

CHAPTER 633
PROBATE CODE

Referred to in §10.1, 135C.24, 141A.1, 144B.6, 144F.1, 217.13, 222.34, 231E.5, 231E.6, 231E.8, 231E.12, 232.3, 232D.105, 232D.202, 232D.308, 232D.402, 235B.2, 235B.3, 235B.18, 235E.1, 235E.2, 235F.1, 235F.6, 239B.13, 252B.6A, 455B.172, 507B.4C, 558A.1, 565B.24, 602.6306, 602.8102(105), 633A.1107, 633A.3110, 635.1, 635.7, 635.8, 635.13, 815.11

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633.2 How probate code to take effect.

1. *Effective date.* This probate code shall take effect and be in force on and after January 1, 1964. The procedure herein prescribed shall govern all proceedings in probate brought after the effective date of this probate code. It shall also govern further procedure in proceedings in probate then pending, except to the extent that, in the opinion of the court, its application in particular proceedings or parts thereof would not be feasible or would work injustice, in which event the former procedure shall apply.

2. *Rights not affected.* No act done in any proceeding commenced before this probate code takes effect and no accrued or vested right shall be impaired by its provisions. When a right has been acquired, extinguished, or barred upon the expiration of a prescribed period of time governed by the provision of any statute in force before this probate code takes effect, such provision shall remain in force and be deemed a part of this probate code with respect to such right.

[C66, 71, 73, 75, 77, 79, 81, §633.2]

2005 Acts, ch 38, §51

PART 2

DEFINITIONS AND USE OF TERMS

633.3 Definitions and use of terms.

When used in this probate code, unless otherwise required by the context, or another subchapter of this probate code, the following words and phrases shall be construed as follows:

1. *Administrator* — any person appointed by the court to administer an intestate estate.
2. *Assistance animal* — means an animal that qualifies as a reasonable accommodation under the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, or section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.
3. *Assistive animal* — means a simian or other animal specially trained or in the process of being trained to assist a person with a disability.
4. *Bequeath* — includes the word “devise” when used as a verb.
5. *Bequest* — includes the word “devise” when used as a noun.
6. *Charges* — includes costs of administration, funeral expenses, cost of monument, and federal estate taxes.
7. *Child* — includes an adopted child but does not include a grandchild or other more remote descendants, nor, except as provided in [sections 633.221](#) and [633.222](#), a biological child.
8. *Clerk* — “clerk of the district court” in the county in which the matter is pending and includes the term “clerk of the probate court”.
9. *Conservator* — a person appointed by the court to have the custody and control of the property of a ward under the provisions of this probate code.
10. *Costs of administration* — includes court costs, fiduciary’s fees, attorney fees, all appraisers’ fees, premiums on corporate surety bonds, statutory allowance for support of surviving spouse and children, cost of continuation of abstracts of title, recording fees, transfer fees, transfer taxes, agents’ fees allowed by order of court, interest expense, including but not limited to interest payable on extension of federal estate tax, and all other fees and expenses allowed by order of court in connection with the administration of the estate. Court costs shall include expenses of selling property.
11. *Court* — the Iowa district court sitting in probate and includes any Iowa district judge.
12. *Debts* — includes liabilities of the decedent which survive, whether arising in contract, tort, or otherwise.
13. *Devise* — when used as a noun, includes testamentary disposition of property, both real and personal.
14. *Devise* — when used as a verb, to dispose of property, both real and personal, by a will.
15. *Devisee* — includes legatee.

16. *Distributee* — a person entitled to any property of the decedent under the decedent's will or under the statutes of intestate succession.

17. *Estate* — the real and personal property of either a decedent or a ward, and may also refer to the real and personal property of a trust described in [section 633.10](#).

18. *Executor* — any person appointed by the court to administer the estate of a testate decedent.

19. *Fiduciary* — includes personal representative, executor, administrator, guardian, conservator, and the trustee of any trust described in [section 633.10](#).

20. *Full age* — the state of legal majority attained through arriving at the age of eighteen years or through having married, even though such marriage is terminated by divorce.

21. *Functional limitations* — the behavior or condition of a person which impairs the person's ability to care for the person's personal safety or to attend to or provide for necessities for the person.

22. *Guardian* — the person appointed by the court to have the custody of the person of the ward under the provisions of this probate code.

23. *Guardian of the property* — at the election of the person appointed by the court to have the custody and care of the property of a ward, the term "*guardian of the property*" may be used, which term shall be synonymous with the term "*conservator*".

24. *Heir* — any person, except the surviving spouse, who is entitled to property of a decedent under the statutes of intestate succession.

25. *Incompetent* — means the condition of any person who has been adjudicated by a court to meet at least one of the following conditions:

a. To have a decision-making capacity which is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.

b. To have a decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.

c. To have a decision-making capacity which is so impaired that both paragraphs "a" and "b" are applicable to the person.

26. *Issue* — for the purposes of intestate succession, includes all lawful lineal descendants of a person, whether biological or adopted, except those who are the lineal descendants of the person's living descendants.

27. *Legacy* — a testamentary disposition of personal property.

28. *Legatee* — a person entitled to personal property under a will.

29. *Letters* — includes letters testamentary, letters of administration, letters of guardianship, letters of conservatorship, and letters of trusteeship.

30. *Limited guardianship* — means a guardianship that grants the guardian less than all powers available under [this chapter](#) or otherwise restricts the powers of the guardian.

31. *Minor* — a person who is not of full age.

32. *Person* — includes natural persons and corporations.

33. *Personal representative* — includes executor and administrator.

34. *Probate assets* — a decedent's property subject to administration by a personal representative.

35. *Property* — includes both real and personal property.

36. *Protected person* — means a person subject to guardianship or a person subject to conservatorship, or both.

37. *Respondent* — means a person who is alleged to be a person in need of a guardianship or conservatorship, or both.

38. *Service animal* — means a dog or miniature horse as set forth in the implementing regulations of Title II and Title III of the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

39. *Surviving spouse* — the surviving wife or husband, as the case may be.

40. *Temporary administrator* — any person appointed by the court to care for an estate

pending the probating of a proposed will, or to handle any special matter designated by the court.

41. *Trustee* — the person or persons serving as trustee of a trust described in [section 633.10](#).

42. *Trusts* — includes only those trusts described in [section 633.10](#).

43. *Will* — includes codicil; it also includes a testamentary instrument that merely appoints an executor, and a testamentary instrument that merely revokes or revives another will.

[C51, §1286; R60, §2318; C73, §2336; C97, §3280; C24, 27, 31, 35, 39, §11860; C46, 50, 54, 58, 62, §633.15; C66, 71, 73, 75, 77, 79, 81, §633.3]

94 Acts, ch 1046, §26; 97 Acts, ch 178, §1, 2; 2005 Acts, ch 38, §2 – 5, 51; 2006 Acts, ch 1010, §154; 2008 Acts, ch 1119, §14; 2011 Acts, ch 34, §138; 2012 Acts, ch 1021, §108; 2014 Acts, ch 1076, §21; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1140, §1, 6, 8; 2019 Acts, ch 24, §86; 2019 Acts, ch 57, §6, 43, 44

Referred to in §231E.3, 232.2, 235F.1, 249A.53, 450.1, 523A.102, 600A.2, 633.63, 633.89, 633.551, 633.701, 633A.3113, 638.2

2018 amendment adding subsection 34 applies July 1, 2018, to estates of decedents dying on or after July 1, 2018, and other estates opened previously and for which administration has not been completed as of July 1, 2018; 2018 Acts, ch 1140, §8

Subsections 2, 3, 30, 36, 37, and 38 take effect January 1, 2020, and apply to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW subsections 2 and 3 and former subsections 2 – 15 renumbered as 4 – 17

Former subsection 16 amended and renumbered as 18 and former subsections 17 and 18 renumbered as 19 and 20

Former subsection 19 amended and renumbered as 21 and former subsections 20 – 27 renumbered as 22 – 29

NEW subsection 30 and former subsections 28 – 30 renumbered as 31 – 33

Former subsection 31 amended and renumbered as 34 and former subsection 32 renumbered as 35

NEW subsections 36 – 38 and former subsections 33 – 37 renumbered as 39 – 43

633.4 Gender and number. Repealed by 2000 Acts, ch 1188, §4.

633.5 Nonestate property — insurance proceeds.

A decedent's estate shall not include life insurance proceeds, unless the proceeds are payable to the decedent's estate.

94 Acts, ch 1153, §7

633.6 through 633.9 Reserved.

SUBCHAPTER II

PROBATE COURT, CLERK OF PROBATE COURT, AND PROCEDURE IN PROBATE

PART 1

PROBATE COURT

633.10 Jurisdiction.

In addition to the jurisdiction granted the district court under the trust code, [chapter 633A](#), or elsewhere, the district court sitting in probate shall have jurisdiction of:

1. *Estates of decedents and absentees.* The probate and contest of wills; the appointment of personal representatives; the granting of letters testamentary and of administration; the administration, settlement and distribution of estates of decedents and absentees, whether such estates consist of real or personal property or both.

2. *Construction of wills.* The construction of wills during the administration of the estate, whether said construction be incident to such administration, or as a separate proceeding.

3. *Conservatorships and guardianships.*

a. Except as provided for in paragraph “b”, the appointment of conservators and guardians; the granting of letters of conservatorship and guardianship; the administration, settlement and closing of conservatorships and guardianships.

b. Beginning January 1, 2020, minor guardianships are under the exclusive jurisdiction of the juvenile court pursuant to, and except as limited by, [chapter 232D](#).

5. Except as otherwise provided in [sections 633.672 and 633.673](#), in proceedings to establish a guardianship or conservatorship, the costs, including attorney fees, court visitor fees, and expert witness fees, shall be assessed against the respondent or the respondent's estate unless the proceeding is dismissed either voluntarily or involuntarily, in which case fees and costs may be assessed against the petitioner for good cause shown.

6. Except as otherwise provided in [this subchapter](#), the rules of civil procedure shall govern proceedings to establish, modify, or terminate a guardianship or conservatorship.

[97 Acts, ch 178, §4; 2007 Acts, ch 134, §15, 28; 2019 Acts, ch 57, §9, 43, 44](#)

Referred to in [§633.552, 633.553, 633.635, 633.675, 633.717](#)

2019 amendment takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section amended

PART 2

APPOINTMENT OF GUARDIANS AND CONSERVATORS — MEDIATION IN GUARDIANSHIPS AND CONSERVATORSHIP ACTIONS

633.552 Basis for appointment of guardian for an adult.

1. On petition and after notice and hearing, the court may appoint a guardian for an adult if the court finds by clear and convincing evidence that all of the following are true:

a. The decision-making capacity of the respondent is so impaired that the respondent is unable to care for the respondent's safety, or to provide for necessities such as food, shelter, clothing, or medical care without which physical injury or illness may occur.

b. The appointment of a guardian is in the best interest of the respondent.

2. [Section 633.551](#) applies to the appointment of a guardian under [subsection 1](#).

3. If the court appoints a guardian based upon the mental incapacity of the protected person because the protected person has an intellectual disability, as defined in [section 4.1](#), the court shall make a separate determination as to the protected person's competency to vote. The court shall find a protected person incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

[2019 Acts, ch 57, §10, 43, 44](#)

Referred to in [§48A.2, 229.27, 235B.18, 622.10, 633.567, 633.569, 633.635, 633.675, 633B.102](#)

Former [§633.552](#) repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

For proposed amendments by 2019 Acts, ch 56, §37, to former [§633.552](#), see Code editor's note on simple harmonization at the end of Vol VI

NEW section

633.553 Basis for appointment of conservator for an adult.

1. On petition and after notice and hearing, the court may appoint a conservator for an adult if the court finds by clear and convincing evidence that both of the following are true:

a. The decision-making capacity of the respondent is so impaired that the respondent is unable to make, communicate, or carry out important decisions concerning the respondent's financial affairs.

b. The appointment of a conservator is in the best interest of the respondent.

2. [Section 633.551](#) applies to the appointment of a conservatorship under [subsection 1](#).

[2019 Acts, ch 57, §11, 43, 44](#)

Referred to in [§633.567, 633.569, 633.675, 633B.102](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW section

633.554 Basis for appointment of conservator for a minor.

On petition and after notice, the court may appoint a conservator for a minor if the court finds by a preponderance of the evidence that the appointment is in the best interest of the minor and any of the following is true:

1. The minor has funds or other property requiring management or protection that otherwise cannot be provided.

2. The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age.

3. A conservator is needed to obtain or provide funds or other property.

[2019 Acts, ch 57, §12, 43, 44](#)

Referred to in [§633.569](#), [633.675](#), [633B.102](#)

Former §633.554 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

For proposed amendments to former §633.554 by 2019 Acts, ch 56, §38, see Code editor's note on simple harmonization at the end of Vol VI

NEW section

633.555 Procedure in lieu of conservatorship for a minor.

If a conservator has not been appointed for a minor, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate twenty-five thousand dollars in value, shall be paid or delivered to a custodian under any uniform transfers to minors Act. The written receipt of the custodian constitutes an acquittance of the person making the payment of money or delivery of property.

