

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

436C0489

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB1094** - 2/11/99

Introduced by: Representatives Brown (Jarvis), Crisp, and Hunt and Senators Moore and Everist

1 FOR AN ACT ENTITLED, An Act to revise certain guardianship and conservatorship
2 provisions regarding appointment hearings, financial statements, and successors.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 29A-5-204 be amended to read as follows:

5 29A-5-204. Upon the filing of the petition, the court shall issue a notice fixing the date, hour
6 and location for a hearing to take place within sixty days.

7 At least fourteen days prior to the hearing, the minor, if age ten or older, shall be personally
8 served with a copy of the notice and petition, and the petitioner shall mail a copy of the notice
9 and petition to all entities and individuals age ten or older whose names and post office addresses
10 appear in the petition. ~~The minor may not waive notice and a failure to properly notify the minor~~
11 ~~shall be jurisdictional.~~ The court may order that no notice of hearing need be given if all persons
12 entitled to notice waive notice of hearing and the court determines that it would be in the best
13 interests of the minor and the minor's estate to proceed without notice.

14 Section 2. That § 29A-5-207 be amended to read as follows:

15 29A-5-207. The statement of financial resources ~~and~~ any written report of the court
16 representative, and any accountings or inventories made by the guardian or conservator shall be

1 sealed upon filing and shall not be made a part of the public record but shall be available to the
2 court, to the minor, to the petitioner, to the court representative, to their attorneys, to
3 abstractors or employees of abstractors licensed pursuant to chapter 36-13, to employees and
4 agents of title insurance companies licensed pursuant to chapter 58-25, to attorneys who are
5 licensed to practice law pursuant to chapter 16-16 and who are representing a relative of the
6 minor within the third degree of kinship, to the spouse of the minor, to joint tenants of the minor,
7 to any intestate heirs of the minor which relationship shall be established by sworn affidavit, and
8 to such other interested persons as the court may order upon a showing of the need therefor.

9 Section 3. That § 29A-5-502 be amended to read as follows:

10 29A-5-502. The court may appoint additional guardians or conservators and may appoint a
11 successor guardian or conservator either prior to or at the time of a vacancy. A successor
12 guardian or conservator appointed prior to a vacancy shall be immediately empowered to assume
13 the duties of office upon the termination of the predecessor's appointment, but shall be required
14 to file the requisite acceptance of office and any required bond within sixty days. A successor
15 guardian or conservator shall succeed to the powers and duties of the predecessor unless
16 otherwise ordered by the court.

1 **BILL HISTORY**

2 1/21/99 First read in House and referred to Judiciary. H.J. 108

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/27/99 Judiciary Do Pass, Passed, AYES 11, NAYS 0. H.J. 206

5 1/27/99 Judiciary Place on Consent Calendar.

6 1/28/99 House of Representatives Do Pass, Passed, AYES 66, NAYS 3. H.J. 248

7 1/29/99 First read in Senate and referred to Judiciary. S.J. 266

8 2/10/99 Scheduled for Committee hearing on this date.

9 2/10/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 415

10 2/10/99 Judiciary Place on Consent Calendar.