

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 111
99TH GENERAL ASSEMBLY

0441H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 473.730, 473.743, 473.747, and 475.120, RSMo, and to enact in lieu thereof three new sections relating to public administrators.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 473.730, 473.743, 473.747, and 475.120, RSMo, are repealed and
2 three new sections enacted in lieu thereof, to be known as sections 473.730, 473.743, and
3 475.120, to read as follows:

473.730. 1. Every county in this state, except the City of St. Louis, shall elect a public
2 administrator at the general election in the year 1880, and every four years thereafter, who shall
3 be ex officio public guardian and conservator in and for the public administrator's county. A
4 candidate for public administrator shall be at least twenty-one years of age and a resident of the
5 state of Missouri and the county in which he or she is a candidate for at least one year prior to
6 the date of the general election for such office. The candidate shall also be a registered voter and
7 shall be current in the payment of all personal and business taxes. **Each candidate for public**
8 **administrator shall provide to the election authority a copy of a signed affidavit from a**
9 **surety company, indicating that the candidate meets the bond requirements for the office**
10 **of public administrator under this section.**

11 2. Before entering on the duties of the public administrator's office, the public
12 administrator shall take the oath required by the constitution, and enter into bond to the state of
13 Missouri in a sum not less than ten thousand dollars, with [~~two~~] **one** or more securities, approved
14 by the court and conditioned that the public administrator will faithfully discharge all the duties
15 of the public administrator's office, which bond shall be given and oath of office taken on or
16 before the first day of January following the public administrator's election, and it shall be the
17 duty of the judge of the court to require the public administrator to make a statement annually,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 under oath, of the amount of property in the public administrator's hands or under the public
19 administrator's control as such administrator, for the purpose of ascertaining the amount of bond
20 necessary to secure such property; and such court may from time to time, as occasion shall
21 require, demand additional security of such administrator, and, in default of giving the same
22 within twenty days after such demand, may remove the administrator and appoint another.

23 ~~[2-]~~ 3. The public administrator in all counties, in the performance of the duties required
24 by chapters 473, 474, and 475, is a public officer. The duties specified by section 475.120 are
25 discretionary. The county shall defend and indemnify the public administrator against any
26 alleged breach of duty, provided that any such alleged breach of duty arose out of an act or
27 omission occurring within the scope of duty or employment.

28 ~~[3-]~~ 4. After January 1, 2001, all salaried public administrators shall be considered
29 county officials for purposes of section 50.333, subject to the minimum salary requirements set
30 forth in section 473.742.

31 ~~[4-]~~ 5. The public administrator for the city of St. Louis shall be appointed by a majority
32 of the circuit judges and associate circuit judges of the twenty-second judicial circuit, en banc.
33 Such public administrator shall meet the same qualifications and requirements specified in
34 subsection 1 of this section for elected public administrators. The elected public administrator
35 holding office on August 28, 2013, shall continue to hold such office for the remainder of his or
36 her term.

473.743. **Upon appointment by the probate court,** it shall be the duty of the public
2 administrator to take into his or her charge and custody the estates of all deceased persons, and
3 the ~~[person and]~~ estates of all minors, and the estates or person and estate of all incapacitated
4 persons in his or her county, in the following cases:

5 (1) When a stranger dies intestate in the county without relations, or dies leaving a will,
6 and the personal representative named is absent, or fails to qualify;

7 (2) When persons die intestate without any known heirs;

8 (3) When persons unknown die or are found dead in the county;

9 (4) When money, property, papers or other estate are left in a situation exposed to loss
10 or damage, and no other person administers on the same;

11 (5) When any estate of any person who dies intestate therein, or elsewhere, is left in the
12 county liable to be injured, wasted or lost, when the intestate does not leave a known husband,
13 widow or heirs in this state;

14 (6) ~~[The persons of all minors under the age of fourteen years, whose parents are dead,
15 and who have no legal guardian or conservator;~~

