

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 447

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE PROTECTION OF PERSONS UNDER DISABILITY; AMENDING SECTION 15-5-209, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN DUTIES OF A GUARDIAN OF A MINOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-312, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN REPORTING REQUIREMENTS OF A GUARDIAN OF AN INCAPACITATED PERSON AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-314, IDAHO CODE, TO PROVIDE FOR THE COLLECTION, PAYMENT AND DEPOSIT OF CERTAIN MONIES; REPEALING SECTION 15-5-418, IDAHO CODE, RELATING TO INVENTORY AND RECORDS; AMENDING SECTION 15-5-419, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO ACCOUNTS AND REPORTS OF CERTAIN CONSERVATORS AND GUARDIANS, TO REVISE AND ESTABLISH PROVISIONS RELATING TO REPORTING REQUIREMENTS FOR CONSERVATORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3201G, IDAHO CODE, TO RENAME A CERTAIN FUND, TO PROVIDE THAT THE GUARDIANSHIP AND CONSERVATORSHIP PROJECT FUND SHALL CONSIST OF CERTAIN MONEYS AND TO REMOVE ARCHAIC LANGUAGE; AND AMENDING SECTION 66-405, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN DUTIES OF GUARDIANS AND CONSERVATORS AND TO GRANT THE COURT THE AUTHORITY TO REQUIRE A CONSERVATOR TO SUBMIT TO A PHYSICAL CHECK OF THE ESTATE IN HIS CONTROL.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 15-5-209, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-209. POWERS AND DUTIES OF GUARDIAN OF MINOR. A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child, except that a guardian is not legally obligated to provide from his own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties:

(a~~1~~) He must take reasonable care of his ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.

(b~~2~~) He may receive money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship. He also may receive money or property of the ward paid or delivered by virtue of section 15-5-103, ~~of this code~~ Idaho Code. Any sums so received shall be applied to the ward's current needs for support, care and education. He must exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case the excess shall be paid over at least annually to

1 the conservator. Sums so received by the guardian are not to be used for com-  
 2 pensation for his services except as approved by order of the court or as de-  
 3 termined by a duly appointed conservator other than the guardian. A guardian  
 4 may institute proceedings to compel the performance by any person of a duty  
 5 to support the ward or to pay sums for the welfare of the ward.

6 (e3) The guardian is empowered to facilitate the ward's education,  
 7 social, or other activities and to authorize medical or other professional  
 8 care, treatment, or advice. A guardian is not liable by reason of this con-  
 9 sent for injury to the ward resulting from the negligence or acts of third  
 10 persons unless it would have been illegal for a parent to have consented. A  
 11 guardian may consent to the marriage or adoption of his ward.

12 (d4) A guardian ~~must~~ shall ~~report the condition of his~~ report the condition of his to the court at  
 13 least annually on the status of the ward and of the ward's estate which has  
 14 been subject to his possession or control, as ordered by court on petition of  
 15 any person interested in the minor's welfare or as required by court rule.  
 16 All reports shall be under oath or affirmation and shall comply with the  
 17 Idaho supreme court rules.

18 SECTION 2. That Section 15-5-312, Idaho Code, be, and the same is hereby  
 19 amended to read as follows:

20 15-5-312. GENERAL POWERS AND DUTIES OF GUARDIAN. (1) A guardian of an  
 21 incapacitated person has the powers and responsibilities of a parent who has  
 22 not been deprived of custody of his unemancipated minor child except that  
 23 a guardian is not legally obligated to provide from his own funds for the  
 24 ward and is not liable to third persons for acts of the ward, and except as  
 25 hereinafter limited. In particular, and without qualifying the foregoing, a  
 26 guardian has the following powers and duties, except as modified by order of  
 27 the court when the guardianship is limited:

28 (a) To the extent that it is consistent with the terms of any order by  
 29 a court of competent jurisdiction relating to detention or commitment  
 30 of the ward, he is entitled to custody of the person of his ward and  
 31 may establish the ward's place of abode within or without this state.  
 32 The guardian shall take reasonable measures to ensure that a convicted  
 33 felon does not reside with, care for or visit the ward without court  
 34 approval.