[C51, §1493, 1494; R60, §2545, 2546; C73, §2243; C97, §3194; C24, 27, 31, 35, 39, [§12575](#); C46, 50, 54, 58, 62, §668.3; C66, 71, 73, 75, 77, 79, 81, §633.574; [82 Acts, ch 1052, §2](#)]

[84 Acts, ch 1067, §48](#); [95 Acts, ch 63, §6](#); [2005 Acts, ch 38, §29](#); [2019 Acts, ch 57, §28, 42 – 44 C2020, §633.555](#)

See also chapter 565B, [§633.108](#), [633.681](#)

Former §633.555 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section transferred from §633.574 in Code 2020 pursuant to directive in 2019 Acts, ch 57, §42

2019 amendments are effective January 1, 2020, and apply to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section amended

633.556 Petition for appointment of guardian or conservator for an adult.

1. A formal judicial proceeding to determine whether to appoint a guardian or conservator for an adult shall be initiated by the filing of a verified petition by a person with an interest in the welfare of the adult, which may include the adult who is the subject of the petition.

2. The petition shall contain a concise statement of the factual basis for the petition.

3. The petition shall contain a concise statement of why there is no less restrictive alternative to the appointment of a guardian or a conservator.

4. The petition shall list the name and address of the petitioner and the petitioner's relationship to the respondent.

5. The petition shall list the name and address, to the extent known, of the following:

a. The name and address of the proposed guardian and the reason the proposed guardian should be selected.

b. Any spouse of the respondent.

c. Any adult children of the respondent.

d. Any parents of the respondent.

e. Any adult, who has had the primary care of the respondent or with whom the respondent has lived for at least six months prior to the filing of the petition, or any institution or facility where the respondent has resided for at least six months prior to the filing of the petition.

f. Any legal representative or representative payee of the respondent.

g. Any person designated as an attorney in fact in a durable power of attorney for health care which is valid under [chapter 144B](#), or any person designated as an agent in a durable power of attorney which is valid under [chapter 633B](#).

6. Any additional persons who may have an interest in the proceeding may be listed in an affidavit attached to the petition.

7. If the petition requests the appointment of a conservator, the petition shall state the estimated present value of the real estate owned or to be owned by the respondent, the estimated value of the personal property owned or to be owned by the respondent, and the estimated gross annual income of the respondent.

8. The petition shall provide a brief description of the respondent's alleged functional

limitations that make the respondent unable to communicate or carry out important decisions concerning the respondent's financial affairs.

9. Any additional information relevant to the proceeding may be included in an affidavit attached to the petition.

2019 Acts, ch 57, §13, 43, 44

Referred to in [§229.27](#), [232D.311](#), [235B.18](#), [235B.19](#), [633.558](#), [633.634](#), [633.717](#)

Former §633.556 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW section

633.557 Petition for appointment of a conservator for a minor.

1. A formal judicial proceeding to determine whether to appoint a conservator for a minor shall be initiated by the filing of a verified petition by a person with an interest in the welfare of the minor.

2. The petition shall contain a concise statement of the factual basis for the petition.

3. The petition shall state the following to the extent known:

a. The name, age, and address of the minor.

b. The name and address of the petitioner and the petitioner's relationship to the minor.

c. The name and address of the proposed conservator and the reason the proposed conservator should be selected.

d. If the petitioner, or the proposed conservator, is not the parent or parents having legal custody of the minor, the name and address, to the extent known, of the following:

(1) The parent or parents having legal custody of the minor.

(2) Any adult who has had the primary care of the minor or with whom the minor has lived for at least six months prior to the filing of the petition, or any institution or facility where the minor has resided for at least six months prior to the filing of the petition.

2019 Acts, ch 57, §14, 43, 44

Referred to in [§633.559](#), [633.634](#)

Former §633.557 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

For proposed amendments by 2019 Acts, ch 56, §39, see Code editor's note on simple harmonization at the end of Vol VI

NEW section

633.558 Notice to adult respondent.

1. The filing of a petition filed pursuant to [section 633.556](#) shall be served upon the adult respondent in the manner of an original notice in accordance with the Iowa rules of civil procedure governing such notice. Notice to the attorney representing the respondent, if any, is notice to the respondent.

2. Notice shall be served upon other known persons listed in the petition in the manner prescribed by the court, which may be notice by mail in accordance with the Iowa rules of civil procedure. Failure of such persons to receive actual notice does not constitute a jurisdictional defect precluding the appointment of a guardian or conservator by the court.

3. Notice of the filing of a petition given to persons under [subsections 2 and 3](#) shall include a statement that such persons may register to receive notice of the hearing on the petition and other proceedings and the manner of such registration.

2019 Acts, ch 57, §15, 43, 44

Referred to in [§229.27](#), [235B.18](#), [633.570](#)

Service of original notice, [R.C.P. 1.302 - 1.315](#)

Former §633.558 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW section

633.559 Notice to minor respondent.

1. The filing of a petition pursuant to [section 633.557](#) shall be served upon a minor respondent in the manner of an original notice in accordance with the Iowa rules of civil procedure governing such notice. Notice to the attorney representing the minor, if any, is notice to the minor.

2. Notice shall also be served upon the known parent or parents listed in the petition in accordance with the Iowa rules of civil procedure.

3. Notice shall be served upon other known persons listed in the petition in the manner prescribed by the court, which may be notice by mail in accordance with the Iowa rules of civil procedure. Failure of such persons to receive actual notice does not constitute a jurisdictional defect precluding the appointment of a conservator by the court.

4. Notice of the filing of a petition given to persons under [subsections 2 and 3](#) shall include a statement that the recipient of the notice may register to receive notice of the hearing on the petition and other proceedings and the manner of such registration.

[2019 Acts, ch 57, §16, 43, 44](#)

Referred to in [§633.570](#)

Service of original notice, [R.C.P. 1.302 – 1.315](#)

Former [§633.559](#) repealed effective January 1, 2020, by 2019 Acts, ch 56, §43, 44 and 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

See Code editor's note on simple harmonization at the end of Vol VI

NEW section

633.560 Hearing.

1. The court shall fix the time and place of hearing on a petition and shall prescribe a time not less than twenty days after the date the notice is served unless the court finds there is good cause shown to shorten the time period to less than twenty days pursuant to [section 633.40](#). The court shall also prescribe the manner of service of the notice of such hearing pursuant to [section 633.40](#).

2. The respondent shall be entitled to attend the hearing on the petition and all other proceedings. The court shall make reasonable accommodations to enable the respondent to attend the hearing and all other proceedings. The court may waive the respondent's attendance for good cause shown. The court shall make a record of the reason for a respondent's nonattendance.

3. The court shall require the proposed guardian or conservator to attend the hearing on the petition but the court may excuse the proposed guardian's attendance for good cause shown.

4. The court shall require the court visitor as described in [section 633.562](#), if any, to attend the hearing but the court may excuse the court visitor's attendance for good cause shown.

5. Any person with an interest in the welfare of the respondent may submit a written application to the court requesting permission to participate in the hearing on the petition and other proceedings. The court may grant the request if the court finds that the person's participation is in the best interest of the respondent. The court may impose appropriate conditions on the person's participation.

6. A complete record of the hearing shall be made.

[2019 Acts, ch 57, §17, 43, 44](#)

Referred to in [§229.27, 235B.18](#)

Former [§633.560](#) transferred to [§633.568](#); [2019 Acts, ch 57, §42](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW section

633.560A Mediation.

1. The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any guardianship or conservatorship action. Mediation performed under [this section](#) shall comply with the provisions of [chapter 679C](#). The court shall, upon application of a party, grant a waiver from any court-ordered mediation under [this section](#) if the party demonstrates that a history of domestic abuse exists similarly as considered in [section 598.41, subsection 3](#), paragraph "j". The court may, upon application of a party, grant a waiver from any court-ordered mediation if the action involves elder abuse pursuant to [chapter 235F](#).

2. Mediation shall comply with all of the following standards:

a. The parties will participate in good faith. Participation in mediation shall include attendance at a mediation session with the mediator and the parties to the action, listening to the mediator's explanation of the mediation process, presentation of one party's view of the case, and listening to the response of the other party. Participation in mediation does not require that the parties reach an agreement.

b. Unless the parties agree upon a mediator, the court shall appoint a mediator. Any mediator appointed by the court shall meet the qualifications established in [this section](#).

c. Parties to the mediation shall have the right to representation by an attorney at all times.

d. The parties to the mediation shall present any agreement reached through the mediation to their attorneys, if any. A mediation agreement reached by the parties shall not be enforceable until approved by the court.

e. The costs of mediation shall be borne by the parties, as agreed to by the parties, or as ordered by the court, and may be taxed as court costs.

3. A mediator appointed by the court acting pursuant to [this section](#) shall have the following qualifications:

a. Completed a one-hour internet seminar or live session regarding the external resources available to a respondent with particular focus on resources for older persons.

b. A minimum of twenty-five hours of general mediation training.

c. Either of the following:

(1) Fifteen hours of probate-specific or elder-specific mediation training.

(2) Ten continuous years of practice in Iowa as a licensed attorney with the greater of four hundred hours or forty percent of the total hours of law practice per year being devoted to matters concerning wills, trusts, and estate work for each of the ten continuous years.

[2019 Acts, ch 57, §19, 43, 44](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW section

633.561 Appointment and role of attorney for respondent.

1. In a proceeding for the appointment of a guardian or conservator for an adult or a conservator for a minor:

a. If the respondent is an adult and is not the petitioner, the respondent is entitled to representation by an attorney. Upon the filing of the petition, the court shall appoint an attorney to represent the respondent, set a hearing on the petition, and provide for notice of the appointment of counsel and the date for hearing.

b. If the respondent is an adult under a standby petition, the court shall determine whether, under the circumstances of the case, the respondent is entitled to representation. The determination regarding representation may be made with or without notice to the respondent, as the court deems necessary. If the court determines that the respondent is entitled to representation, the court shall appoint an attorney to represent the respondent. After making the determination regarding representation, the court shall set a hearing on the petition, and provide for notice on the determination regarding representation and the date for hearing.

c. The court may take action under paragraph “a” or “b” prior to the service of the original notice upon the respondent.

d. The court may reconsider the determination regarding representation upon application by any interested person.

e. The court may discharge the attorney appointed by the court if it appears upon the application of the respondent or any other interested person that the respondent has privately retained an attorney who has filed an appearance on behalf of the respondent.

2. The court shall ensure that all respondents entitled to representation have been provided notice of the right to representation and right to be personally present at all proceedings and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

3. If the respondent is entitled to representation and is indigent or incapable of requesting counsel, the court shall appoint an attorney to represent the respondent. The cost of court appointed counsel for indigents shall be assessed against the county in which the proceedings are pending. For the purposes of [this subsection](#), the court shall find a person is indigent if the person’s income and resources do not exceed one hundred fifty percent of the federal poverty level or the person would be unable to pay such costs without prejudicing the person’s financial ability to provide economic necessities for the person or the person’s dependents.

4. An attorney appointed pursuant to [this section](#) shall:

a. Ensure that the respondent has been properly advised of the nature and purpose of the proceeding.

b. Advocate for the wishes of the respondent to the extent those wishes are reasonably ascertainable. If the respondent's wishes are not reasonably ascertainable, the attorney shall advocate for the least restrictive alternative consistent with the respondent's best interests.

c. Ensure that the respondent has been properly advised of the respondent's rights in a guardianship proceeding.

d. Personally interview the respondent.

e. File a written report stating whether there is a return on file showing that proper service on the respondent has been made and also stating that specific compliance with paragraphs "a" through "d" has been made or stating the inability to comply by reason of the respondent's condition.

f. Ensure that the guardianship procedures conform to the statutory and due process requirements of Iowa law.

5. In the event that an order of appointment is entered, the attorney appointed pursuant to [this section](#), to the extent possible, shall:

a. Inform the respondent of the effects of the order entered for appointment of guardian.

b. Advise the respondent of the respondent's rights to petition for modification or termination of the guardianship.

c. Advise the respondent of the rights retained by the respondent.

6. If the court determines that it would be in the respondent's best interest to have legal representation with respect to any proceedings in a guardianship or conservatorship, the court may appoint an attorney to represent the respondent at the expense of the respondent or the respondent's estate, or if the respondent is indigent the cost of the court appointed attorney shall be assessed against the county in which the proceedings are pending.

7. If the court determines upon application that it is appropriate or necessary, the court may order that the attorney appointed pursuant to [this section](#) be given copies of and access to the respondent's health information by describing with reasonable specificity the health information to be disclosed or accessed, for the purpose of fulfilling the attorney's responsibilities pursuant to [this section](#).

