreme court must establish a process to appeal license denials and board~~
13 ~~_____ orders.~~

14 ~~_____ 3. The courts shall waive court costs and filing fees in any proceeding in which a person~~
15 ~~_____ is receiving public services under this chapter.~~

16 ~~_____ 4. A guardian or conservator subject to the jurisdiction of a court of this state shall follow~~
17 ~~_____ the applicable policies, procedures, and standards of the office, or other approval~~
18 ~~_____ authority authorized by court rule, if the guardian or the conservator serves an adult~~
19 ~~_____ ward, adult protected person, or incapacitated person, as defined in title 30.1.~~

20 ~~_____ **27-27.1-08. Guardianship and conservatorship review board - Guardianship and**~~
21 ~~_____ **conservatorship counsel - Guardianship and conservatorship operations committee.**~~

22 ~~_____ 1. The supreme court may establish a guardianship and conservatorship review board to~~
23 ~~_____ conduct disciplinary proceedings for a guardian or conservator.~~

24 ~~_____ 2. The supreme court may establish a guardianship and conservatorship counsel to~~
25 ~~_____ investigate noncompliance reported under this chapter. The director of the office is the~~
26 ~~_____ hiring authority for the investigation counsel.~~

27 ~~_____ 3. The supreme court must create a guardianship and conservatorship operations~~
28 ~~_____ committee to supervise the operations of the office and investigation counsel. The~~
29 ~~_____ operations committee:~~

30 ~~_____ a. Must develop and submit budgets for the office, board, and investigation counsel.~~

31 ~~_____ b. Is the hiring authority for the office director.~~

1 ~~_____ c. May adopt policies recommended by the office.~~

2 ~~_____ **27-27.1-09. Supreme court - Discretionary powers:**~~

3 ~~_____ The supreme court may:~~

4 ~~_____ 1. Grant immunity to a member of the board and the board's agents if a district court or~~
5 ~~_____ the supreme court would have immunity in performing the same functions.~~

6 ~~_____ 2. Establish confidentiality and disclosure standards for disciplinary proceedings.~~

7 ~~_____ 3. Authorize officials, officers, agents, and designees of the office, the board, and the~~
8 ~~_____ investigation counsel to:~~

9 ~~_____ a. Administer oaths.~~

10 ~~_____ b. Order and otherwise provide for the inspection of books and records.~~

11 ~~_____ c. Issue subpoenas for the attendance of witnesses and the production of~~
12 ~~_____ designated documents, electronically stored information, or tangible things in~~
13 ~~_____ accordance with the North Dakota Rules of Civil Procedure.~~

14 ~~_____ d. Order the deposition of a person residing within or outside the state to be taken in~~
15 ~~_____ accordance with the North Dakota Rules of Civil Procedure.~~

16 ~~_____ 4. Adopt rules to effectuate the powers and duties under this chapter.~~

17 ~~_____ **27-27.1-10. Attorney general - Counsel - Bureau of criminal investigation - Primary**~~
18 ~~_____ **authority for investigations.**~~

19 ~~_____ 1. The attorney general shall act as legal counsel in any particular investigation or~~
20 ~~_____ proceeding under section 54-12-02. The attorney general shall appear and defend any~~
21 ~~_____ officer or employee of the office and any member of the board in any action founded~~
22 ~~_____ on an act or omission arising out of performance of an official duty consistent with~~
23 ~~_____ section 54-12-01.3.~~

24 ~~_____ 2. In accordance with chapter 54-12, the attorney general and bureau of criminal~~
25 ~~_____ investigation have primary authority to investigate criminal cases related to a~~
26 ~~_____ guardianship or conservatorship.~~

27 ~~_____ **27-27.1-11. Duty to disclose and cooperate.**~~

28 ~~_____ 1. A state and local governmental entity and its officers and employees, and the officials,~~
29 ~~_____ officers, and employees of the courts of this state shall disclose records and~~
30 ~~_____ information requested by the board or investigation counsel or any authorized~~
31 ~~_____ representative of the board or investigation counsel and shall cooperate with and give~~