35 (b) If entitled to custody of his ward he shall make provision for the  
 36 care, comfort and maintenance of his ward, and, whenever appropriate,  
 37 arrange for his training and education. Without regard to custodial  
 38 rights of the ward's person, he shall take reasonable care of his ward's  
 39 clothing, furniture, vehicles and other personal effects and commence  
 40 protective proceedings if other property of his ward is in need of pro-  
 41 tection.

42 (c) A guardian may give any consents or approvals that may be necessary  
 43 to enable the ward to receive medical or other professional care, coun-  
 44 sel, treatment or service. A guardian shall be automatically entitled  
 45 to any information governed by the health insurance portability and ac-  
 46 countability act of 1996 (HIPAA), 42 U.S.C. 1320d and 45 CFR 160 through  
 47 164, and the appointment of such guardian shall be deemed to grant such  
 48 release authority.

(d) If no conservator for the estate of the ward has been appointed, the guardian may institute proceedings to appoint a conservator. In no circumstances shall the guardian exercise any of the powers of a conservator.

(e) A guardian shall be required to report ~~as provided in section 15-5-419, Idaho Code~~ to the court at least annually on the status of the ward. All reports shall be under oath or affirmation and shall comply with Idaho supreme court rules.

(f) If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management ~~as provided in this code~~ pursuant to this chapter, and the guardian must account to the conservator for funds expended.

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

(3) A guardian may delegate certain of his responsibilities for decisions affecting the ward's well-being to the ward when reasonable under all of the circumstances.

SECTION 3. That Section 15-5-314, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-314. COMPENSATION AND EXPENSES. (1) If not otherwise compensated for services rendered or expenses incurred, any visitor, guardian ad litem, physician, guardian, or temporary guardian appointed in a protective proceeding is entitled to reasonable compensation from the estate for services rendered and expenses incurred in such status, including for services rendered and expenses incurred prior to the actual appointment of said guardian or temporary guardian which were reasonably related to the proceedings. If any person brings or defends any guardianship proceeding in good faith, whether successful or not, he or she is entitled to receive from the estate his or her necessary expenses and disbursements including reasonable attorney's fees incurred in such proceeding. If the estate is inadequate to bear any of the reasonable compensation, fees, and/or costs referenced in this section, the court may apportion the reasonable compensation, fees, and/or costs to any party, or among the parties, as the court deems reasonable.

(2) If court visitor services are provided by court personnel, any monies recovered shall be collected through the clerk of the district court of the county in which the appointment was made and the clerk shall pay the monies to the state treasurer for deposit in the guardianship and conservatorship project fund established by section 31-3201G, Idaho Code.

SECTION 4. That Section [15-5-418](#), Idaho Code, be, and the same is hereby repealed.

1       SECTION 5. That Section 15-5-419, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3       15-5-419. ACCOUNTS AND REPORTS REPORTING REQUIREMENTS FOR CONSERVA-  
4 TORS. (a) Every conservator ~~or guardian~~ shall submit a written annual re-  
5 ~~port to the court concerning the status of the ward and of the ward's estate~~  
6 ~~that has been under the guardian's or conservator's control. The guardian~~  
7 ~~or conservator shall also be required to provide copies of the report to all~~  
8 ~~persons listed by the court as having an interest in receiving copies of the~~  
9 ~~report. The court may order more frequent reports by its own ruling or pur-~~  
10 ~~suant to a petition of any person interested in the ward's welfare. Every~~  
11 ~~conservator must account annually, or as otherwise directed by the court,~~  
12 ~~and upon his resignation or removal. On termination of the protected per-~~  
13 ~~son's minority or disability, a conservator shall account to the court and~~  
14 ~~shall account to the former protected person or his personal representative.~~  
15 ~~Subject to appeal or vacation within the time permitted, an order, made upon~~  
16 ~~notice and hearing, allowing an intermediate account of a conservator, ad-~~  
17 ~~judicates as to his liabilities concerning the matters considered in connec-~~  
18 ~~tion therewith; and an order, made upon notice and hearing, allowing a final~~  
19 ~~account adjudicates as to all previously unsettled liabilities of the con-~~  
20 ~~servator to the protected person or his successors relating to the conser-~~  
21 ~~vatorship. In connection with any account, the~~ file with the court an in-  
22 ventory within ninety (90) days of appointment, an accounting at least an-  
23 nually, and a final accounting at the termination of the appointment of the  
24 conservator. All inventories and accountings shall be under oath or affir-  
25 mation and shall comply with the Idaho supreme court rules. The court may  
26 require a conservator to submit to a physical check of the estate in his con-  
27 trol, to be made in any manner the court may specify.