84 Acts, ch 1299, §12; 85 Acts, ch 29, §3; 85 Acts, ch 148, §7; 89 Acts, ch 178, §10; 2000 Acts, ch 1036, §2; 2012 Acts, ch 1123, §14, 32; 2019 Acts, ch 56, §40, 44, 45; 2019 Acts, ch 57, §20, 43, 44

Referred to in [§633.563](#)

2019 amendments take effect January 1, 2020, and apply to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45; 2019 Acts, ch 57, §43, 44

See Code editor's note on simple harmonization at the end of Vol VI

Section amended

633.562 Appointment and role of court visitor.

1. If the court determines that the appointment of a court visitor would be in the best interest of the respondent, the court shall appoint a court visitor at the expense of the respondent or the respondent's estate, or, if the respondent is indigent, the cost of the court visitor shall be assessed against the county in which the proceedings are pending. The court may appoint any qualified person as a court visitor in a guardianship or conservatorship proceeding.

2. The same person shall not serve both as the attorney representing the respondent and as court visitor.

3. Unless otherwise enlarged or circumscribed by the court, the duties of a court visitor with respect to the respondent shall include all of the following:

a. Conducting an initial in-person interview with the respondent.

b. Explaining to the respondent the substance of the petition, the purpose and effect of the guardianship or conservatorship proceeding, the rights of the respondent at the hearing, and the general powers and duties of a guardian or conservator.

c. Determining the views of the respondent regarding the proposed guardian or conservator, the proposed guardian's or conservator's powers and duties, and the scope and duration of the proposed guardianship or conservatorship.

4. In addition, if directed by the court, the court visitor shall:
 - a. Interview the petitioner, and if the petitioner is not the proposed guardian or conservator, interview the proposed guardian or conservator.
 - b. Visit, to the extent feasible, the residence where it is reasonably believed that the respondent will live if the appointment of a guardian or conservator is made.
 - c. Make any other investigation the court directs including but not limited to interviewing any persons providing medical, mental health, educational, social, and other services to the respondent.
5. The court visitor shall submit a written report to the court that shall contain all of the following:
 - a. A recommendation regarding the appropriateness of a limited guardianship for the respondent, including whether less restrictive alternatives are available.
 - b. A statement of the qualifications of the guardian together with a statement of whether the respondent has expressed agreement with the appointment of the proposed guardian or conservator.
 - c. Any other matters the court visitor deems relevant to the petition for guardianship or conservatorship and the best interests of the respondent.
 - d. Any other matters the court directs.
6. The report of the court visitor shall be made part of the court record unless otherwise ordered by the court.

2019 Acts, ch 57, §21, 43, 44

Referred to in [§633.560](#), [633.563](#)

Former §633.562 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44
NEW section

633.563 Court-ordered professional evaluation.

1. At or before a hearing on petition for the appointment of a guardian or conservator or the modification or termination of a guardianship or conservatorship, the court shall order a professional evaluation of the respondent unless one of the following criteria are met:
 - a. The court finds it has sufficient information to determine whether the criteria for a guardianship or conservatorship are met.
 - b. The petitioner or respondent has filed a professional evaluation.
2. Notwithstanding [subsection 1](#), if the respondent has filed a professional evaluation and the court determines an additional professional evaluation will assist the court in understanding the decision-making capacity and functional abilities and limitations of the respondent, the court may order a professional evaluation of the respondent.
3. If the court orders an evaluation, the evaluation shall be conducted by a licensed physician, psychologist, social worker, or other individual who is qualified to conduct an evaluation appropriate for the respondent being assessed.
4. Unless otherwise directed by the court, the report must contain all of the following:
 - a. A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitation.
 - b. An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills.
 - c. A prognosis for improvement and recommendation for the appropriate treatment, support, or habilitation plan.
 - d. The evaluator's qualifications to evaluate the respondent's cognitive and functional abilities limitations and lack of conflict of interest.
 - e. The date of examination on which the report is based.
5. The cost of the professional evaluation shall be paid by the respondent unless the respondent is indigent as defined in [section 633.561, subsection 3](#), in which case the costs shall be paid by the county in which the proceedings are pending or unless the court orders otherwise.
6. At the request of the respondent, the court shall seal the record of the results of the evaluation ordered by the court subject to the exceptions in [subsection 7](#).

7. The results of the evaluation ordered by the court shall be made available to the court and the following:

- a. The respondent and the respondent's attorney.
- b. The petitioner and the petitioner's attorney.
- c. A court visitor as described in [section 633.562](#).
- d. Other persons for good cause shown for such purposes as the court may order.

[2019 Acts, ch 57, §22, 43, 44](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44
NEW section

633.564 Background check of proposed guardian or conservator.

1. The court shall request criminal record checks and checks of the child abuse, dependent adult abuse, and sexual offender registries in this state for all proposed guardians and conservators, other than financial institutions with Iowa trust powers.

2. The court shall review the results of background checks in determining the suitability of a proposed guardian or conservator for appointment.

3. The judicial branch, in conjunction with the department of public safety, the department of human services, and the state chief information officer, shall establish procedures for electronic access to the single contact repository established pursuant to [section 135C.33](#) necessary to conduct background checks requested under [subsection 1](#).

4. The person who files a petition for appointment of guardian or conservator shall be responsible for paying the fee for the background check conducted through the single contact repository established pursuant to [section 135C.33](#).

[2019 Acts, ch 57, §23, 43, 44](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44
NEW section

633.565 Qualifications and selection of guardian or conservator for an adult.

The court shall appoint as guardian or conservator any qualified and suitable person who is willing to serve as guardian or conservator.

[2019 Acts, ch 57, §24, 43, 44](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44
NEW section

633.566 Preference as to appointment of conservator.

The parents of a minor, or either of them, if qualified and suitable, shall be preferred over all others for appointment as conservator. Preference shall then be given to any person, if qualified and suitable, nominated as conservator for a minor child by a will executed by the parent having custody of a minor child, and any qualified and suitable person requested by a minor fourteen years of age or older, or by standby petition executed by a person having physical and legal custody of a minor. Subject to these preferences, the court shall appoint as conservator a qualified and suitable person who is willing to serve in that capacity.

[C51, §1491, 1492, 1495, 1498; R60, §2543, 2544, 2547, 2550; C73, §2241, 2242, 2244, 2249; C97, §3192, 3193, 3195; C24, 27, 31, 35, 39, §12573, 12574, 12576; C46, 50, 54, 58, 62, §668.1, 668.2, 668.4; C66, 71, 73, 75, 77, 79, 81, §633.571]

[94 Acts, ch 1153, §10; 2019 Acts, ch 57, §42 – 44](#)

C2020, §633.566

Former §633.566 repealed by [2019 Acts, ch 57, §41](#)

Section transferred from §633.571 in Code 2020 pursuant to directive in 2019 Acts, ch 57, §42

2019 amendments take effect January 1, 2020, and apply to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; [2019 Acts, ch 57, §43, 44](#)
Code editor directive applied

633.567 Appointment of guardian or conservator on a standby basis for minor approaching majority.

Any adult with an interest in the welfare of a minor who is at least seventeen years and six months of age may file a verified petition pursuant to [section 633.552](#) or [section 633.553](#) to

initiate a proceeding to appoint a guardian or conservator for the minor to take effect on the minor's eighteenth birthday.

[2019 Acts, ch 57, §25, 43, 44](#)

Referred to in [§633B.102](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW section

633.568 Appointment of guardian for an adult on a standby basis.

A petition for the appointment of a guardian for an adult on a standby basis may be filed by any person under the same procedure and requirements as provided in [sections 633.591 to 633.597](#), for appointment of standby conservator, insofar as applicable. In all proceedings to appoint a guardian, the court shall consider whether a limited guardianship, as authorized in [section 633.635](#), is appropriate.

[C66, 71, 73, 75, 77, 79, 81, §633.560]

[97 Acts, ch 178, §8; 2019 Acts, ch 57, §18, 42 – 44](#)

C2020, §633.568

Referred to in [§633B.102, 633B.108](#)

Former §633.568 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section transferred from §633.560 in Code 2020 pursuant to directive in 2019 Acts, ch 57, §42

2019 amendments are effective January 1, 2020, and apply to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section amended

633.569 Emergency appointment of temporary guardian or conservator.

1. A person authorized to file a petition under [section 633.552, 633.553, or 633.554](#) may file an application for the emergency appointment of a temporary guardian or conservator.

2. Such application shall state all of the following:

a. The name and address of the respondent.

b. The name and address of the proposed guardian or conservator and the reason the proposed guardian or conservator should be selected.

c. The reason the emergency appointment of a temporary guardian is sought.

3. The court may enter an ex parte order appointing a temporary guardian on an emergency basis under [this section](#) if the court finds that all of the following conditions are met:

a. There is not sufficient time to file a petition and hold a hearing pursuant to [section 633.552, 633.553, or 633.554](#).

b. The appointment of a temporary guardian or conservator is necessary to avoid immediate or irreparable harm to the respondent.

c. There is reason to believe that the basis for appointment of guardian or conservator exists under [section 633.552, 633.553, or 633.554](#).

4. Notice of a petition for the appointment of a temporary guardian or conservator and the issuance of an ex parte order appointing a temporary guardian or conservator shall be provided to the respondent, the respondent's attorney, and any other person the court determines should receive notice.

5. Upon the issuance of an ex parte order, if the respondent is an adult, the respondent may file a request for a hearing. If the respondent is a minor, the respondent, a parent having legal custody of the respondent, or any other person having legal custody of the respondent may file a written request for a hearing. Such hearing shall be held no later than seven days after the filing of a written request.

6. The powers of the temporary guardian or conservator set forth in the order of the court shall be limited to those necessary to address the emergency situation requiring the appointment of a temporary guardian or conservator.

7. The temporary guardianship or conservatorship shall terminate within thirty days after the order is issued.

[2019 Acts, ch 57, §26, 43, 44](#)

Referred to in [§235B.19](#)

Former §633.569 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44
NEW section

633.570 Notification of guardianship and conservatorship powers.

1. In a proceeding for the appointment of a guardian, the respondent shall be given written notice which advises the respondent of the powers that a guardian may exercise without court approval pursuant to [section 633.635, subsection 2](#), and the powers that the guardian may exercise only with court approval pursuant to [section 633.635, subsection 3](#).

2. In a proceeding for the appointment of a conservator, the respondent shall be given written notice which advises the respondent of the powers that a conservator may exercise without court approval pursuant to [section 633.646*](#) and the powers that the guardian** may exercise only with court approval pursuant to [section 633.647](#).

3. If the respondent is an adult, the notice shall clearly advise the respondent of the respondent's rights to representation by an attorney and the potential deprivation of the respondent's civil rights. The notice shall also state that the respondent may be represented by the respondent's own attorney rather than an attorney appointed by the court. If the respondent is an adult, notice shall be served upon the respondent with the notice of the filing of the petition as provided in [section 633.558](#). If the respondent is a minor, notice shall be served upon the respondent with the notice of the filing of a petition as provided in [section 633.559](#).

[2019 Acts, ch 57, §27, 43, 44](#)

Referred to in [§633.591](#)

Former [§633.570](#) repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

*Section 633.646 is repealed by [2019 Acts, ch 57, §41, 43, 44](#); corrective legislation is pending

**The term "conservator" may be intended; corrective legislation is pending

NEW section

633.571 Preference as to appointment of conservator. Transferred to [§633.566](#); [2019 Acts, ch 57, §42 – 44](#).

2019 transfer of this section is effective January 1, 2020; [2019 Acts, ch 57, §43](#)

633.572 Appointment of conservator on voluntary petition. Repealed by 2019 Acts, ch 57, §41, 43, 44.

2019 repeal applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after January 1, 2020; 2019 Acts, ch 57, §43, 44

633.573 Appointment of temporary conservator. Repealed by 2019 Acts, ch 57, §41, 43, 44. See [§633.569](#).

2019 repeal takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

633.574 Procedure in lieu of conservatorship for a minor. Transferred to [§633.555](#); [2019 Acts, ch 57, §42 – 44](#).

2019 transfer of this section is effective January 1, 2020; [2019 Acts, ch 57, §43](#)

633.575 Representation. Repealed by 2019 Acts, ch 57, §41, 43, 44. See [§633.561](#).

2019 repeal takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

633.576 Notification of conservatorship powers. Repealed by 2019 Acts, ch 57, §41, 43, 44. See [§633.570](#).

2019 repeal takes effect January 1, 2020, applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

633.577 through 633.579 Reserved.

PART 3

CONSERVATORSHIPS FOR ABSENTEES

633.580 Petition for appointment of conservator for absentee.

When a person owns property located in the state of Iowa, the person's whereabouts are unknown, and no provision for the care, control, and supervision of such property has been made, with the result that such property is likely to be lost or damaged, or that the dependents of such owner are likely to be deprived of means of support because of such absence, it shall be proper for any person to file with the clerk a petition for the appointment of a conservator of such property of the absentee. The petition shall state the following information, so far as known to the petitioner:

1. The name, age, and last known post office address of the proposed ward.
2. The facts concerning the disappearance of the absentee.
3. The name and post office address of the proposed conservator, and that the proposed conservator is qualified to serve in that capacity.
4. A general description of the property of the proposed ward within this state and of the proposed ward's right to receive property; also, the estimated present value of the real estate, the estimated value of the personal property, and the estimated gross annual income of the estate. If any money is payable, or to become payable, to the proposed ward by the United States through the United States department of veterans affairs, the petition shall so state.