16 ~~——(7)]~~ The estates of all minors whose parents are dead, or, if living, refuse or neglect to
17 qualify as conservator, or, having qualified have been removed, or are, from any cause,

18 incompetent to act as such conservator, and who have no one authorized by law to take care of
19 and manage their estate;

20 ~~[(8)]~~ (7) The estates or person and estate of all disabled or incapacitated persons in his
21 or her county who have no legal guardian or conservator, and no one competent to take charge
22 of such estate, or to act as such guardian or conservator, can be found, or is known to the court
23 having jurisdiction, who will qualify;

24 ~~[(9)]~~ (8) Where from any other good cause, the court shall order him to take possession
25 of any estate to prevent its being injured, wasted, purloined or lost;

26 ~~[(10) When moneys are delivered to the public administrator from the county coroner;~~
27 ~~—~~ ~~[(11)]~~ (9) The public administrator shall act as trustee when appointed by the circuit court
28 or the probate division of the circuit court.

475.120. 1. The guardian of the person of a minor shall be entitled to the custody and
2 control of the ward and shall provide for the ward's education, support and maintenance.

3 2. A guardian or limited guardian of an incapacitated person shall act in the best interest
4 of the ward. A limited guardian of an incapacitated person shall have the powers and duties
5 enumerated by the court in the adjudication order or any later modifying order.

6 3. The general powers and duties of a guardian of an incapacitated person shall be to take
7 charge of the person of the ward and to provide for the ward's care, treatment, habilitation,
8 education, support and maintenance; and the powers and duties shall include, but not be limited
9 to, the following:

10 (1) Assure that the ward resides in the best and least restrictive setting reasonably
11 available;

12 (2) Assure that the ward receives medical care and other services that are needed;

13 (3) Promote and protect the care, comfort, safety, health, and welfare of the ward;

14 (4) Provide required consents on behalf of the ward;

15 (5) To exercise all powers and discharge all duties necessary or proper to implement the
16 provisions of this section.

17 4. A guardian of an adult or minor ward is not obligated by virtue of such guardian's
18 appointment to use the guardian's own financial resources for the support of the ward. If the
19 ward's estate and available public benefits are inadequate for the proper care of the ward, the
20 guardian or conservator may apply to the county commission pursuant to section 475.370.

21 5. No guardian of the person shall have authority to seek admission of the guardian's
22 ward to a mental health or intellectual disability facility for more than thirty days for any purpose
23 without court order except as otherwise provided by law.

24 6. Only the director or chief administrative officer of a social service agency serving as
25 guardian of an incapacitated person, or such person's designee, is legally authorized to act on
26 behalf of the ward.

27 7. A social service agency serving as guardian of an incapacitated person shall notify the
28 court within fifteen days after any change in the identity of the professional individual who has
29 primary responsibility for providing guardianship services to the incapacitated person.

30 8. Any social service agency serving as guardian may not provide other services to the
31 ward.

32 **9. In the absence of any written direction from the ward to the contrary, a guardian**
33 **may execute a preneed contract for the ward's funeral services, including cremation, or an**
34 **irrevocable life insurance policy to pay for the ward's funeral services, including**
35 **cremation, and authorize the payment of such services from the ward's resources. Nothing**
36 **in this section shall interfere with the rights of next-of-kin to direct the disposition of the**
37 **body of the ward upon death under section 194.119. If a preneed arrangement such as that**
38 **authorized by this subsection is in place and no next-of-kin exercises the right of sepulcher**
39 **within ten days of the death of the ward, the guardian may sign consents for the disposition**
40 **of the body, including cremation, without any liability therefor. A guardian who exercises**
41 **the authority granted in this subsection shall not be personally financially responsible for**
42 **the payment of services.**

2 ~~[473.747. The public administrator shall be ex officio public conservator~~
3 ~~and shall have charge of all estates of minors that may, by the order of the court,~~
4 ~~be placed in the public administrator's charge, and in such cases the public~~
 ~~administrator shall be known and designated as public conservator.]~~

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