28       ~~(b) Except as otherwise provided in subsection (c) of this section,~~  
29 ~~every report submitted by a conservator shall cover a specific time period,~~  
30 ~~which period shall be stated explicitly in the report. The report shall~~  
31 ~~cover all of the estate of the protected person which is under the control~~  
32 ~~of the conservator. Supporting documentation for items in the report shall~~  
33 ~~either accompany such report or, if such supporting documentation is volumi-~~  
34 ~~nous, or expensive to provide, or contains sensitive or private information,~~  
35 ~~or another good reason exists for not providing such supporting documenta-~~  
36 ~~tion with the report, the report shall state the reason that the supporting~~  
37 ~~documentation is not provided and that the supporting documentation is held~~  
38 ~~by, or is reasonably available to, the conservator and will be produced upon~~  
39 ~~request. The report shall contain, to the extent reasonably available to the~~  
40 ~~conservator, at least the following:~~

41       ~~(1) A reasonably detailed listing of the starting inventory of the~~  
42 ~~estate of the protected person at the beginning of the time period for~~  
43 ~~which the report is made. Every such inventory item shall be specif-~~  
44 ~~ically identified; provided however, that items may be reported in~~  
45 ~~categories, such as miscellaneous personal property, rather than in-~~  
46 ~~dividually, and valued by category, when reasonable. The fair market~~  
47 ~~value of each such item or category shall be stated in such starting~~  
48 ~~inventory and the method of determining such fair market value shall~~  
49 ~~also be stated. In the case of an item or category which is secured by~~

1 an encumbrance or debt of any nature, the encumbrance or debt shall be  
2 listed separately from the item or category and shall be specifically  
3 identified, including the items or category secured by the encumbrance  
4 or debt, the amount of the encumbrance or debt as of the date of the  
5 starting inventory, the holder of such debt or encumbrance, the family  
6 relationship of such holder to the protected person if actually known to  
7 the conservator, and any other reasonably relevant information;

8 (2) A reasonably detailed listing, for the covered time period, of the  
9 receipts, of any nature, by the estate of the protected person; provided  
10 however, that the receipts may be reported in categories, such as inter-  
11 est income, social security payments or rental receipts, if reasonable.  
12 Such listing shall reasonably identify each such receipt or category,  
13 including the source of such receipt or category and the exact amount or  
14 fair market value thereof, and the method of determining such amount or  
15 fair market value;

16 (3) A reasonably detailed listing, for the covered time period, of all  
17 payments or expenses, of any nature, by the estate of the protected per-  
18 son; provided however, that the payments or expenses may be reported  
19 in categories, such as rental or house payments, medical expenses or  
20 transportation expenses, if reasonable. Each such payment or category  
21 shall be set forth in reasonable detail, including the amount thereof,  
22 to whom the payment was made, the method or frequency of making such pay-  
23 ment if not reasonably indicated by the item or category, the consider-  
24 ation for such payment if not reasonably indicated by the item or cat-  
25 egory, the family relationship of the receiver of such payment to the  
26 protected person if actually known to the conservator, the time period  
27 covered by such payment if relevant, and any other information reason-  
28 ably relevant to such payment;

29 (4) A reasonably detailed listing of the ending inventory of the estate  
30 of the protected person at the end of the time period for which the re-  
31 port is made, in the same manner as described above for the starting in-  
32 ventory;

33 (5) If the report does not, on its face, balance exactly the starting  
34 and ending inventories with the receipts and payments of the estate of  
35 the protected person, a reasonably detailed analysis and statement of  
36 the reasons for such imbalance, and a reasonably detailed listing of the  
37 correcting entries necessary to balance such report, such as unrealized  
38 gains or losses on assets of the estate, shall be made as part of the re-  
39 port; and

40 (6) Any other information, of any nature, which is reasonably relevant  
41 to the actions of the conservator during the time period covered by the  
42 report, which shall be submitted as part of the report or shall accom-  
43 pany such report.