5. That the property of the absentee is likely to be lost or damaged, or that the absentee's dependents are likely to be deprived of means of support, because of the absence, and that no proper provision has been made for the care, control, and supervision over such property.

[S13, §3228-a; C24, 27, 31, 35, 39, §12632; C46, 50, 54, 58, 62, §671.1; C66, 71, 73, 75, 77, 79, 81, §633.580]

[2009 Acts, ch 26, §19](#)

633.581 Original notice governed by rules of civil procedure.

Notice of the filing of such a petition and of the hearing thereon shall be served upon the absentee by publication in the manner of an original notice and the rules of civil procedure governing original notices by publication shall also govern such a notice as to content.

[S13, §3228-a; C24, 27, 31, 35, 39, §12633; C46, 50, 54, 58, 62, §671.2; C66, 71, 73, 75, 77, 79, 81, §633.581]

633.582 Notice on county attorney.

Such notice shall also be served on the county attorney of the county in which the petition is filed and on the spouse and children of the absentee as provided by the rules of civil procedure. If there is no spouse or children, such notice shall be served on such persons and in such manner as the court may prescribe.

[S13, §3228-a; C24, 27, 31, 35, 39, §12634; C46, 50, 54, 58, 62, §671.3; C66, 71, 73, 75, 77, 79, 81, §633.582]

633.583 Pleadings and trial — rules of civil procedure.

All other pleadings and the trial of the cause shall be governed by the rules of civil procedure.

[S13, §3228-a; C24, 27, 31, 35, 39, §12635; C46, 50, 54, 58, 62, §671.4; C66, 71, 73, 75, 77, 79, 81, §633.583]

633.584 Appointment of conservator.

In the event that the absentee does not appear at said hearing, the court shall hear the petition and the proof offered. All evidence shall be made a part of a transcript to be filed in such proceedings. If the allegations of the petition are proved, the court may appoint a conservator.

[S13, §3228-b, -c; C24, 27, 31, 35, 39, §12636, 12637, 12639; C46, 50, 54, 58, 62, §671.5, 671.6, 671.8; C66, 71, 73, 75, 77, 79, 81, §633.584]

633.585 Appointment of temporary conservator.

A temporary conservator may be appointed, but only after a hearing on such notice, and subject to such conditions as the court shall prescribe.

[C66, 71, 73, 75, 77, 79, 81, §633.585]

633.586 through 633.590 Reserved.

PART 4

STANDBY CONSERVATORSHIPS

633.591 Voluntary petition for appointment of conservator — standby basis.

Any person of full age and sound mind may execute a verified petition for the voluntary appointment of a conservator of the person's property upon the express condition that such petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in the petition. The petition, if executed on or after January 1, 1991, shall advise the respondent of a conservator's powers as provided in [section 633.570](#).

[C66, 71, 73, 75, 77, 79, 81, §633.591]

[89 Acts, ch 178, §15](#); [90 Acts, ch 1036, §2](#); [91 Acts, ch 36, §7](#); [2019 Acts, ch 57, §29, 43, 44](#)

Referred to in [§633.568](#), [633.634](#), [633B.108](#)

2019 amendment takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section amended

633.591A Voluntary petition for appointment of conservator for a minor — standby basis.

A person having physical and legal custody of a minor may execute a verified petition for the appointment of a standby conservator of the proposed ward's property, upon the express condition that the petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in the petition.

[94 Acts, ch 1153, §11](#)

Referred to in [§633.568](#)

633.592 Petition may nominate conservator.

Such petition may nominate a person for appointment to serve as such conservator, and may request that the appointment be made without bond, or with bond of a certain stated sum. The court in appointing the conservator shall give due regard to such nomination and other requests and recommendations contained in the petition.

[C66, 71, 73, 75, 77, 79, 81, §633.592]

Referred to in [§633.568](#)

633.593 Deposit of petition.

Such petition may be deposited with the clerk of the county in which the party resides, or with any person, firm, bank or trust company selected by the petitioner.

[C66, 71, 73, 75, 77, 79, 81, §633.593]

Referred to in [§633.568](#), [633.595](#)

633.594 Revocation of petition.

Such petition may be revoked by the petitioner at any time before appointment of a conservator by the court, provided that the petitioner is of sound mind. Revocation shall be accomplished by the destruction of the petition by the petitioner, or by the execution of an

acknowledged instrument of revocation. If the petition has been deposited with the clerk, the revocation may likewise be deposited there.

[C66, 71, 73, 75, 77, 79, 81, §633.594]

Referred to in [§633.568](#)

633.595 Filing petition upon occurrence of condition.

At any time after the deposit of the petition with the clerk, and before its revocation, it may be brought on for hearing by the filing of a verified statement to the effect that the occurrence of the event or the condition provided for in the petition has come to pass. If the petition has not been deposited with the clerk under the provisions of [section 633.593](#), then it may be brought on for hearing at any time by the filing of it and such a verified statement with the clerk of the county in which the person who executed the petition then resides.

[C66, 71, 73, 75, 77, 79, 81, §633.595]

Referred to in [§633.568](#)

633.596 Considerations — appointment of conservator.

At the time a standby petition is filed under this part, the court shall consider whether a limited conservatorship, as authorized in [section 633.637](#), is appropriate.

[C66, 71, 73, 75, 77, 79, 81, §633.596]

[97 Acts, ch 178, §12](#)

Referred to in [§633.568](#)

633.597 Conservator shall have same powers and duties.

The powers and duties of such a conservator shall be the same as those of a conservator appointed in response to any of the other petitions authorized in this probate code.

[C66, 71, 73, 75, 77, 79, 81, §633.597]

[2005 Acts, ch 38, §51](#)

Referred to in [§633.568](#)

633.598 through 633.602 Reserved.

PART 5

FOREIGN CONSERVATORS

633.603 Appointment of foreign conservators.

When there is no conservatorship, nor any application therefor pending, in this state, the duly qualified foreign conservator or guardian of a nonresident ward may, upon application, be appointed conservator of the property of such person in this state; provided that a resident conservator is appointed to serve with the foreign conservator; and provided further, that for good cause shown, the court may appoint the foreign conservator to act alone without the appointment of a resident conservator.

[C51, §1512; R60, §2564; C73, §2266; C97, §3213; C24, 27, 31, 35, 39, **§12606**; C46, 50, 54, 58, 62, §669.1; C66, 71, 73, 75, 77, 79, 81, §633.603]

633.604 Application.

The application for appointment of a foreign conservator or guardian as conservator in this state shall include the name and address of the nonresident ward, and of the nonresident conservator or guardian, and the name and address of the resident conservator to be appointed. It shall be accompanied by a certified copy of the original letters or other authority conferring the power upon the foreign conservator or guardian to act as such. The application shall also state the cause for the appointment of the foreign conservator to act as sole conservator, if such be the case.

[C51, §1513; R60, §2565; C73, §2267; C97, §3214; C24, 27, 31, 35, 39, **§12607**; C46, 50, 54, 58, 62, §669.2; C66, 71, 73, 75, 77, 79, 81, §633.604]

633.605 Personal property.

A foreign conservator or guardian of a nonresident may be authorized by the court of the county wherein such ward has personal property to receive the same upon compliance with the provisions of [sections 633.606](#), [633.607](#) and [633.608](#).

[C73, §2269; C97, §3216; C24, 27, 31, 35, 39, §12609; C46, 50, 54, 58, 62, §669.4; C66, 71, 73, 75, 77, 79, 81, §633.605]

633.606 Copy of bond.

Such foreign conservator or guardian shall file in the office of the clerk in the county where the property is situated, a certified copy of the conservator's or guardian's official bond, duly authenticated by the court granting the letters, and shall also execute a receipt for the property received by the conservator or guardian.

[C51, §1514; R60, §2566; C73, §2268, 2270; C97, §3215, 3217; C24, 27, 31, 35, 39, §12608, 12610; C46, 50, 54, 58, 62, §669.3, 669.5; C66, 71, 73, 75, 77, 79, 81, §633.606]

Referred to in [§633.605](#)

633.607 Order for delivery.

Upon the filing of the bond as above provided, and the court being satisfied with the amount thereof, it shall order the personal property of the ward delivered to such conservator or guardian.

[C73, §2271; C97, §3218; C24, 27, 31, 35, 39, §12611; C46, 50, 54, 58, 62, §669.6; C66, 71, 73, 75, 77, 79, 81, §633.607]

Referred to in [§633.605](#)

633.608 Recording of bond — notice to court.

The clerk shall record the bonds and the receipt, and notify by mail the court which granted the letters of conservatorship or guardianship of the amount of property delivered to the fiduciary and the date of delivery thereof.

[C73, §2271; C97, §3218; C24, 27, 31, 35, 39, §12612; C46, 50, 54, 58, 62, §669.7; C66, 71, 73, 75, 77, 79, 81, §633.608]

Referred to in [§633.605](#)

633.609 through 633.613 Reserved.

PART 6

CONSERVATORSHIPS INVOLVING
VETERANS ADMINISTRATION**633.614 Application of other provisions to veterans' conservatorships.**

Whenever moneys are paid or are payable pursuant to any law of the United States through the United States department of veterans affairs to a conservator or a guardian, the provisions of [sections 633.615](#), [633.617](#), and [633.622](#) shall apply to the administration of said moneys. However, such provisions shall be construed to be supplementary to the other provisions for conservators, and shall not be exclusive of such provisions.

[C31, 35, §12644-c2; C39, §12644.02; C46, 50, 54, 58, 62, §672.2; C66, 71, 73, 75, 77, 79, 81, §633.614]

[2009 Acts, ch 26, §20](#)

633.615 Secretary of veterans affairs — party in interest.

The secretary of veterans affairs of the United States, the secretary's successor, or the designee of either, shall be a party in interest in any proceeding for the appointment or removal of a conservator, or for the termination of the conservatorship, and in any suit or other proceeding, including reports and accountings, affecting in any manner the administration of those assets that were derived in whole or in part from benefits paid by the United States department of veterans affairs. Not less than fifteen days prior to the time

set for a hearing in any such matters, notice, in writing, of the time and place thereof shall be given by mail to the office of the United States department of veterans affairs having jurisdiction over the area in which such matter is pending.

[C31, 35, §12644-c4, -c11; C39, §12644.04, 12644.11; C46, 50, 54, 58, 62, §672.4, 672.11; C66, 71, 73, 75, 77, 79, 81, §633.615]

[2009 Acts, ch 26, §21](#)

Referred to in §633.614

633.616 Reserved.

633.617 Ward rated incompetent by United States department of veterans affairs.

Upon the trial of an issue arising upon a prayer for the appointment of either a temporary or a permanent conservator, a certificate of the secretary of the United States department of veterans affairs, or the secretary's representative, setting forth the fact that the defendant veteran has been rated incompetent by the United States department of veterans affairs upon examination in accordance with the laws and regulations governing the United States department of veterans affairs, shall be prima facie evidence of the necessity for such appointment, and the court may appoint a conservator for the property of such person.

[C31, 35, §12644-c3, -c7; C39, §12644.03, 12644.07; C46, 50, 54, 58, 62, §672.3, 672.7; C66, 71, 73, 75, §633.616; C77, 79, 81, §633.617]

[2009 Acts, ch 26, §22](#)

Referred to in §633.614

633.618 through 633.621 Reserved.

633.622 Bond requirements.

In administering moneys paid by the United States department of veterans affairs, the conservator, unless it is a bank or trust company qualified to act as a fiduciary in this state, shall execute and file with the clerk a bond by a recognized surety company equal to such moneys and the annual income therefrom, plus the expected annual United States department of veterans affairs benefit payments.

[C31, 35, §12644-c14, -c15; C39, §12644.14, 12644.15; C46, 50, 54, 58, 62, §672.14, 672.15; C66, 71, 73, 75, 77, 79, 81, §633.622]

[2009 Acts, ch 26, §23](#)

Referred to in §633.614

633.623 through 633.626 Reserved.

PART 7

COMBINING PETITION FOR GUARDIAN AND CONSERVATOR

633.627 Combining petitions.

The petitions for the appointment of a guardian and a conservator may be combined and the cause tried in the same manner as a petition for the appointment of a conservator.

[C66, 71, 73, 75, 77, 79, 81, §633.627]

Referred to in §232D.105, 633.27A

633.628 Same person as guardian and conservator.

The same person may be appointed to serve as both guardian and conservator.

[C66, 71, 73, 75, 77, 79, 81, §633.628]

633.629 through 633.632 Reserved.

SUBCHAPTER XIV
ADMINISTRATION OF GUARDIANSHIPS AND CONSERVATORSHIPS

PART 1
APPOINTMENT AND LIABILITY
OF GUARDIANS AND CONSERVATORS

633.633 Provisions applicable to all fiduciaries shall govern.

The provisions of this probate code applicable to all fiduciaries shall govern the appointment, qualification, oath and bond of guardians and conservators, except that a guardian shall not be required to give bond unless the court, for good cause, finds that the best interests of the ward require a bond. The court shall then fix the terms and conditions of such bond.