1 ~~reasonable assistance to the board or investigation counsel and any authorized~~
2 ~~representative of the board or counsel unless prohibited by federal regulation or law.~~

3 ~~2. The service of process extends to all parts of the state in any investigation or~~
4 ~~disciplinary proceeding under this chapter. A sheriff or police officer shall serve~~
5 ~~process and execute all lawful orders upon request of the office, its authorized~~
6 ~~representative, the board, or the investigation counsel.~~

7 ~~**27-27.1-12. Duties of witnesses - Penalty.**~~

8 ~~1. An individual is obliged to attend as a witness in any investigation or disciplinary~~
9 ~~proceeding commenced under this chapter.~~

10 ~~2. If an individual refuses to attend, testify, or produce any writings or things required by~~
11 ~~subpoena, the office, board, or investigation counsel that issued the subpoena may~~
12 ~~petition the district court of the district in which the attendance or production is~~
13 ~~required for an order compelling the individual to attend and testify or produce the~~
14 ~~writings or things required by the subpoena. The court shall order the individual to~~
15 ~~appear before the court at a specified time and place to show cause why the individual~~
16 ~~has not attended, testified, or produced the writings or things as required. A copy of~~
17 ~~the order must be served on the individual. If the court determines the subpoena was~~
18 ~~regularly issued, the court shall order the individual to appear at the time and place~~
19 ~~fixed in the order and testify or produce the required writings or things.~~

20 ~~3. An individual who fails to obey an order under this section is guilty of a class A~~
21 ~~misdemeanor.~~

22 ~~**27-27.1-13. Preferred claim.**~~

23 ~~1. The office has a preferred claim against the estate of an individual or an individual's~~
24 ~~spouse for recovery of funds expended under this chapter for the care of that~~
25 ~~individual or the individual's spouse. All funds recovered under this chapter must be~~
26 ~~deposited in the general fund.~~

27 ~~2. A claim may not be required to be paid and interest may not begin to accrue during the~~
28 ~~lifetime of the decedent's surviving spouse, if any.~~

29 ~~3. A statute of limitation or similar statute or the doctrine of laches may not bar a claim~~
30 ~~under this chapter.~~

1 **SECTION 1.** A new subsection to section 30.1-28-07 of the North Dakota Century Code is
2 created and enacted as follows:

3 The court may order a guardian to be listed on a registry if the court removed the
4 guardian for good cause. A guardian listed on the registry is disqualified from acting as
5 a guardian in any guardianship proceeding. The court shall send a copy of the order to
6 the state court administrator, who shall maintain and administer the registry. This
7 subsection does not apply to a licensed guardian. For purposes of this subsection, a
8 licensed guardian includes a guardian whose license has been suspended but
9 excludes a guardian whose license is revoked.

10 **SECTION 2. AMENDMENT.** Section 30.1-29-15 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **30.1-29-15. (5-415) Death, resignation, or removal of conservator.**

- 13 1. The court may remove a conservator for good cause, upon notice and hearing, or
14 accept the resignation of a conservator. After a conservator's death, resignation, or
15 removal, the court may appoint another conservator. A conservator so appointed
16 succeeds to the title and powers of the predecessor.
- 17 2. The court may order a conservator to be listed on a registry if the court removed the
18 conservator for good cause. A conservator listed on the registry is disqualified from
19 acting as a conservator in any conservatorship proceeding. The court shall send a
20 copy of the order to the state court administrator, who shall maintain and administer
21 the registry. This subsection does not apply to a licensed conservator. For purposes of
22 this subsection, a licensed conservator includes a conservator whose license has
23 been suspended but excludes a conservator whose license is revoked.