44 (c) Any report prepared by a federally or state chartered financial in-  
45 stitution using a fiduciary accounting system that produces statements con-  
46 taining asset positions, receipts, and disbursements shall be deemed to sat-  
47 isfy the reporting requirements set forth in subsection (b) of this section.  
48 The court may order any such report filed by a federally or state chartered  
49 financial institution to be supplemented or may order that any information  
50 reasonably relevant to the report be produced.

1       ~~(d) All accounts and reports required by or ordered pursuant to this~~  
 2 ~~section, shall be subject to examination and review by the court, or persons~~  
 3 ~~designated by the court to make such examination and review, as provided by~~  
 4 ~~rules adopted by the Idaho supreme court.~~

5       (e2) If a conservator ~~or guardian~~:

6       (1a) Makes a substantial misstatement on filings of any required ~~annual~~  
 7 ~~inventories or reports; or~~

8       (2b) Is guilty of gross impropriety in handling the property of the ~~ward~~  
 9 ~~protected person; or~~

10       (3c) Willfully fails to file the report required by this section, after  
 11 receiving written notice of the failure to file and after a grace period  
 12 of two (2) months have elapsed;

13 then the court may impose a fine in an amount not to exceed five thousand  
 14 dollars (\$5,000) on the conservator ~~or guardian~~. The court may appoint a  
 15 guardian ad litem for the ward protected person on its own motion or on the  
 16 motion of any interested party to represent the ward protected person in any  
 17 proceedings hereunder and may also appoint appropriate persons or entities  
 18 to make investigation of the actions of the conservator ~~or guardian~~. The  
 19 court may also order restitution of funds misappropriated from the estate  
 20 of a ward protected person and may impose a surcharge upon the conservator  
 21 ~~or guardian~~ responsible for such misappropriation for all damages, costs and  
 22 other appropriate sums determined by the court, in addition to any fine im-  
 23 posed including, but not limited to, any fees and costs of the guardian ad  
 24 litem. The court may take any other actions which are in the best inter-  
 25 ests of the ward protected person and the protection of the assets of the ward  
 26 protected person. Any sums awarded hereunder shall be paid by the conserva-  
 27 tor ~~or guardian~~ and may not be paid by the estate of the ward protected per-  
 28 son. The court may enter judgment against a conservator ~~or guardian~~ for any  
 29 or all of the foregoing, and may impose judgment against any bond of such con-  
 30 servator ~~or guardian~~.

31       SECTION 6. That Section 31-3201G, Idaho Code, be, and the same is hereby  
 32 amended to read as follows:

33       31-3201G. PILOT GUARDIANSHIP AND CONSERVATORSHIP PROJECT FEE  
 34 FUND. (1) In addition to any other filing and reporting fees applicable to  
 35 guardianships and conservatorships, the court shall charge the following  
 36 fees:

37       (a) Fifty dollars (\$50.00) for filing cases involving guardianships or  
 38 conservatorships;

39       (b) Forty-one dollars (\$41.00) for reports required to be filed with  
 40 the court by conservators; and

41       (c) Twenty-five dollars (\$25.00) for reports required to be filed with  
 42 the court by guardians.

43       (2) The additional fees set forth in paragraphs (a), (b) and (c) of sub-  
 44 section (1) of this section shall be paid to the county treasurer, who shall  
 45 pay such fees to the state treasurer for deposit in the guardianship ~~pilot~~  
 46 and conservatorship project fund, which is hereby created in the state trea-  
 47 sury. The fund shall be administered by the Idaho supreme court and shall  
 48 consist of fees as provided in this section, any moneys recovered pursuant to

1 section 15-5-314(2), Idaho Code, and any funds as may be appropriated by the  
2 legislature, grants, donations and moneys from other sources.