[C51, §1496; R60, §2548; C73, §2246; C97, §3197; S13, §3228-d; C24, 27, §12577 – 12579, 12640; C31, 35, §12577 – 12579, 12640, 12644-c9; C39, §12577 – 12579, 12640, 12644.09; C46, 50, 54, 58, 62, §668.5 – 668.7, 671.9, 672.9; C66, 71, 73, 75, 77, 79, §633.634; C81, §633.633]
[2005 Acts, ch 38, §51](#)

633.633A Liability of guardians and conservators.

Guardians and conservators shall not be held personally liable for actions or omissions taken or made in the official discharge of the guardian's or conservator's duties, except for any of the following:

1. A breach of fiduciary duty imposed by this probate code.
2. Willful or wanton misconduct in the official discharge of the guardian's or conservator's duties.

[89 Acts, ch 178, §16; 2005 Acts, ch 38, §51](#)

Referred to in [§602.8102\(105A\)](#)

633.633B Tort liability of guardians and conservators.

The fact that a person is a guardian or conservator shall not in itself make the person personally liable for damages for the acts of the ward.

[89 Acts, ch 178, §17](#)

Referred to in [§602.8102\(105A\)](#)

633.634 Combination of petitions.

If prior to the time of hearing on a petition for the appointment of a guardian or a conservator, a petition is filed under the provisions of section [633.556](#), [633.557](#), or [633.591](#), the court shall combine the hearing on such petitions and determine who shall be appointed guardian or conservator, and such petition shall be triable to the court.

[C66, 71, 73, 75, 77, 79, §633.635; C81, §633.634]

[2019 Acts, ch 57, §30, 43, 44](#)

2019 amendment takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section amended

PART 2
DUTIES AND POWERS OF GUARDIAN

633.635 Responsibilities of guardian.

1. The order by the court appointing a guardian shall state the basis for the guardianship pursuant to [section 633.552](#).
2. Based upon the evidence produced at the hearing, the court may grant a guardian

the following powers and duties with respect to a protected person which may be exercised without prior court approval:

a. Making decisions regarding the care, maintenance, health, education, welfare, and safety of the protected person except as otherwise limited by the court.

b. Establishing the protected person's permanent residence except as limited by [subsection 3](#).

c. Taking reasonable care of the protected person's clothing, furniture, vehicle, other personal effects, and companion animals, assistive animals, assistance animals, and service animals.

d. Assisting the protected person in developing maximum self-reliance and independence.

e. Consenting to and arranging for medical, dental, and other health care treatment and services for the protected person except as otherwise limited by [subsection 3](#).

f. Consenting to and arranging for other needed professional services for the protected person.

g. Consenting to and arranging for appropriate training, educational, and vocational services for the protected person.

h. Maintaining contact, including through regular visitation with the protected person if the protected person does not reside with the guardian.

i. Making reasonable efforts to identify and facilitate supportive relationships and interactions of the protected person with family members and significant other persons. The guardian may place reasonable time, place, or manner restrictions on communication, visitation, or interaction between the adult protected person and another person except as otherwise limited by [subsection 3](#).

j. Any other powers or duties the court may specify.

3. A guardian may be granted the following powers which may only be exercised upon court approval:

a. Changing, at the guardian's request, the protected person's permanent residence to a nursing home, other secure facility, or secure portion of a facility that restricts the protected person's ability to leave or have visitors, unless advance notice of the change was included in the guardian's initial care plan that was approved by the court. In an emergency situation, the court shall review the request for approval on an expedited basis.

b. Consenting to the following:

(1) The withholding or withdrawal of life-sustaining procedures from the protected person in accordance with [chapter 144A](#) or [144D](#).

(2) The performance of an abortion on the protected person.

(3) The sterilization of the protected person.

c. Denying all communication, visitation, or interaction by a protected person with a person with whom the protected person has expressed a desire to communicate, visit, or interact or with a person who seeks to communicate, visit, or interact with the protected person. A court shall approve the denial of all communication, visitation, or interaction with another person only upon a showing of good cause by the guardian.

4. The court may take into account all available information concerning the capabilities of the respondent or the protected person and any additional evaluation deemed necessary, including the availability of third-party assistance to meet the needs of the respondent or the protected person, and may direct that the guardian have only a specially limited responsibility for the protected person. In that event, the court shall state those areas of responsibility which shall be supervised by the guardian and all others shall be retained by the protected person. The court may make a finding that the protected person lacks the capacity to contract a valid marriage.

5. From time to time, upon a proper showing, the court may modify the respective responsibilities of the guardian and the protected person, after notice to the protected person and an opportunity to be heard. Any modification that would be more restrictive or burdensome for the protected person shall be based on clear and convincing evidence that the protected person continues to meet the basis for the appointment of a guardian pursuant to [section 633.552](#), and that the facts justify a modification of the guardianship. [Section 633.551](#) applies to the modification proceedings. Any modification that would be

less restrictive for the protected person shall be based upon proof in accordance with the requirements of [section 633.675](#).

[C81, §633.635]

[84 Acts, ch 1299, §16](#); [85 Acts, ch 29, §7](#); [87 Acts, ch 100, §2](#); [91 Acts, ch 93, §4](#); [97 Acts, ch 178, §13, 14](#); [2000 Acts, ch 1063, §1 – 3](#); [2015 Acts, ch 59, §1, 2](#); [2019 Acts, ch 56, §41, 44, 45](#); [2019 Acts, ch 57, §31, 43, 44](#)

Referred to in [§144A.7, 144E2, 144F6, 633.551, 633.568, 633.570, 633.637A](#)

2019 amendments by 2019 Acts, ch 56, and 2019 Acts, ch 57, are effective January 1, 2020, and apply to guardianships and guardianship proceedings and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; [2019 Acts, ch 56, §44, 45](#); [2019 Acts, ch 57, §43, 44](#)

See Code editor's note on simple harmonization at the end of Vol VI

Section amended

PART 3

RIGHTS AND TITLE OF WARD

633.636 Effect of appointment of guardian or conservator.

The appointment of a guardian or conservator shall not constitute an adjudication that the ward is of unsound mind.

[C66, 71, 73, 75, 77, 79, 81, §633.636]

633.637 Powers of ward.

1. A ward for whom a conservator has been appointed shall not have the power to convey, encumber, or dispose of property in any manner, other than by will if the ward possesses the requisite testamentary capacity, unless the court determines that the ward has a limited ability to handle the ward's own funds. If the court makes such a finding, the court shall specify to what extent the ward may possess and use the ward's own funds.

2. Any modification of the powers of the ward that would be more restrictive of the ward's control over the ward's financial affairs shall be based upon clear and convincing evidence and the burden of persuasion is on the conservator. Any modification that would be less restrictive of the ward's control over the ward's financial affairs shall be based upon proof in accordance with the requirements of [section 633.675](#).

[C66, 71, 73, 75, 77, 79, 81, §633.637]

[97 Acts, ch 178, §15](#); [2019 Acts, ch 24, §88](#)

Referred to in [§633.551, 633.596, 633.638](#)

Section amended

633.637A Rights of ward under guardianship.

An adult ward under a guardianship has the right of communication, visitation, or interaction with other persons upon the consent of the adult ward, subject to [section 633.635, subsection 2](#), paragraph "i", and [section 633.635, subsection 3](#), paragraph "c". If an adult ward is unable to give express consent to such communication, visitation, or interaction with a person due to a physical or mental condition, consent of an adult ward may be presumed by a guardian or a court based on an adult ward's prior relationship with such person.

[2015 Acts, ch 59, §3](#)

Section not amended; internal reference changes applied

633.638 Presumption of fraud.

If a conservator be appointed, all contracts, transfers and gifts made by the ward after the filing of the petition shall be presumed to be a fraud against the rights and interest of the ward except as otherwise directed by the court pursuant to [section 633.637](#).

[C24, 27, 31, 35, 39, [§12622](#); C46, 50, 54, 58, 62, §670.10; C66, 71, 73, 75, 77, 79, 81, §633.638]

633.639 Title to ward's property.

The title to all property of the ward is in the ward and not the conservator subject, however, to the possession of the conservator and to the control of the court for the purposes of administration, sale or other disposition, under the provisions of the law. Any real property

titled at any time in the name of a conservatorship shall be deemed to be titled in the ward's name subject to the conservator's right of possession.

[C66, 71, 73, 75, 77, 79, 81, §633.639]

2009 Acts, ch 52, §8, 14

633.640 Conservator's right to possession.

Every conservator shall have a right to, and shall take, possession of all of the real and personal property of the ward. The conservator shall pay the taxes and collect the income therefrom until the conservatorship is terminated. The conservator may maintain an action for the possession of the property, and to determine the title to the same.

[C73, §2245; C97, §3196; C24, 27, 31, 35, 39, §12584, 12585; C46, 50, 54, 58, 62, §668.11, 668.12; C66, 71, 73, 75, 77, 79, 81, §633.640]

PART 4

DUTIES AND POWERS OF CONSERVATOR

633.641 Duties of conservator.

1. A conservator is a fiduciary and has duties of prudence and loyalty to the protected person.

2. In investing and selecting specific property for distribution, a conservator shall consider any estate plan or other donative, nominative, or appointive instrument of the protected person, known to the conservator.

3. If a protected person has executed a valid power of attorney under [chapter 633B](#), the conservator shall act in accordance with the applicable provisions of [chapter 633B](#).

4. The conservator shall report to the department of human services the protected person's assets and income, if the protected person is receiving medical assistance under [chapter 249A](#). Such reports shall be made upon establishment of a conservatorship for an individual applying for or receiving medical assistance, upon application for benefits on behalf of the protected person, upon annual or semiannual review of continued medical assistance eligibility, when any significant change in the protected person's assets or income occurs, or as otherwise requested by the department of human services. Written reports shall be provided to the department of human services office for the county in which the protected person resides or the office in which the protected person's medical assistance is administered.

[C51, §1499; R60, §2551; C73, §2250; C97, §3200; S13, §3228-d; C24, 27, 31, 35, 39, §12581, 12640; C46, 50, 54, 58, 62, §668.9, 671.9; C66, 71, 73, 75, 77, 79, 81, §633.641]

94 Acts, ch 1112, §2; 2019 Acts, ch 57, §32, 43, 44; 2019 Acts, ch 59, §220

2019 amendment by 2019 Acts, ch 57, is effective January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

For proposed amendments by 2019 Acts, ch 59, §220, see Code editor's note on simple harmonization at the end of Vol VI
Section stricken and rewritten

633.642 Responsibilities of conservator.

Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice and receive specific prior authorization by the court before the conservator may take any other action on behalf of the protected person. These other powers requiring court approval include the authority of the conservator to:

1. Invest the protected person's assets consistent with [section 633.123](#).

2. Make gifts on the protected person's behalf from conservatorship assets to persons or religious, educational, scientific, charitable, or other nonprofit organizations to whom or to which such gifts were regularly made prior to the conservator's appointment; or on a showing that such gifts would benefit the protected person from the perspective of gift, estate, inheritance, or other taxes. No gift shall be allowed which would foreseeably prevent adequate provision for the protected person's best interest.

3. Make payments consistent with the conservator's plan described above directly to the protected person or to others for the protected person's education and training needs.

4. Use the protected person's income or assets to provide for any person that the protected person is legally obligated to support.

5. Compromise, adjust, arbitrate, or settle any claim by or against the protected person or the conservator.

6. Make elections for a protected person who is the surviving spouse as provided in sections 633.236 and 633.240.

7. Exercise the right to disclaim on behalf of the protected person as provided in section 633E.5.

8. Sell, mortgage, exchange, pledge, or lease the protected person's real and personal property consistent with subchapter VII, part 6 of this chapter regarding sale of property from a decedent's estate.

2019 Acts, ch 57, §33, 43, 44

Referred to in §633.648

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

NEW section

633.643 Disposal of will by conservator.

When an instrument purporting to be the will of the ward comes into the hands of a conservator, the conservator shall immediately deliver it to the court.

[C66, 71, 73, 75, 77, 79, 81, §633.643]

Referred to in §633.644, 633.645

633.644 Court order to preserve testamentary intent of ward.

Upon receiving an instrument purporting to be the will of a living ward under the provisions of section 633.643, the court may open said will and read it. The court with or without notice, as it may determine, may enter such orders in the conservatorship as it deems advisable for the proper administration of the conservatorship in light of the expressed testamentary intent of the ward.

[C66, 71, 73, 75, 77, 79, 81, §633.644]

633.645 Court to deliver will to clerk.

An instrument purporting to be the will of a ward coming into the hands of the court under the provisions of section 633.643, shall thereafter be resealed by the court and be deposited with the clerk to be held by said clerk as provided in sections 633.286 through 633.289.