24 **SECTION 3. AMENDMENT.** Subsection 1 of section 50-24.1-07 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 1. On the death of any recipient of medical assistance who was a resident of a nursing
27 facility, intermediate care facility for individuals with intellectual disabilities, or other
28 medical institution and with respect to whom the department determined that resident
29 reasonably was not expected to be discharged from the medical institution and to
30 return home, or who was fifty-five years of age or older when the recipient received the
31 assistance, and on the death of the spouse of the deceased recipient, the total amount

1 of medical assistance paid on behalf of the recipient following the institutionalization of
2 the recipient who cannot reasonably be expected to be discharged from the medical
3 institution, or following the recipient's fifty-fifth birthday, as the case may be, must be
4 allowed as a preferred claim against the decedent's estate after payment, in the
5 following order, of:

- 6 a. Recipient liability expense applicable to the month of death for nursing home or
7 basic care services;
- 8 b. Funeral expenses not in excess of three thousand five hundred dollars;
- 9 c. Expenses of the last illness, other than those incurred by medical assistance;
- 10 d. Expenses of administering the estate, including attorney's fees approved by the
11 court;
- 12 e. Claims made under chapter 50-01;
- 13 f. Claims made under chapter 50-24.5;
- 14 g. Claims made under chapter 50-06.3 and on behalf of the state hospital; and
- 15 h. Claims made under chapter ~~27-27.1~~54-68; and
- 16 i. Claims made under subsection 4.

17 **SECTION 4.** Chapter 54-68 of the North Dakota Century Code is created and enacted as
18 follows:

19 **54-68-01. Definitions.**

20 As used in this chapter:

- 21 1. "Agency permit" means temporary authorization given by the office to an employee of
22 a professional guardianship or professional conservatorship entity which allows the
23 permitholder to provide guardianship or conservatorship services as an agent of the
24 entity.
- 25 2. "Identifiable information" means an individual's personal details, including the
26 individual's name, address, telephone number, facsimile number, social security
27 number, electronic mail address, program identification number, or any other unique
28 identifying number, characteristic, or code, and any demographic information collected
29 about the individual.
- 30 3. "Investigation counsel" means the guardianship and conservatorship counsel.

1 4. "Licensed conservator" means a person licensed by the office to provide
2 conservatorship services.

3 5. "Licensed guardian" means a person licensed by the office to provide guardianship
4 services.

5 6. "Office" means the office of guardianship and conservatorship.

6 7. "Public conservator" means a conservator under contract with the office to provide
7 conservatorship services for an individual eligible for public services.

8 8. "Public guardian" means a guardian under contract with the office to provide
9 guardianship services for an individual eligible for public services.

10 9. "Public services" means state or federally funded programs administered by the office
11 available to eligible individuals.

12 10. "Review board" means the guardianship and conservatorship review board
13 established under section 54-68-03.

14 11. "Unlicensed conservator" means a person providing conservatorship services without
15 a conservator license.

16 12. "Unlicensed guardian" means a person providing guardianship services without a
17 guardian license.

18 **54-68-02. Office of guardianship and conservatorship - Purpose - Powers and duties -**

19 **Report - Audit.**

20 1. The office, in its capacity of supervising and directing guardianship and
21 conservatorship, shall operate independently of any state agency that provides
22 services to individuals under guardianship or conservatorship. The office shall
23 administer programs assigned by state law. The office may adopt rules to administer
24 and enforce this chapter.

25 2. The office shall:

26 a. Develop policies and procedures, including eligibility criteria, for:

27 (1) Receiving public services;

28 (2) A public guardian or a public conservator;

29 (3) A licensed guardian or a licensed conservator; and

30 (4) Distribution of funding for direct payments and expense reimbursements for
31 public services.

1 b. Develop ethical standards for:

2 (1) A licensed guardian or a licensed conservator; and

3 (2) An unlicensed guardian or an unlicensed conservator.