3 (3) Moneys in the fund shall be expended exclusively for the develop-  
4 ment of a ~~pilot~~ project which ~~will operate in at least three (3) Idaho coun-~~  
5 ~~ties and which~~ shall be designed to improve reporting and monitoring systems  
6 and processes for the protection of persons and their assets where a guardian  
7 or conservator has been appointed. Elements of the ~~pilot~~ project may in-  
8 clude, but are not limited to, the following:

9 (a) The adoption of standards of practice for guardians;

10 (b) A requirement that guardians be registered;

11 (c) Consideration of an office of the public guardian in counties in  
12 which the ~~pilot~~ project operates;

13 (d) A review of the strengths of Idaho law regarding the treatment and  
14 care of developmentally disabled persons; and

15 (e) If federal or grant funding is available, funding for adult protec-  
16 tion services to seek guardians in cases for which volunteers cannot be  
17 enlisted.

18 (4) The supreme court shall ~~make a report in January 2007, and annu-~~  
19 ~~ally thereafter~~ to the senate judiciary and rules committee and the house ju-  
20 diciary, rules and administration committee regarding the progress of the  
21 ~~pilot~~ project.

22 SECTION 7. That Section 66-405, Idaho Code, be, and the same is hereby  
23 amended to read as follows:

24 66-405. ORDER IN PROTECTIVE PROCEEDINGS. (1) If it is determined that  
25 the respondent does not have a developmental disability but appears in need  
26 of protective services, the court may cause the proceeding to be expanded or  
27 altered for consideration under the uniform probate code.

28 (2) If it is determined that the respondent is able to manage financial  
29 resources and meet essential requirements for physical health or safety, the  
30 court shall dismiss the petition.

31 (3) If it is determined that the respondent has a developmental dis-  
32 ability and is unable to manage some financial resources or meet some es-  
33 sential requirements for physical health or safety, the court may appoint  
34 a partial guardian and/or partial conservator on behalf of the respondent.  
35 An order establishing partial guardianship or partial conservatorship shall  
36 define the powers and duties of the partial guardian or partial conserva-  
37 tor so as to permit the respondent to meet essential requirements for physi-  
38 cal health or safety and to manage financial resources commensurate with his  
39 ability to do so, and shall specify all legal restrictions to which he is sub-  
40 ject. A person for whom a partial guardianship or partial conservatorship  
41 has been appointed under this chapter retains all legal and civil rights ex-  
42 cept those which have by court order been limited or which have been specifi-  
43 cally granted to the partial guardian or partial conservator by the court.

44 (4) If it is determined that the respondent has a developmental dis-  
45 ability and is unable to manage financial resources or meet essential re-  
46 quirements for physical health or safety even with the appointment of a par-  
47 tial guardian or partial conservator, the court may appoint a total guardian  
48 and/or total conservator.

(5) In the event that more than one (1) person seeks to be appointed guardian and/or conservator, the court shall appoint the person or persons most capable of serving on behalf of the respondent; the court shall not customarily or ordinarily appoint the department or any other organization or individual, public or private, that is or is likely to be providing services to the respondent. If an appointment of a guardian is made by will pursuant to section 15-5-301, Idaho Code, such appointment shall be entitled to preference as the guardian under this chapter, if the person so appointed by will is capable of serving on behalf of the respondent and the court finds that it is not in the best interests of the respondent to appoint a different person as guardian.

(6) Subject to the limitations of the provisions of subsection (7) of this section, guardians or conservators may have any of the duties and powers as provided in sections 15-5-312(1) (a) through (d), 15-5-424 and 15-5-425, Idaho Code, and as specified in the order. ~~Any order appointing a partial or total guardian or partial or total conservator under the provisions of this section must require a report to the court at least annually. In addition to such other requirements imposed by law or order, the report shall include:~~