[C66, 71, 73, 75, 77, 79, 81, §633.645]

633.646 Powers of the conservator without order of court. Repealed by 2019 Acts, ch 57, §41, 43, 44.

2019 repeal takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

633.647 Powers of conservator subject to the approval of the court. Repealed by 2019 Acts, ch 57, §41, 43, 44. See §633.642.

2019 repeal takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

633.648 Appointment of attorney in compromise of personal injury settlements.

Notwithstanding the provisions of section 633.642, prior to authorizing a compromise of a claim for damages on account of personal injuries to the protected person, the court may order an independent investigation by an attorney other than by the attorney for the

conservator. The cost of such investigation, including a reasonable attorney fee, shall be taxed as part of the cost of the conservatorship.

[C66, 71, 73, 75, 77, 79, 81, §633.648]

[2019 Acts, ch 57, §34, 43, 44](#); [2019 Acts, ch 89, §19, 23, 26](#)

2019 amendments by 2019 Acts, ch 57, and 2019 Acts, ch 89, take effect January 1, 2020, and apply to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44; [2019 Acts, ch 89, §23, 26](#)

Section amended

633.649 Powers of conservators — same as all fiduciaries. Repealed by 2019 Acts, ch 57, §41, 43, 44.

2019 repeal takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

633.650 Breach of contracts. Repealed by 2019 Acts, ch 57, §41, 43, 44.

2019 repeal takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

633.651 Reserved.

PART 5

TRANSFERRING, ENCUMBERING, AND LEASING PROPERTY BY CONSERVATOR

633.652 Procedure applicable to personal representatives shall govern. Repealed by 2019 Acts, ch 57, §41, 43, 44. See [§633.642](#).

2019 repeal takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

PART 6

CLAIMS

633.653 Claims against the ward, the conservatorship or the conservator in that capacity.

Claims accruing before or after the appointment of the conservator, and whether arising in contract or tort or otherwise, after being allowed or established as provided in [sections 633.654 to 633.656](#), shall be paid by the conservator from the assets of the conservatorship.

[C66, 71, 73, 75, 77, 79, 81, §633.653]

633.653A Claims for cost of medical care or services.

The provision of medical care or services to a ward who is a recipient of medical assistance under [chapter 249A](#) creates a claim against the conservatorship for the amount owed to the provider under the medical assistance program for the care or services. The amount of the claim, after being allowed or established as provided in this part, shall be paid by the conservator from the assets of the conservatorship.

[93 Acts, ch 106, §9](#)

633.654 Form and verification of claims — general requirements.

No claim shall be allowed against the estate of a ward upon application of the claimant unless it shall be in writing, filed in duplicate with the clerk, stating the claimant's name and address, and describing the nature and the amount thereof, if ascertainable. It shall be accompanied by the affidavit of the claimant, or of someone for the claimant, that the amount is justly due, or if not due, when it will or may become due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant, except as therein stated. The duplicate of said claim shall be mailed by the clerk to the conservator or the conservator's attorney of record; however, valid contract claims

arising in the ordinary course of the conduct of the business or affairs of the ward by the conservator may be paid by the conservator without requiring affidavit or filing.

[C66, 71, 73, 75, 77, 79, 81, §633.654]

Referred to in §633.653, 633.664

633.655 Requirements when claim founded on written instrument.

If a claim is founded upon a written instrument, the original of such instrument, or a copy thereof, with all endorsements, must be attached to the claim. The original instrument must be exhibited to the conservator or to the court, upon demand, unless it has been lost or destroyed, in which case, its loss or destruction must be stated in the claim.

[C51, §1359; R60, §2391; C73, §2408; C97, §3338; C24, 27, 31, 35, 39, §11957, 11958; C46, 50, 54, 58, 62, §635.53, 635.54; C66, 71, 73, 75, 77, 79, 81, §633.655]

Referred to in §633.653

633.656 How claim entitled.

All claims filed against the estate of the ward shall be entitled in the name of the claimant against the conservator as such, naming the conservator, and in all further proceedings thereon, this title shall be preserved.

[C73, §2409; C97, §3339; C24, 27, 31, 35, 39, §11960; C46, 50, 54, 58, 62, §635.56; C66, 71, 73, 75, 77, 79, 81, §633.656]

Referred to in §633.653

633.657 Filing of claim required.

The filing of a claim in the conservatorship tolls the statute of limitations applicable to such claim.

[C66, 71, 73, 75, 77, 79, 81, §633.657]

633.658 Compelling payment of claims.

No claimant shall be entitled to compel payment until the claimant's claim has been duly filed and allowed.

[C66, 71, 73, 75, 77, 79, 81, §633.658]

Referred to in §633.664

633.659 Allowance by conservator.

When a claim has been filed and has been admitted in writing by the conservator, it shall stand allowed, in the absence of fraud or collusion.

[C66, 71, 73, 75, 77, 79, 81, §633.659]

633.660 Execution and levy prohibited.

No execution shall issue upon, nor shall any levy be made against, any property of the estate of a ward under any judgment against the ward or a conservator, but the provisions of [this section](#) shall not be so construed as to prevent the enforcement of a mortgage, pledge, or other lien upon property in an appropriate proceeding.

[C66, 71, 73, 75, 77, 79, 81, §633.660]

Section not amended; editorial change applied

633.661 Claims of conservators.

If the conservator is a creditor of the ward, the conservator shall file the claim as other creditors, and the court shall appoint some competent person as temporary conservator to represent the ward at the hearing on the conservator's claim. The same procedure shall be followed in the case of coconservators where all such conservators are creditors of the ward; but if one of the coconservators is not a creditor of the ward, such disinterested conservator shall represent the ward at the hearing on any claim against the ward by a coconservator.

[C51, §1369; R60, §2401; C73, §2417; C97, §3346; C24, 27, 31, 35, 39, §11968; C46, 50, 54, 58, 62, §635.64; C66, 71, 73, 75, 77, 79, 81, §633.661]

633.662 Claims not filed.

The conservator may pay any valid claim against the estate of the ward even though such claim has not been filed, but all such payments made by the conservator shall be at the conservator's own peril.

[C66, 71, 73, 75, 77, 79, 81, §633.662]

633.663 Waiver of statute of limitations by conservator.

It shall be within the discretion of the conservator to determine whether or not the applicable statute of limitation shall be invoked to bar a claim which the conservator believes to be just, and the conservator's decision as to the invoking of such statute shall be final.

[C66, 71, 73, 75, 77, 79, 81, §633.663]

633.664 Liens not affected by failure to file claim.

Nothing in [sections 633.654](#) and [633.658](#) shall affect or prevent an action or proceeding to enforce any mortgage, pledge, or other lien upon the property of the ward.

[C66, 71, 73, 75, 77, 79, 81, §633.664]

Section not amended; editorial change applied

633.665 Separate actions and claims.

1. Any action pending against the ward at the time the conservator is appointed shall also be considered a claim filed in the conservatorship if notice of substitution is served on the conservator as defendant and a duplicate of the proof of service of notice of such proceeding is filed in the conservatorship proceeding.

2. A separate action based on a debt or other liability of the ward may be commenced against the conservator in lieu of filing a claim in the conservatorship. Such an action shall be commenced by serving an original notice on the conservator and filing a duplicate of the proof of service of notice of such proceeding in the conservatorship proceeding. Such an action shall also be considered a claim filed in the conservatorship. Such an action may be commenced only in a county where the venue would have been proper if there were no conservatorship and the action had been commenced against the ward.

[C66, 71, 73, 75, 77, 79, 81, §633.665]

[2019 Acts, ch 24, §89](#)

Referred to in [§633.666](#)

Section amended

633.666 Denial and contest of claims.

The provisions of [sections 633.438 through 633.448](#) shall be applicable to the denial and contest of claims against conservatorships, but shall not be applicable to actions continued or commenced under [section 633.665](#).

[C66, 71, 73, 75, 77, 79, 81, §633.666]

[2019 Acts, ch 59, §221](#)

Section amended

633.667 Payment of claims in insolvent conservatorships.

When it appears that the assets in a conservatorship are insufficient to pay in full all the claims against such conservatorship, the conservator shall report such matter to the court, and the court shall, upon hearing, with notice to all persons who have filed claims in the conservatorship, make an order for the pro rata payment of claims giving claimants the same priority, if any, as they would have if the ward were not under conservatorship.

[R60, §1455; C73, §2278; C97, §3227; C24, 27, 31, 35, 39, **§12630**; C46, 50, 54, 58, 62, §670.18; C66, 71, 73, 75, 77, 79, 81, §633.667]

PART 7

GIFTS

633.668 Conservator may make gifts.

For good cause shown and under order of court, a conservator may make gifts on behalf of the ward out of the assets under a conservatorship to persons or religious, educational, scientific, charitable, or other nonprofit organizations to whom or to which such gifts were regularly made prior to the commencement of the conservatorship, or on a showing to the court that such gifts would benefit the ward or the ward's estate from the standpoint of income, gift, estate or inheritance taxes. The making of gifts out of the assets must not foreseeably impair the ability to provide adequately for the best interests of the ward.

[C66, 71, 73, 75, 77, 79, 81, §633.668]

[85 Acts, ch 29, §8](#)

PART 8

GUARDIAN'S REPORTS

633.669 Reporting requirements — assistance by clerk.

1. A guardian appointed by the court under [this chapter](#) shall file with the court the following written verified reports which shall not be waived by the court:

a. An initial care plan filed within sixty days of appointment. The information in the initial care plan shall include but not be limited to the following information:

(1) The current residence of the protected person and the guardian's plan for the protected person's living arrangements.

(2) The guardian's plan for payment of the protected person's living expenses and other expenses.

(3) The protected person's health status and health care needs, and the guardian's plan for meeting the protected person's needs for medical, dental, and other health care needs.

(4) If applicable, the guardian's plan for other professional services needed by the protected person.

(5) If applicable, the guardian's plan for meeting the educational, training, and vocational needs of the protected person.

(6) If applicable, the guardian's plan for facilitating the participation of the protected person in social activities.

(7) The guardian's plan for facilitating contacts between the protected person and the protected person's family members and other significant persons.

(8) The guardian's plan for contact with, and activities on behalf of, the protected person.

b. An annual report, filed within sixty days of the close of the reporting period, unless the court otherwise orders on good cause shown. The information in the annual report shall include but not be limited to the following information:

(1) The current living arrangements of the protected person.

(2) The sources of payment for the protected person's living expenses and other expenses.

(3) A description, if applicable, of the following:

(a) The protected person's physical and mental health status and the medical, dental, and other professional services provided to the protected person.

(b) If applicable, the protected person's employment status and the educational, training, and vocational services provided to the protected person.

(c) The contact of the protected person with family members and other significant persons.

(d) The nature and extent of the guardian's visits with, and activities on behalf of, the protected person.

(4) The guardian's recommendation as to the need for continuation of the guardianship.

(5) The ability of the guardian to continue as guardian.

(6) The need of the guardian for assistance in providing or arranging for the provision of the care and protection of the protected person.

c. A final report within thirty days of the termination of the guardianship under [section 633.675](#) unless that time is extended by the court.

2. The court shall develop a simplified uniform reporting form for use in filing the required reports.

3. The clerk of the court shall notify the guardian in writing of the reporting requirements and shall provide information and assistance to the guardian in filing the reports.

4. Reports of guardians shall be reviewed and approved by a district court judge or referee. [C66, 71, 73, 75, 77, 79, 81, §633.669]

[84 Acts, ch 1299, §17; 85 Acts, ch 29, §9; 2007 Acts, ch 134, §16, 28; 2016 Acts, ch 1108, §72; 2019 Acts, ch 57, §35, 43, 44](#)

2019 amendment takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section amended

PART 9

CONSERVATOR'S REPORTS

633.670 Reports by conservators.

1. A conservator shall file an initial plan for protecting, managing, investing, expending, and distributing the assets of the conservatorship estate within ninety days after appointment. The plan must be based on the needs of the protected person and take into account the best interest of the protected person as well as the protected person's preference, values, and prior directions to the extent known to, or reasonably ascertainable by, the conservator.

a. The initial plan shall include all of the following:

(1) A budget containing projected expenses and resources, including an estimate of the total amount of fees the conservator anticipates charging per year and a statement or list of the amount the conservator proposes to charge for each service the conservator anticipates providing to the protected person.

(2) A statement as to how the conservator will involve the protected person in decisions about management of the conservatorship estate.

(3) If ordered by the court, any step the conservator plans to take to develop or restore the ability of the protected person to manage the conservatorship estate.

(4) An estimate of the duration of the conservatorship.

b. Within two days after filing the initial plan, the conservator shall give notice of the filing of the initial plan with a copy of the plan to the protected person, the protected person's attorney and court advisor, if any, and others as directed by the court. The notice must state that any person entitled to a copy of the plan must file any objections to the plan not later than fifteen days after it is filed.

c. At least twenty days after the plan has been filed, the court shall review and determine whether the plan should be approved or revised, after considering objections filed and whether the plan is consistent with the conservator's powers and duties.

d. After approval by the court, the conservator shall provide a copy of the approved plan and order approving the plan to the protected person, the protected person's attorney and court advisor, if any, and others as directed by the court.

e. The conservator shall file an amended plan when there has been a significant change in circumstances or the conservator seeks to deviate significantly from the plan. Before the amended plan is implemented, the provisions for court approval of the plan shall be followed as provided in paragraphs "b", "c", and "d".