4 c. Develop policies and procedures for proceedings when a guardian or a
5 conservator is unable to fulfill the duties of a guardian or a conservator.

6 d. Keep accurate records of all financial transactions performed under this chapter
7 in the manner required by the office of management and budget.

8 e. Provide a report each biennium to the legislative management regarding the
9 operations of the office, including the cost of public guardians and public
10 conservators, and any other information requested by the legislative
11 management.

12 3. The office may:

13 a. Recommend rules applicable to a licensed guardian or a licensed conservator.

14 b. Grant licenses to a guardian or conservator and agency permits, including
15 revoking or suspending an agency permit.

16 c. Require insurance or bond coverage for a licensed guardian or a licensed
17 conservator as a condition for licensure.

18 d. Establish mandatory disclosure and reporting requirements for a licensed
19 guardian or a licensed conservator, including a process to disclose information or
20 submit reports to the office.

21 e. Provide training for guardians and conservators.

22 f. Monitor guardianship and conservatorship services.

23 g. Provide annual reports to the governor.

24 h. Distribute funding for direct payments, expense reimbursements, or other public
25 services, including funding for public administrators.

26 i. Establish and collect fees to support guardianship and conservatorship services
27 and the duties of the office, which must be deposited in the guardianship and
28 conservatorship support fund.

29 j. Seek and apply for private, federal, or other funds to help support guardians and
30 conservators and to safeguard the rights of individuals who receive public
31 services.

1 k. Accept private funds for deposit in the guardianship and conservatorship support
2 fund.

3 4. The office may not authorize payment for services for any public guardian or public
4 conservator that provides services for more individuals than allowed through statute,
5 regulation, or administrative rule.

6 5. The office, its officers, or its employees, may not act as a public guardian or a public
7 conservator or act in any other representative capacity for any individual. This
8 subsection does not prohibit an officer or employee from acting as a guardian or
9 conservator in a personal capacity apart from any duties as an officer or employee.

10 6. The office is subject to audits by the state auditor under chapter 54-10.

11 **54-68-02.1. Transition - Requirements.**

12 1. By March 31, 2026, the office shall:

13 a. Establish the guardianship and conservatorship review board.

14 b. Appoint an executive director and employ the necessary staff to provide office
15 services within the limits of legislative appropriations.

16 c. Develop by rule initial policies, procedures, and eligibility criteria for:

17 (1) Receiving public services;

18 (2) A public guardian or a public conservator;

19 (3) A licensed guardian or a licensed conservator; and

20 (4) Distribution of funding for direct payments and expense reimbursements for
21 public services.

22 d. Develop by rule ethical standards for:

23 (1) A licensed guardian or a licensed conservator; and

24 (2) An unlicensed guardian or an unlicensed conservator.

25 e. Develop by rule policies and procedures for proceedings when a guardian or a
26 conservator is unable to fulfill the duties of a guardian or a conservator.

27 f. Set by rule daily rates for fees and a reimbursement mechanism protocol.

28 g. Establish initial fees to support guardianship and conservatorship services and
29 the duties of the office.

30 2. The office may adopt rules necessary to facilitate the creation of the office and
31 assume the administration of guardianship programs.

54-68-03. Review board - Director - Administrative authority - Operations committee.

1. The office shall establish a guardianship and conservatorship review board to conduct disciplinary proceedings for a guardian or conservator. The guardianship and conservatorship review board shall consist of:

a. Three members representing guardians, appointed by the guardianship association of North Dakota;

b. One member representing family guardians, appointed by the guardianship association of North Dakota;

c. One member representing the protection and advocacy project, appointed by the committee on protection and advocacy;

d. Two members appointed by the state bar association of North Dakota, consisting of:

(1) One lawyer licensed to practice law in the state; and

(2) One retired judge, judicial referee, or surrogate judge; and

e. Two members of the public, appointed by the governor.