- ~~(a) A description of the respondent's current mental, physical and social condition;~~
- ~~(b) The respondent's present address and living arrangement;~~
- ~~(c) A description of any significant changes in the capacity of the respondent to meet essential requirements for physical health or safety or to manage financial resources;~~
- ~~(d) A description of services being provided the respondent;~~
- ~~(e) A description of significant actions taken by the guardian or conservator during the reporting period;~~
- ~~(f) Any significant problems relating to the guardianship or conservatorship;~~
- ~~(g) A complete financial statement of the financial resources under the control or supervision of the guardian or conservator;~~
- ~~(h) A description of the need for continued guardianship or conservatorship services; and~~
- ~~(i) Any material change in the information that the guardian or conservator provided or caused to be provided to the evaluation committee and the court pursuant to section 66-404(7), Idaho Code~~

A guardian shall be required to report to the court at least annually on the status of the person with a developmental disability. A conservator shall be required to file with the court an inventory within ninety (90) days of appointment, an accounting at least annually, and a final accounting at the termination of the appointment of the conservator. All required inventories, accountings and reports shall be under oath or affirmation and shall comply with the Idaho supreme court rules. The court may require a conservator to submit to a physical check of the estate in his control, to be made in any manner the court may specify.

(7) No guardian appointed under this chapter shall have the authority to refuse or withhold consent for medically necessary treatment when the effect of withholding such treatment would seriously endanger the life or health and well-being of the person with a developmental disability. To withhold or attempt to withhold such treatment shall constitute neglect



1 of the person and be cause for removal of the guardian. No physician or  
2 caregiver shall withhold or withdraw such treatment for a respondent whose  
3 condition is not terminal or whose death is not imminent. If the physician  
4 or caregiver cannot obtain valid consent for medically necessary treatment  
5 from the guardian, he shall provide the medically necessary treatment as  
6 authorized by section 39-4504(1) (i), Idaho Code.

7 (8) A guardian appointed under this chapter may consent to withholding  
8 or withdrawal of artificial life-sustaining procedures, only if the respon-  
9 dent:

10 (a) Has an incurable injury, disease, illness or condition, cer-  
11 tified by the respondent's attending physician and at least one (1)  
12 other physician to be terminal such that the application of artificial  
13 life-sustaining procedures would not result in the possibility of sav-  
14 ing or significantly prolonging the life of the respondent, and would  
15 only serve to prolong the moment of the respondent's death for a period  
16 of hours, days or weeks, and where both physicians certify that death is  
17 imminent, whether or not the life-sustaining procedures are used; or

18 (b) Has been diagnosed by the respondent's attending physician and at  
19 least one (1) other physician as being in a persistent vegetative state  
20 which is irreversible and from which the respondent will never regain  
21 consciousness.

22 (9) Any person who has information that medically necessary treatment  
23 of a respondent has been withheld or withdrawn may report such information  
24 to adult protective services or to the Idaho protection and advocacy system  
25 for people with developmental disabilities, which shall have the authority  
26 to investigate the report and in appropriate cases to seek a court order to  
27 ensure that medically necessary treatment is provided.

28 If adult protective services or the protection and advocacy system de-  
29 termines that withholding of medical treatment violates the provisions of  
30 this section, they may petition the court for an ex parte order to provide  
31 or continue the medical treatment in question. If the court finds, based on  
32 affidavits or other evidence, that there is probable cause to believe that  
33 the withholding of medical treatment in a particular case violates the pro-  
34 visions of this section, and that the life or health of the patient is en-  
35 dangered thereby, the court shall issue an ex parte order to continue or to  
36 provide the treatment until such time as the court can hear evidence from the  
37 parties involved. Petitions for court orders under this section shall be ex-  
38 pedited by the courts and heard as soon as possible. No bond shall be re-  
39 quired of a petitioner under this section.

40 (10) No partial or total guardian or partial or total conservator ap-  
41 pointed under the provisions of this section may without specific approval  
42 of the court in a proceeding separate from that in which such guardian or con-  
43 servator was appointed:

44 (a) Consent to medical or surgical treatment the effect of which per-  
45 manently prohibits the conception of children by the respondent unless  
46 the treatment or procedures are necessary to protect the physical  
47 health of the respondent and would be prescribed for a person who does  
48 not have a developmental disability;

49 (b) Consent to experimental surgery, procedures or medications; or

50 (c) Delegate the powers granted by the order.