2. A conservator shall file an inventory of the protected person's assets within ninety days after appointment which includes an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits. Copies of the inventory shall be provided to the protected person, the protected person's attorney and court advisor, if any,

and others as directed by the court. When the conservator receives additional property of the protected person, or becomes aware of its existence, a description of the property shall be included in the conservator's next annual report.

3. A conservator shall file a written and verified report for the period since the end of the preceding report period. The court shall not waive these reports.

a. These reports shall include all of the following:

- (1) Balance of funds on hand at the beginning and end of the period.
- (2) Disbursements made.
- (3) Changes in the conservator's plan.
- (4) List of assets as of the end of the period.
- (5) Bond amount and surety's name.
- (6) Residence and physical location of the protected person.
- (7) General physical and mental condition of the protected person.
- (8) Other information reflecting the condition of the conservatorship estate.

b. These reports shall be filed:

- (1) On an annual basis within sixty days of the end of the reporting period unless the court orders an extension for good cause shown in accordance with the rules of probate procedure.
- (2) Within thirty days following removal of the conservator.
- (3) Upon the conservator's filing of a resignation and before the resignation is accepted by the court.
- (4) Within sixty days following the termination of the conservatorship.
- (5) At other times as ordered by the court.

c. Reports required by [this section](#) shall be served on the protected person's attorney and court advisor, if any, and the veterans administration if the protected person is receiving veterans benefits.

[R60, §2568, 2569; C73, §2254, 2255; C97, §3203, 3204, 3222; C24, 27, §12597, 12598, 12627; C31, 35, §12597, 12598, 12627, 12644-c11; C39, §12597, 12598, 12627, 12644.11; C46, 50, 54, 58, 62, §668.24, 668.25, 670.15, 672.11; C66, 71, 73, 75, 77, 79, 81, §633.670]

[84 Acts, ch 1299, §18](#); [85 Acts, ch 29, §10](#); [2007 Acts, ch 134, §17, 28](#); [2019 Acts, ch 57, §36, 43, 44](#)

Referred to in [§633.671](#)

2019 amendment takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section stricken and rewritten

633.671 Requirements of report and accounting.

The report and accounting required by [section 633.670](#) shall account for all of the period since the close of the accounting contained in the next previous report, and shall include the following information as far as applicable:

1. The balance of funds on hand at the close of the last previous accounting, and all amounts received from whatever source during the period covered by the accounting.
2. All disbursements made during the period covered by the accounting.
3. Any changes in investments since the last previous report, including a list of all assets, and recommendations of the conservator for the retention or disposition of any property held by the conservator.
4. The amount of the bond and the name of the surety on it.
5. The residence or physical location of the ward.
6. The general physical and mental condition of the ward.
7. Such other information as shall be necessary to show the condition of the affairs of the conservatorship.

[R60, §2568, 2569; C73, §2254, 2255; C97, §3203, 3204; C24, 27, §12597, 12598; C31, 35, §12597, 12598, 12644-c11; C39, §12597, 12598, 12644.11; C46, 50, 54, 58, 62, §668.24, 668.25, 672.11; C66, 71, 73, 75, 77, 79, 81, §633.671]

PART 10
COSTS AND ACCOUNTS

633.672 Payment of court costs in conservatorships.

No order shall be entered approving an annual report of a conservator until the court costs which have been docketed have been paid or provided for. The court may, upon application, enter an order waiving payment of the court costs in indigent cases. However, if the conservatorship subsequently becomes financially capable of paying any waived costs, the conservator shall immediately pay the costs.

[C66, 71, 73, 75, 77, 79, 81, §633.672]

[89 Acts, ch 178, §18](#)

Referred to in [§633.551](#)

633.673 Court costs in guardianships.

The ward or the ward's estate shall be charged with the court costs of a ward's guardianship, including the guardian's fees and the fees of the attorney for the guardian. The court may, upon application, enter an order waiving payment of the court costs in indigent cases. However, if the ward or ward's estate becomes financially capable of paying any waived costs, the costs shall be paid immediately.

[C97, §3222; S13, §3228-f; C24, 27, 31, 35, 39, §12626, 12642; C46, 50, 54, 58, 62, §670.14, 671.11; C66, 71, 73, 75, 77, 79, 81, §633.673]

[89 Acts, ch 178, §19](#)

Referred to in [§633.551](#)

633.674 Settlement of accounts.

The court shall settle each account filed by a conservator by allowing or disallowing it, either in whole or in part, or by surcharging the account against the conservator.

[C66, 71, 73, 75, 77, 79, 81, §633.674]

PART 11
TERMINATION OF GUARDIANSHIPS
AND CONSERVATORSHIPS

633.675 Cause for termination.

1. A guardianship and a conservatorship shall terminate upon the occurrence of any of the following circumstances:

- a. If the protected person is a minor, when the protected person reaches full age.
- b. The death of the protected person.
- c. Upon determination by the court that the conservatorship or guardianship is no longer necessary for any other reason.

2. The court shall terminate a guardianship if it finds by clear and convincing evidence that the basis for appointing a guardian pursuant to [section 633.552](#) is not satisfied.

3. The court shall terminate a conservatorship if the court finds by clear and convincing evidence that the basis for appointing a conservator pursuant to [section 633.553](#) or [633.554](#) is not satisfied.

4. The standard of proof and the burden of proof to be applied in a termination proceeding shall be the same as set forth in [section 633.551, subsection 2](#).

[S13, §3228-e; C24, 27, 31, 35, 39, §12641; C46, 50, 54, 58, 62, §671.10, 672.21; C66, 71, 73, 75, 77, 79, 81, §633.675]

[97 Acts, ch 178, §16](#); [2010 Acts, ch 1143, §3](#); [2011 Acts, ch 25, §74](#); [2014 Acts, ch 1048, §2](#); [2019 Acts, ch 57, §37, 43, 44](#)

Referred to in [§633.635](#), [633.637](#), [633.669](#)

2019 amendment takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Section amended

633.676 Assets exhausted.

At any time that the assets of the ward's estate do not exceed the amount of the charges and claims against it, the court may direct the conservator to proceed to terminate the conservatorship.

[C46, 50, 54, 58, 62, §668.33; C66, 71, 73, 75, 77, 79, 81, §633.676]

633.677 Accounting to ward — notice.

Upon the termination of a conservatorship, the conservator shall pay the costs of administration and shall render a full and complete accounting to the ward or the ward's personal representative and to the court. Notice of the final report of a conservator shall be served on the ward or the ward's personal representative, in accordance with [section 633.40](#), unless notice is waived. An order prescribing notice may be made before or after the filing of the final report.

[C46, 50, 54, 58, 62, §672.21; C66, 71, 73, 75, 77, 79, 81, §633.677; [81 Acts, ch 193, §6](#)]

633.678 Delivery of assets.

Upon the termination of a conservatorship, all assets of the conservatorship shall be delivered, under direction of the court, to the person or persons entitled to them.

[C46, 50, 54, 58, 62, §668.33; C66, 71, 73, 75, 77, 79, 81, §633.678]

633.679 Petition to terminate — request for voting rights reinstatement.

1. Except as otherwise provided in [subsection 2](#),* at any time after the appointment of a guardian or conservator, the person under guardianship or conservatorship may apply to the court by petition, alleging that the person is no longer a proper subject thereof, and asking that the guardianship or conservatorship be terminated.

2. Reserved.*

3. A person under an order appointing a guardian which order found the person incompetent to vote may include a request for reinstatement of the person's voting rights in a petition to terminate the guardianship or by filing a separate petition for modification of this determination.

[C97, §3222; C24, 27, 31, 35, 39, [§12623](#); C46, 50, 54, 58, 62, §670.11; C66, 71, 73, 75, 77, 79, 81, §633.679]

[89 Acts, ch 178, §20](#); [98 Acts, ch 1185, §11](#); [2010 Acts, ch 1143, §4](#); [2014 Acts, ch 1048, §3](#); [2019 Acts, ch 56, §42, 44, 45](#)

2019 repeal of subsection 2 is effective January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

*Subsection 2 stricken by 2019 Acts, ch 56, §42; corrective legislation is pending

Subsection 2 stricken

633.680 Limit on application to terminate.

If any petition for terminating such guardianship or conservatorship shall be denied, no other petition shall be filed therefor until at least six months shall have elapsed since the denial of the former one.

[C97, §3222; C24, 27, 31, 35, 39, [§12627](#); C46, 50, 54, 58, 62, §670.15; C66, 71, 73, 75, 77, 79, 81, §633.680]

633.681 Assets of minor ward exhausted.

When the assets of a minor ward's conservatorship are exhausted or consist of personal property only of an aggregate value not in excess of twenty-five thousand dollars, the court, upon application or upon its own motion, may terminate the conservatorship. The order for termination shall direct the conservator to deliver any property remaining after the payment of allowed claims and expenses of administration to a custodian under any uniform transfers to minors Act. Such delivery shall have the same force and effect as if delivery had been made to the ward after attaining majority.

[C46, 50, 54, 58, 62, §668.33; C66, 71, 73, 75, 77, 79, 81, §633.681; [82 Acts, ch 1052, §3](#)]

[98 Acts, ch 1118, §2](#); [2005 Acts, ch 38, §30](#)

633.682 Discharge of conservator and release of bond.

Upon settlement of the final accounting of a conservator, and upon determining that the property of the ward has been delivered to the person or persons lawfully entitled thereto, the court shall discharge the conservator and exonerate the surety on the conservator's bond.

[S13, §3228-h; C24, 27, 31, 35, 39, §12644; C46, 50, 54, 58, 62, §671.13, 672.21; C66, 71, 73, 75, 77, 79, 81, §633.682]

633.683 through 633.698 Reserved.

SUBCHAPTER XV

UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION
ACT

PART 1

GENERAL PROVISIONS

633.699 Reserved.

633.699A Modification or termination of uneconomical testamentary trust. Repealed by 2005 Acts, ch 38, §50. See §633.751, 633A.2205, 633A.5103.

633.700 Short title.

This subchapter shall be known and may be cited as the "Iowa Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".

2010 Acts, ch 1086, §1, 24, 25; 2018 Acts, ch 1041, §127

Former §633.700 transferred to §633.752 pursuant to directive in 2010 Acts, ch 1086, §25

633.701 Definitions.

As used in [this subchapter](#), unless the context otherwise requires:

1. "Adult" means an individual who is eighteen years of age or older.
2. "Conservator" means a person appointed by the court to have the custody and control of the property of an adult under the provisions of [this chapter](#).
3. "Court" means, when referring to a court of this state, the district court sitting in probate with jurisdiction of conservatorships and guardianships.
4. "Foreign judgment" means a judgment, decree, or order of a court of the United States or of any other court that meets any of the following requirements:
 - a. Is entitled to full faith and credit in this state.
 - b. Appoints a guardian or conservator in the issuing jurisdiction.
5. "Guardian" means a person appointed by the court to make decisions regarding the adult under the provisions of [this chapter](#).
6. "Guardianship order" means an order appointing a guardian as defined in [section 633.3](#).
7. "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.
8. "Incapacitated person" means an adult who has been adjudged by a court to meet one of the following conditions:
 - a. Has a decision-making capacity which is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.
 - b. Has a decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.
9. "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.
10. "Person" means an individual, corporation, business trust, estate, trust, partnership,

limited liability company, association, joint venture, public corporation, or government; governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

11. “*Protected person*” means an adult for whom a conservatorship has been issued.

12. “*Protective order*” means an order appointing a conservator as defined in [section 633.3](#). “*Protective order*” does not include protective orders issued pursuant to [chapter 664A](#) or protective orders issued pursuant to [sections 235B.18](#) and [235B.19](#).

13. “*Protective proceeding*” means a judicial proceeding in which a conservatorship is sought or has been granted.

14. “*Record*” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

15. “*Respondent*” means an adult for whom a conservatorship or guardianship is sought.

16. “*State*” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

[2010 Acts, ch 1086, §2, 24, 25](#); [2018 Acts, ch 1041, §127](#)

Referred to in [§9E.2](#)

Former §633.701 transferred to §633.753 pursuant to directive in [2010 Acts, ch 1086, §25](#)

633.702 International application.

A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying [this part](#) and [parts 2, 3, and 5](#).

[2010 Acts, ch 1086, §3, 24, 25](#)

Former §633.702 transferred to §633.754 pursuant to directive in [2010 Acts, ch 1086, §25](#)

633.703 Communication between courts.

1. A court of this state may communicate with a court in another state concerning a proceeding arising under [this subchapter](#). The court may allow the parties to participate in the communication. Except as otherwise provided in [subsection 2](#), the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Communication between courts concerning schedules, calendars, court records, and other administrative matters may occur without making a record.