2. The review board shall appoint an office director, who serves at the will of the review board. Within the limits of legislative appropriations, the director shall employ the necessary staff to provide office services in accordance with this chapter. The director, with the advice and consent of the review board, may adopt rules for administration of the office.

3. The office may establish a guardianship and conservatorship counsel to investigate noncompliance under this chapter reported after April 1, 2026. The director of the office is the hiring authority for the investigation counsel.

4. The office shall create a guardianship and conservatorship operations committee to supervise the operations of the office and investigation counsel. The guardianship and conservatorship operations committee shall develop and submit budgets for the office, review board, and investigation counsel.

a. The guardianship and conservatorship operations committee shall consist of:

(1) Two members of the legislative assembly, one from each chamber,

appointed by the chairman of the legislative management;

- 1 (2) Two members appointed by the state bar association of North Dakota,
2 consisting of:
3 (a) One lawyer licensed to practice law in the state; and
4 (b) One retired judge, judicial referee, or surrogate judge; and
5 (3) Two members appointed by the governor.
6 b. Initially, members of the guardianship and conservatorship operations committee
7 shall serve staggered terms as follows:
8 (1) Two members shall serve a term of one year;
9 (2) Two members shall serve a term of two years; and
10 (3) Two members shall serve a term of three years.
11 c. After the expiration of initial terms, all appointments must be for a term of three
12 years. A member may not serve more than two consecutive terms of three years.
13 d. A member of the guardianship and conservatorship operations committee
14 concurrently serving as a member of the legislative assembly shall receive
15 per diem compensation in accordance with section 54-35-10.

16 **54-68-04. Guardianship and conservatorship support fund - Continuing**
17 **appropriation.**

18 There is created in the state treasury the guardianship and conservatorship support fund.
19 The fund consists of all moneys transferred to the fund by the legislative assembly, interest
20 upon moneys in the fund, fee collections, donations, grants, and other contributions received for
21 deposit in the fund. All moneys in the fund are appropriated on a continuing basis to the office to
22 defray the expenses of supporting guardianship and conservatorship services, including
23 guardianship and conservatorship training and monitoring.

24 **54-68-05. Records - Confidentiality - Disclosure - Penalty.**

- 25 1. Identifiable information concerning an individual who is applying for or receiving public
26 services under this chapter is confidential and may be disclosed only:
27 a. In the administration of any program under the supervision or administration of
28 the office.
29 b. When authorized by a policy of the office.
30 c. When allowed or required by rule or law.

1 2. A report concerning an applicant, provider, or recipient of public services is confidential
2 if the report is made in good faith and may be disclosed only to:

3 a. Authorized staff and agents of the office, who may further disclose the
4 information to a person that has a definite interest in the well-being of the
5 individual concerned, is in a position to serve the individual's interests, and that
6 needs to know the contents of the records to assure the well-being and interests
7 of the individual concerned.

8 b. An individual who is the subject of the report, if the identity of the person
9 reporting or supplying information under this chapter is protected until the
10 information is needed for use in an administrative, legal, or disciplinary
11 proceeding arising out of the report.

12 c. A public official and the public official's authorized agent who requires the
13 information in connection with the discharge of official duties.

14 d. A court when the court determines the information is necessary for the
15 determination of an issue before the court.

16 e. The investigation counsel.

17 3. The investigation counsel may disclose information uncovered during a disciplinary
18 investigation to the attorney general or bureau of criminal investigation related to a
19 criminal investigation when the investigation counsel suspects the subject of the
20 investigation has committed a crime.

21 4. A person that discloses, authorizes, or knowingly allows, participates in, or acquiesces
22 in the disclosure of confidential information in violation of this section is guilty of a
23 class C felony.

24 **54-68-06. Guardianship and conservatorship limitations - Representation to the**
25 **public - Exemption.**

26 1. A person may not serve as a guardian or a conservator for three or more adult
27 individuals at the same time unless that person is a licensed guardian or a licensed
28 conservator or has an agency permit. This subsection does not apply to an individual
29 appointed as a guardian or conservator for a family member.

