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2013-2014 #130 – Original

Colorado Secretary of State

S.WARD 2:50 P.M.

PROPOSED BALLOT INITIATIVE

PROBATE WARD BILL OF RIGHTS (ORIGINAL)

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

NO PERSON SHALL BE DECLARED INCOMPETENT TO HANDLE THEIR OWN FINANCIAL AND MEDICAL AFFAIRS UNTIL SUCH TIME AS A QUALIFIED COLORADO BOARD CERTIFIED PSYCHIATRIST HAS THOROUGHLY EXAMINED THE MENTAL STATUS OF SAID PERSON AND DETERMINED IN WRITING UNDER PENALTY OF PERJURY THAT THEY ARE MENTALLY INCOMPETENT AND UNCAPABLE OF MAKING SAID DECISIONS BY CLEAR AND CONVINCING EVIDENCE. IF SAID PERSON IS DECLARED COMPETENT, ALL PROBATE PROCEEDINGS PERTAINING TO SUCH PERSON SHALL BE IMMEDIATELY DISMISSED.

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

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

SAID REPRESENTATION WILL DEFEND THE WARDS RIGHTS AND OBJECT TO ANY VIOLATIONS OF THE COLORADO RULES OF CIVIL PROCEEDURE, COLORADO PROBATE RULES AND THE COLORADO CONSTITUTION BY ANY INTERESTED PARTY, JUDGE, MAGISTRATE, PUBIC ADMINISTRATOR, CONSERVATOR, GAURDIAN OR ANY OTHER PERSON(S) ASSOCIATED WITH SAID PROCEEDING.

1 ANY PRESIDING JUDGE IN A PROBATE PROCEEDING SHALL BE
2 PERSONALLY LIABLE FOR ANY VIOLATIONS OF THE COLORADO RULES
3 OF CIVIL PROCEEDURE, COLORADO PROBATE RULES, SUPREME COURT
4 DIRECTIVES AND THE COLORADO CONSTITUTION AS THEY RELATE TO
5 THE WARD IN SAID PROCEEDING.

6
7 A FINAL FINDING BY A COLORADO COURT OF LAW CIVIL PROCEEDING
8 BROUGHT BY THE WARD DECLARING THAT SAID PROBATE JUDGE HAS
9 VIOLATED A WARD'S CONSTITUTIONAL RIGHTS SHALL BE
10 IMMEDIATELY REMOVED FROM THE BENCH, DISBARRED AND HAVE HIS
11 LICENSE TO PRACTICE LAW PERMANENTLY REVOKED. ADDITIONALLY,
12 ALL ORDERS ISSUED BY SAID JUDGE IN THE RESPECTIVE WARDS
13 CASE SHALL BE VOIDED AND A NEW JUDGE APPOINTED.

14
15 THE WARD SHALL BE COMPENSATED 20 TIMES DAMAGES FOR ANY
16 VIOLATIONS OF HIS/HER RIGHTS IN A PROBATE PROCEEDING AND IN
17 NO INSTANCE SHALL THAT AMOUNT BE LESS THAN \$5,000 AND IN NO
18 INSTANCE SHALL SAID AMOUNT COME FROM THE WARDS ASSETS. ANY
19 ATTORNEY REPRESENTING SAID WARD SHALL BE ENTITLED, IN
20 ADDITION TO THEIR HOURLY SALARY, ONE HALF OF ALL DAMAGES
21 ASSESSED BY THIS SECTION.

22
23 EVERY CONSERVATOR SHALL BE REQUIRED TO HAVE A SURETY BOND
24 FOR 2 TIMES THE VALUE OF THE WARDS ASSETS BEFORE ACTING IN
25 ANY CAPACITY

26
27 BEFORE ANY CONSERVATORSHIP IS CLOSED, THERE SHALL BE A
28 COMPLETE INDEPENDENT, PROFESSIONAL AUDIT OF THE
29 CONSERVATORS FINANCIAL RECORDS. IF THE RECORDS ARE
30 SUBSTANTIALLY COMPLETE INCLUDING DETAILED BACKUP DOCUMENTS;
31 THE AUDIT WILL BE PAID BY THE WARDS ESTATE. IF THE
32 CONSERVATOR'S RECORDS ARE INCOMPLETE OR LACK BACKUP
33 DOCUMENTATION OR FUNDS OR ASSETS ARE MISSING, THE
34 CONSERVATOR AND HIS BONDSPERSON SHALL IMMEDIATELY PAY FOR
35 SAID AUDIT. THE COURT SHALL ORDER IMMEDIATE RESTITUTION OF
36 ANY MISSING FUNDS OR PROPERTY TO THE WARDS ESTATE AS THE
37 RESULT OF SAID AUDIT.

38
39 SELF-EXECUTING, SEVERABILITY, CONFLICTING PROVISIONS.
40

1 ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT
2 AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE
3 OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE
4 CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR
5 RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

6
7 EFFECTIVE DATE.

8
9 UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS
10 OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL
11 DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE
12 GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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1 Designation of parties representing the proponents for
2 ballot initiative.

3 **PROBATE WARD BILL OF RIGHTS**

4 Proposal tracking no. 130 Draft version: ORIGINAL
5 DRAFT

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