[2010 Acts, ch 1086, §4, 24, 25](#); [2018 Acts, ch 1041, §127](#)

Former §633.703 transferred to §633.755 pursuant to directive in [2010 Acts, ch 1086, §25](#)

633.704 Cooperation between courts.

1. In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

a. Hold an evidentiary hearing.

b. Order a person in the other state to produce evidence or give testimony pursuant to procedures of that state.

c. Order that an evaluation or assessment be made of the respondent.

d. Order any appropriate investigation of a person involved in a proceeding.

e. Forward to the court of this state a certified copy of the transcript or other record of the hearing pursuant to paragraph “a” or any other proceeding, the evidence otherwise produced pursuant to paragraph “b”, and any evaluation or assessment prepared in compliance with an order pursuant to paragraph “c” or “d”.

f. Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent.

g. Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in [45 C.F.R. §164.504, as amended](#).

2. If a court of another state in which a guardianship or protective proceeding is pending requests the assistance described in [subsection 1](#), a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

[2010 Acts, ch 1086, §5, 24, 25](#); [2013 Acts, ch 90, §178](#)

PART 2

JURISDICTION

Referred to in [§633.702](#)**633.705 Taking testimony in another state.**

1. In addition to other procedures that may be available in a guardianship or protective proceeding, the testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the best evidence rule.

[2010 Acts, ch 1086, §6, 24, 25](#)

633.706 Definitions.

As used in [this part](#), unless the context otherwise requires:

1. “*Emergency*” means a circumstance that likely will result in substantial harm to a respondent’s health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent’s behalf.

2. “*Home state*” means either of the following:

a. The state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian.

b. The state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of a petition for a protective order or the appointment of a guardian.

3. “*Significant-connection state*” means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

[2010 Acts, ch 1086, §7, 24, 25](#)

633.707 Significant connection factors.

In determining whether a respondent has a significant connection with a particular state, the court shall consider all of the following:

1. The location of the respondent’s family and other persons required to be notified of the guardianship or protective proceeding.

2. The length of time the respondent at any time was physically present in the state and the duration of any absence.

3. The location of the respondent’s property.

4. The extent to which the respondent has ties to the state such as voter registration, state or local tax return filing, vehicle registration, driver’s license, social relationships, and receipt of services.

[2010 Acts, ch 1086, §8, 24, 25; 2011 Acts, ch 25, §75](#)

Referred to in [§633.716](#)

633.708 Exclusive basis.

[This part](#) provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

[2010 Acts, ch 1086, §9, 24, 25](#)

633.709 Jurisdiction.

A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if any of the following apply:

1. This state is the respondent's home state.
2. This state is a significant-connection state and, on the date the petition is filed, any of the following apply:
 - a. The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum.
 - b. The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order, all of the following apply:
 - (1) A petition for an appointment or order is not filed in the respondent's home state.
 - (2) An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding.
 - (3) The court in this state concludes that it is an appropriate forum under the factors set forth in [section 633.712](#).
3. Either of the following apply:
 - a. This state does not have jurisdiction under either [subsection 1 or 2](#), the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the Constitution of the State of Iowa and the Constitution of the United States.
 - b. The requirements for special jurisdiction under [section 633.710](#) are met.

[2010 Acts, ch 1086, §10, 24, 25](#)

Referred to in [§633.710, 633.712, 633.713, 633.715](#)

633.710 Special jurisdiction.

1. A court of this state lacking jurisdiction under [section 633.709](#) has special jurisdiction to do any of the following:

- a. Appoint a guardian in an emergency for a period not to exceed ninety days for a respondent who is physically present in this state.
- b. Issue a protective order with respect to real or tangible personal property located in this state.
- c. Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to [section 633.716](#).

2. If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

[2010 Acts, ch 1086, §11, 24, 25](#)

Referred to in [§633.709, 633.711, 633.715](#)

633.711 Exclusive and continuing jurisdiction.

Except as otherwise provided in [section 633.710](#), a court that has appointed a guardian or issued a protective order consistent with [this chapter](#) has exclusive and continuing jurisdiction over the proceeding until terminated by the court or the appointment or order expires by its own terms.

[2010 Acts, ch 1086, §12, 24, 25](#)

633.712 Appropriate forum.

1. A court of this state with jurisdiction under [section 633.709](#) to appoint a guardian or

issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

2. If a court of this state declines to exercise its jurisdiction under [subsection 1](#), the court shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

3. In determining whether it is an appropriate forum, the court shall consider all of the following:

- a. Any expressed preference of the respondent.
- b. Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation.
- c. The length of time the respondent was physically present in or was a legal resident of this state or another state.
- d. The distance of the respondent from the court in each state.
- e. The financial circumstances of the respondent's estate.
- f. The nature and location of the evidence.
- g. The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence.
- h. The familiarity of the court of each state with the facts and issues in the proceeding.
- i. If an appointment were to be made, the court's ability to monitor the conduct of the guardian or conservator.

[2010 Acts, ch 1086, §13, 24, 25](#)

Referred to in [§633.709, 633.713](#)

633.713 Jurisdiction declined by reason of conduct.

If at any time a court of this state determines that the court acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may do any of the following:

1. Decline to exercise jurisdiction.
2. Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction.
3. Continue to exercise jurisdiction after considering all of the following:
 - a. The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction.
 - b. Whether it is a more appropriate forum than the court of any other state under the factors set forth in [section 633.712](#).
 - c. Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of [section 633.709](#).
4. If a court of this state determines that the court acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, the court may assess necessary and reasonable expenses against that party, including attorney fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court shall not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than [this subchapter](#).

[2010 Acts, ch 1086, §14, 24, 25; 2018 Acts, ch 1041, §127](#)

633.714 Notice of proceeding.

If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding

were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

2010 Acts, ch 1086, §15, 24, 25

PART 3

TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

Referred to in §633.702

633.715 Proceedings in more than one state.

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under [section 633.710](#), if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

1. If the court in this state has jurisdiction under [section 633.709](#), it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to [section 633.709](#) before the appointment or issuance of the order.

2. If the court in this state does not have jurisdiction under [section 633.709](#), whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

2010 Acts, ch 1086, §16, 24, 25

633.716 Transfer of guardianship or conservatorship to another state.

1. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

2. Notice of a petition under [subsection 1](#) shall be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to [subsection 1](#).

4. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds all of the following:

a. The incapacitated person is physically present in or is reasonably expected to move permanently to the other state.

b. An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person.

c. Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

5. The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds all of the following:

a. The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in [section 633.707](#).

b. An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person.

c. Adequate arrangements will be made for management of the protected person's property.

6. The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of all of the following:

a. A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to [section 633.717](#).

b. The documents required to terminate a guardianship or conservatorship in this state.

[2010 Acts, ch 1086, §17, 24, 25](#)

Referred to in [§633.710, 633.717](#)

PART 4

REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

633.717 Accepting guardianship or conservatorship transferred from another state.

1. To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to [section 633.716](#), the guardian or conservator must petition the court in this state to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.

2. Notice of a petition under [subsection 1](#) must be given to those persons that would be entitled to notice if the petition were to petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to [subsection 1](#).

4. The court shall issue an order provisionally granting a petition filed under [subsection 1](#) unless any of the following applies:

a. An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person.

b. The guardian or conservator is ineligible for appointment in this state.

5. The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to [section 633.716](#) transferring the proceeding to this state.

6. Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this state.

7. Subject to [subsections 4 and 6](#), in granting a petition under [this section](#), the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

8. The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under [section 633.551](#) or [633.556](#), if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

[2010 Acts, ch 1086, §18, 24, 25; 2011 Acts, ch 34, §140; 2019 Acts, ch 57, §38, 43, 44](#)

Referred to in [§633.716](#)

2019 amendment to subsection 8 takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

Subsection 8 amended

633.718 Registration of guardianship orders.

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in

this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

[2010 Acts, ch 1086, §19, 24, 25](#)

633.719 Registration of protective orders.

If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

[2010 Acts, ch 1086, §20, 24, 25](#)

PART 5

MISCELLANEOUS PROVISIONS

Referred to in [§633.702](#)

633.720 Effect of registration.

1. Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

2. A court of this state may grant any relief available under [this subchapter](#) and other law of this state to enforce a registered order.

[2010 Acts, ch 1086, §21, 24, 25; 2018 Acts, ch 1041, §127](#)

633.721 Uniformity of application and construction.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

[2010 Acts, ch 1086, §22, 24, 25](#)

633.722 Relation to Electronic Signatures in Global and National Commerce Act.

[This subchapter](#) modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

[2010 Acts, ch 1086, §23 – 25; 2018 Acts, ch 1041, §127](#)

633.723 through 633.749 Reserved.

SUBCHAPTER XVI

TRUSTS

633.750 Powers of trustees.

Unless it is otherwise provided by the will creating a testamentary trust, the instrument creating an express trust, or by an order or decree duly entered by a court of competent jurisdiction, a trustee shall have all the powers granted a trustee under [sections 633A.4401 and 633A.4402](#). Documents incorporating by reference powers granted a trustee under the probate code or under [this section](#) shall be interpreted accordingly, even if the execution or adoption of the instrument creating the trust occurred prior to July 1, 2005.

[C66, 71, 73, 75, 77, 79, 81, §633.699]

97 Acts, ch 158, §45; 2005 Acts, ch 38, §31, 55; 2010 Acts, ch 1086, §25
C2011, §633.750

633.751 Applicability of law.

The terms of [this subchapter](#), and all other terms of this probate code relating to trusts and trustees, shall apply only to trusts that remain under continuous court supervision pursuant to [section 633.10](#) and to trusts that have not been released from such continuous supervision pursuant to [section 633.10](#). Regarding all such trusts, the terms of [this chapter](#) shall supersede any inconsistent terms in the trust code, [chapter 633A](#), and such trusts shall be governed by terms of the trust code, [chapter 633A](#), that are not inconsistent with this probate code.

2005 Acts, ch 38, §32

CS2005, §633.699B

2006 Acts, ch 1010, §156; 2010 Acts, ch 1086, §25

C2011, §633.751

2018 Acts, ch 1041, §127

633.752 Intermediate report of trustees.

Unless specifically relieved from so doing by the instrument creating the trust or by order of the court, the trustee shall make a written report under oath to the court once each year within ninety days of the close of the reporting period, and more often if required by the court. Such report shall state:

1. The period covered by the report.
2. All changes in beneficiaries since the last previous report.
3. Any changes in investments since the last previous report, including a list of all assets, and recommendations of the trustee for the retention or disposition of any property held by the trustee.
4. A detailed accounting for all cash receipts and disbursements, and for all property of the trust, unless such accounting shall be waived in writing by all beneficiaries.

[C66, 71, 73, 75, 77, 79, 81, §633.700]

2005 Acts, ch 3, §105; 2007 Acts, ch 134, §18, 28; 2008 Acts, ch 1032, §87; 2010 Acts, ch 1086, §25

C2011, §633.752

Referred to in [§633.753](#)

633.753 Final report of trustee.

Upon the partial or total termination of a trust, or upon the transfer of the trusteeship due to resignation, removal, dissolution, or other disqualification of the trustee of any trust pending in court, the trustee shall make a final report to the court, showing for the period since the filing of the last report the facts required for an intermediate report; provided, however, that unless specifically required by the court to do so, the trustee shall not in any event, be required to report such facts for any period of time as to which the trustee has, under any of the provisions of [section 633.752](#), been expressly relieved from reporting. In any event, the final report of the trustee shall include the following:

1. The name and last known address of each beneficiary.
2. A statement as to those beneficiaries who are known to be minors or under any other legal disability.
3. Distributions made or to be made to each beneficiary at the time of such termination.

[C66, 71, 73, 75, 77, 79, 81, §633.701]

2010 Acts, ch 1086, §25

C2011, §633.753

Referred to in [§633.755](#)

633.754 Notice of application for discharge.

No final report of a trustee of a trust pending in court shall be approved, and no such trustee shall be discharged from further duty or responsibility upon final settlement, until notice of the trustee's application for discharge shall have been served upon all persons interested, in

accordance with [section 633.40](#), unless notice is waived. An order prescribing notice may be made before or after the filing of the final report.

[C66, 71, 73, 75, 77, 79, 81, §633.702]

[2010 Acts, ch 1086, §25](#)

C2011, §633.754

633.755 Discharge.

Upon final settlement of a trust, an order shall be entered discharging the trustee from further duties and responsibilities. The order approving the final report shall constitute a waiver of the omission from the final report of any of the recitals required in [section 633.753](#).

[C66, 71, 73, 75, 77, 79, 81, §633.703]

[2010 Acts, ch 1086, §25](#)

C2011, §633.755

633.756 through 633.1100 Reserved.

SUBCHAPTER XVII

IOWA TRUST CODE

633.1101 through 633.6308 Reserved.

633.7101 Division prevails. Repealed by [2005 Acts, ch 38, §50](#). See [§633A.1107](#).