30 2. A public guardian or a public conservator may not provide services to a minor unless
31 authorized by a proceeding under section 30.1-28-03.3.

1 3. A person must be a licensed guardian or a licensed conservator to offer guardianship
2 or conservatorship services to the public.

3 4. This section does not apply to:

4 a. A federal or state agency.

5 b. A financial institution under section 6-08.1-01 when appointed as a conservator.

6 c. Human service zones, including human service zone directors or human service
7 zone team members, as defined in section 50-01.1-01.

8 5. A person who violates this section after August 1, 2026, is guilty of a class B
9 misdemeanor.

10 **54-68-07. Immunity.**

11 1. A person who in good faith provides information or testimony regarding a guardian's or
12 conservator's misconduct or lack of professionalism is not subject to civil liability.

13 2. An employee of the office, a member of the review board, or an agent of the review
14 board acting in good faith is not subject to civil liability.

15 **54-68-08. Authority - Applicability.**

16 1. The office may revoke or suspend a guardian or a conservator license.

17 2. The office shall establish by rule a process to appeal license denials and review board
18 orders.

19 3. Upon receipt of any report or complaint, the office shall assess the need for an
20 investigation of the report or complaint. For the purpose of investigating a report or
21 complaint:

22 a. The office or review board shall:

23 (1) Establish confidentiality and disclosure standards for investigating a report
24 or complaint and subsequent disciplinary proceedings.

25 (2) Adopt rules to effectuate the powers and duties under this chapter.

26 b. The office or review board may:

27 (1) Interview an alleged victim, witness, or any other individual with knowledge
28 of the situation.

29 (2) Access any record or information on an applicant, provider, or recipient of
30 public services.

1 (3) Issue subpoenas for the attendance of witnesses and the production of
2 designated documents, electronically stored information, or tangible things
3 in accordance with the North Dakota Rules of Civil Procedure.

4 (4) Order the deposition of a person residing within or outside the state to be
5 taken in accordance with the North Dakota Rules of Civil Procedure.

6 (5) Coordinate with other agencies and departments, including the attorney
7 general and bureau of criminal investigation.

8 3. A guardian or conservator subject to the jurisdiction of a court of this state shall follow
9 the applicable policies, procedures, and standards of the office, or other approval
10 authority authorized by rule if the guardian or the conservator serves an adult ward,
11 adult protected person, or incapacitated person, as defined in title 30.1.

12 **54-68-09. Attorney general - Counsel - Bureau of criminal investigation - Primary**
13 **authority for investigations.**

14 1. The attorney general shall act as legal counsel in any particular investigation or
15 proceeding under section 54-12-02. The attorney general shall appear and defend any
16 officer or employee of the office and any member of the review board in any action
17 founded on an act or omission arising out of performance of an official duty.

18 2. In accordance with chapter 54-12, the attorney general and bureau of criminal
19 investigation have primary authority to investigate criminal cases related to a
20 guardianship or conservatorship.

21 **54-68-10. Duty to disclose and cooperate.**

22 1. A state and local governmental entity and its officers and employees, and the officials,
23 officers, and employees of the courts of this state shall disclose records and
24 information requested by the review board or investigation counsel or any authorized
25 representative of the review board or investigation counsel and shall cooperate with
26 and give reasonable assistance to the review board or investigation counsel and any
27 authorized representative of the review board or counsel unless prohibited by federal
28 regulation or law.

29 2. A sheriff or police officer shall serve process and execute all lawful orders upon
30 request of the office, its authorized representative, the review board, or the

1 investigation counsel. The service of process extends to all parts of the state in any
2 investigation or disciplinary proceeding under this chapter.

3 **54-68-11. Duties of witnesses - Penalty.**

4 1. An individual is obliged to attend as a witness in any investigation or disciplinary
5 proceeding commenced under this chapter.

