

Colorado Secretary of State

1 **PROBATE PROTECTED PERSON BILL OF RIGHTS (FINAL)**

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4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:

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6 NO PERSON SHALL BE DECLARED INCOMPETENT TO HANDLE THEIR OWN
7 FINANCIAL AND MEDICAL AFFAIRS UNTIL SUCH TIME AS A
8 QUALIFIED COLORADO BOARD CERTIFIED LICENSED PSYCHIATRIST
9 HAS THOROUGHLY EXAMINED THE MENTAL STATUS OF SAID PERSON
10 AND DETERMINED IN WRITING UNDER PENALTY OF PERJURY THAT
11 THEY ARE MENTALLY INCOMPETENT AND UNCAPABLE OF MAKING SAID
12 DECISIONS BY CLEAR AND CONVINCING EVIDENCE. IF SAID PERSON
13 IS DECLARED COMPETENT, ALL PROBATE PROCEEDINGS PERTAINING
14 TO SUCH PERSON SHALL BE IMMEDIATELY DISMISSED. EXPENSES FOR
15 THE EXAMINATION SHALL BE PAID FOR BY THE PROTECTED PERSON
16 AND SHALL NOT BE DENIED

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18 ANY PERSON DECLARED INCOMPENT BY SAID PSYCHIATRIST SHALL BE
19 IMMEDIATELY APPOINTED LEGAL REPRESENTATION.

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21 THE JUDICIAL BRANCH SHALL ESTABLISH A POOL OF ATTORNEYS IN
22 EACH JUDICIAL DISTRICT WHOSE NAMES SHALL BE RANDOMLY
23 PICKED UNTIL ALL NAMES HAVE BEEN ASSIGNED A PROTECTED
24 PERSON. AT SUCH TIME THE SELECTION PROCESS WILL START OVER.
25 SAID ATTORNEY WILL SPECIFICALLY REPRESENT SAID INCOMPETENT
26 PROBATE PROTECTED PERSON. SAID ATTORNEYS WILL BE PAID
27 EXCLUSIVELY AN HOURLY RATE EQUAL TO THE PREVAILING RATES
28 ALLOWED IN CURRENT COLORADO UNITED STATES BANKRUPTCY CASES
29 AND PAYMENT SHALL TAKE PRECEDENCE IN BEING PAID FROM THE
30 PROTECTED PERSON'S ASSETS.

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32 ANY PRESIDING JUDGE IN A PROBATE PROCEEDING SHALL BE
33 PERSONALLY LIABLE FOR ANY VIOLATIONS OF THE COLORADO RULES
34 OF CIVIL PROCEEDURE, COLORADO PROBATE RULES, SUPREME COURT
35 DIRECTIVES AND THE COLORADO CONSTITUTION AS THEY RELATE TO
36 THE WARD IN SAID PROCEEDING.

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38 A FINAL FINDING BY A COLORADO COURT OF LAW CIVIL PROCEEDING
39 BROUGHT BY THE PROTECTED PERSON DECLARING THAT SAID PROBATE
40 JUDGE HAS VIOLATED A WARD'S CONSTITUTIONAL RIGHTS SHALL BE

1 IMMEDIATELY REMOVED FROM THE BENCH, DISBARRED AND HAVE HIS
2 LICENSE TO PRACTICE LAW PERMANENTLY REVOKED. ADDITIONALLY,
3 ALL ORDERS ISSUED BY SAID JUDGE IN THE RESPECTIVE PROTECTED
4 PERSON'S CASE SHALL BE VOIDED AND A NEW JUDGE APPOINTED.

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6 THE PROTECTED PERSON SHALL BE COMPENSATED 20 TIMES DAMAGES
7 FOR ANY VIOLATIONS OF HIS/HER RIGHTS IN A PROBATE
8 PROCEEDING AND IN NO INSTANCE SHALL THAT AMOUNT BE LESS
9 THAN \$5,000. ANY ATTORNEY REPRESENTING SAID PROTECTED
10 PERSON SHALL BE ENTITLED, IN ADDITION TO THEIR HOURLY
11 SALARY AND COSTS, ONE HALF OF ALL TOTAL DAMAGES ASSESSED BY
12 THIS SECTION.

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14 EVERY CONSERVATOR SHALL BE REQUIRED TO HAVE A SURETY BOND
15 FOR 2 TIMES THE VALUE OF THE PROTECTED PERSONS ASSETS
16 BEFORE ACTING IN ANY CAPACITY. BEFORE AN ACTUAL VALUE OF
17 THE ESTATE OF THE PROTECTED PERSON CAN BE ESTABLISHED, AN
18 APPROXIMATE VALUE WILL BE USED FOR PURPOSES OF THIS
19 SECTION.

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21 BEFORE ANY CONSERVATORSHIP IS CLOSED, THERE SHALL BE A
22 COMPLETE INDEPENDENT, PROFESSIONAL AUDIT BY A LICENSED
23 PUBLIC ACCOUNTANT OF THE CONSERVATORS FINANCIAL RECORDS. IF
24 THE RECORDS ARE SUBSTANTIALLY COMPLETE INCLUDING DETAILED
25 BACKUP DOCUMENTS; THE AUDIT WILL BE PAID BY THE PROTECTED
26 PERSON'S ESTATE. IF THE CONSERVATOR'S RECORDS ARE
27 INCOMPLETE OR LACK BACKUP DOCUMENTATION OR FUNDS OR ASSETS
28 ARE MISSING, THE CONSERVATOR SHALL IMMEDIATELY PAY FOR SAID
29 AUDIT. THE COURT SHALL ORDER IMMEDIATE RESTITUTION OF ANY
30 MISSING FUNDS OR PROPERTY TO THE WARDS ESTATE AS THE RESULT
31 OF SAID AUDIT.

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33 ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT
34 AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE
35 OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE
36 CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR
37 RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

38
39 EFFECTIVE DATE.
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1 UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS
2 OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL
3 DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE
4 GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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