6 2. If an individual refuses to attend, testify, or produce any writings or things required by
7 subpoena, the office, review board, or investigation counsel that issued the subpoena
8 may petition the district court of the district in which the attendance or production is
9 required for an order compelling the individual to attend and testify or produce the
10 writings or things required by the subpoena. The court shall order the individual to
11 appear before the court at a specified time and place to show cause why the individual
12 has not attended, testified, or produced the writings or things as required. A copy of
13 the order must be served on the individual. If the court determines the subpoena was
14 regularly issued, the court shall order the individual to appear at the time and place
15 fixed in the order and testify or produce the required writings or things.

16 3. An individual who fails to obey an order under this section is guilty of a class A
17 misdemeanor.

18 **54-68-12. Preferred claim.**

19 1. The office has a preferred claim against the estate of an individual or an individual's
20 spouse for recovery of funds expended under this chapter for the care of that
21 individual or the individual's spouse. All funds recovered under this chapter must be
22 deposited in the general fund.

23 2. A claim may not be required to be paid and interest may not begin to accrue during the
24 lifetime of the decedent's surviving spouse, if any.

25 3. A statute of limitation or similar statute or the doctrine of laches may not bar a claim
26 under this chapter.

27 **SECTION 5. REPEAL.** Chapter 27-27 of the North Dakota Century Code is repealed.

28 **SECTION 6. REPEAL.** Section 54-68-02.1 of the North Dakota Century Code, as created in
29 Section 4 of this Act, is repealed.

30 **SECTION 7. APPROPRIATION - ~~JUDICIAL BRANCH~~ - OFFICE OF GUARDIANSHIP**
31 **AND CONSERVATORSHIP - FULL-TIME EQUIVALENT POSITION AUTHORIZATION.** The

1 funds provided in this section, or so much of the funds as may be necessary, are appropriated
2 out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the
3 ~~judicial branch~~office of guardianship and conservatorship for the purpose of defraying the
4 expenses of the office of guardianship and conservatorship, for the biennium beginning July 1,
5 2025, and ending June 30, 2027, as follows:

6	Establishment costs -- indigents	\$1,550,000
7	Establishment costs -- developmentally disabled	1,096,400
8	Public guardian and conservator fees -- indigents	7,100,000
9	Guardianship contracts -- developmentally disabled	5,500,000
10	Total general fund	\$15,246,400
11	<u>Office of guardianship and conservatorship</u>	<u>\$1,200,000</u>
12	<u>Total general fund</u>	<u>\$1,200,000</u>
13	<u>Full-time equivalent positions</u>	<u>4.00</u>

14 **SECTION 8. TRANSFER.** The office of management and budget shall transfer any unspent
15 appropriation authority and full-time equivalent positions authorized for the office of
16 guardianship and conservatorship line item in Senate Bill No. 2002 to the office of guardianship
17 and conservatorship, for the biennium beginning July 1, 2025, and ending June 30, 2027.

18 **SECTION 9. TRANSFER.** The office of management and budget shall transfer any unspent
19 appropriation authority for guardianship related services and grants from the department of
20 health and human services in House Bill No. 1012 to the office of guardianship and
21 conservatorship, for the biennium beginning July 1, 2025, and ending June 30, 2027.

22 **SECTION 10. TRANSFER.** The office of management and budget shall transfer any
23 unspent appropriation authority from the guardianship grants line item in Section 1 of House Bill
24 No. 1015 to the office of guardianship and conservatorship, for the biennium beginning July 1,
25 2025, and ending June 30, 2027.

26 **SECTION 11. EFFECTIVE DATE.**

- 27 1. Sections 54-68-06, 54-68-08, and 54-68-09, as created in Section 4 of this Act,
28 become effective on April 1, 2026.
- 29 2. Sections 6, 8, 9, and 10 of this Act become effective on April 1, 2026.