

PROPOSED  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2424  
(Reference to printed bill)

- 1 Page 1, line 1, strike "judge" insert "judicial officer"
- 2 Line 5, strike "PROBATE"; after "COURT" insert "PURSUANT TO THIS TITLE"; strike
- 3 "JUDGE" insert "JUDICIAL OFFICER"
- 4 Line 8, strike "Probate advocacy" insert "Legislative advisory probate"
- 5 Line 9, after the first "THE" insert "LEGISLATIVE ADVISORY"; strike "ADVOCACY"
- 6 Line 11, strike "ATTORNEYS" insert "PERSONS"; after "WHO" strike remainder of
- 7 line
- 8 Line 12, strike "WHO PRACTICED" insert "HAVE EXPERIENCE IN THE PRACTICE OF"
- 9 Line 14, strike "TWO" insert "FOUR"; after "PROBATE" insert "LAW"
- 10 Line 17, strike "ADVOCACY"
- 11 Line 18, strike "PROBATE"; after "STATE" insert "RELATING TO PROBATE ISSUES"
- 12 Line 20, strike "PROBATE" in two places; after "COURTS" insert "RELATING TO
- 13 PROBATE ISSUES"
- 14 Strike lines 21, 22 and 23
- 15 Renumber to conform
- 16 Strike lines 35, 36 and 37
- 17 Line 38, strike "CONVINCING EVIDENCE," insert "A."
- 18 Line 39, after "ATTORNEY" insert "IF AN ACTION FILED TO ESTABLISH INCOMPETENCY
- 19 IS BASED ON HEARSAY EVIDENCE"
- 20 Strike lines 40 and 41
- 21 Reletter to conform
- 22 Line 42, after the period strike remainder of line
- 23 Strike lines 43 and 44

1 Page 2, line 2, after "CRIME" insert "AGAINST THE WARD OR PUTS THE WARD IN DANGER  
2 OR AT RISK"

3 Line 5, strike "TO SEE" insert "VISITATION WITH"

4 Line 6, strike "SEE" insert "HAVE VISITATION WITH"

5 Line 8, after "PHYSICIAN" insert "OR OTHER HEALTH CARE PROFESSIONAL"

6 Line 10, after "PHYSICIAN" insert "OR HEALTH CARE PROFESSIONAL"

7 Between lines 10 and 11, insert:

8 "F THE WARD HAS A RIGHT TO ALL MEDICAL RECORDS, REPORTS AND  
9 EVALUATIONS ORDERED BY THE COURT."

10 Strike lines 14 through 28

11 Between lines 28 and 29, insert:

12 "Sec. 3. Section 14-5307, Arizona Revised Statutes, is amended to  
13 read:

14 14-5307. Removal or resignation of guardian; termination of  
15 incapacity

16 A. On petition of the ward or any person interested in ~~his~~ THE WARD'S  
17 welfare, the court may remove a guardian and appoint a successor if it is in  
18 the best interests of the ward. On petition of the guardian, the court may  
19 accept a resignation and make any other order ~~which~~ THAT may be appropriate.

20 B. An order adjudicating incapacity may specify a minimum period, not  
21 exceeding one year, during which no petition for an adjudication that the  
22 ward is no longer incapacitated may be filed without special leave. Subject  
23 to this restriction, the ward or any person interested in ~~his~~ THE WARD'S  
24 welfare may petition the court for an order that the ward is no longer  
25 incapacitated and for the removal or resignation of the guardian. A request  
26 for this order may be made by informal letter to the court or judge. Any  
27 person who knowingly interferes with the transmission of this request may be  
28 found in contempt of court.

29 C. Before removing a guardian, accepting the resignation of a guardian  
30 or ordering that a ward's incapacity has terminated, the court, following the  
31 same procedures to safeguard the rights of the ward as apply to a petition  
32 for appointment of a guardian, may send an investigator to the residence of

1 the present guardian and to the place where the ward resides or is detained  
2 to observe conditions and report in writing to the court.

3 D. A WARD MAY PETITION THE COURT FOR REMOVAL OF A GUARDIAN FOR ANY OR  
4 NO CAUSE AND FOR APPOINTMENT OF A SUCCESSOR GUARDIAN. THE COURT SHALL GRANT  
5 THIS REQUEST IF THE WARD HAS NOT MADE AND BEEN GRANTED THE SAME REQUEST  
6 WITHIN THE PRECEDING TWELVE MONTHS AND A SUITABLE SUCCESSOR GUARDIAN IS  
7 AVAILABLE TO SERVE.

8 Sec. 4. Section 14-5310, Arizona Revised Statutes, is amended to read:

9 14-5310. Temporary guardians; appointment; notice; court  
10 appointed attorney hearings; duties

11 A. If an alleged incapacitated person has no guardian and an emergency  
12 exists or if an appointed guardian is not effectively performing the duties  
13 of a guardian and the welfare of the ward is found to require immediate  
14 action, the alleged incapacitated person, the ward or any person interested  
15 in the welfare of the alleged incapacitated person or the ward may petition  
16 for a finding of interim incapacity and for the appointment of a temporary  
17 guardian. No finding and appointment may be made without notice, pursuant to  
18 section 14-5309, except as provided in subsection B of this section.

19 B. The court may enter a finding of interim incapacity and may appoint  
20 a temporary guardian without notice to the proposed ward or the proposed  
21 ward's attorney only if all of the following conditions are met:

22 1. It clearly appears from specific facts shown by an affidavit or by  
23 the verified petition that immediate and irreparable injury, loss or damage  
24 will result before the proposed ward or the proposed ward's attorney can be  
25 heard in opposition.

26 2. The petitioner or the petitioner's attorney certifies to the court  
27 in writing any efforts that the petitioner or the petitioner's attorney has  
28 made to give the notice or the reasons supporting the claim that notice  
29 should not be required.

30 3. The petitioner files with the court a request for a hearing on the  
31 petition for the appointment of a temporary guardian.

1           4. The petitioner or the petitioner's attorney certifies that that  
2 person will give notice of the petition, the order and all filed reports and  
3 affidavits to the proposed ward by personal service within the time period  
4 the court directs but not in excess of seventy-two hours following entry of  
5 the order of appointment.

6           5. The petitioner files a report from a physician, a registered nurse  
7 practitioner or a psychologist detailing the need for a guardian and the  
8 basis for the emergency unless the report is waived by the court on a showing  
9 of good cause by a party to the action.

10          C. Unless the proposed ward is represented by independent counsel, the  
11 court shall appoint an attorney to represent the proposed ward in the  
12 proceeding on receipt of the petition for temporary appointment. The  
13 attorney shall visit the proposed ward as soon as practicable and shall be  
14 prepared to represent the interest of the proposed ward at any hearing on the  
15 petition.

16          D. Every order finding interim incapacity and appointing a temporary  
17 guardian granted without notice expires as prescribed by the court but within  
18 a period of not more than thirty days unless within that time the court  
19 extends it for good cause shown for the same period or unless the attorney  
20 for the ward consents that it may be extended for a longer period. The court  
21 shall enter the reasons for the extension on the record.

22          E. The court shall schedule a hearing on the petition for a finding of  
23 interim incapacity and the appointment of a temporary guardian within the  
24 time specified in subsection D of this section. If the petitioner does not  
25 proceed with the petition the court, on the motion of any party or on its own  
26 motion, may dismiss the petition.

27          F. If the court orders the appointment of a temporary guardian without  
28 notice, the ward may appear and move for its dissolution or modification on  
29 two days' notice to the petitioner and to the temporary guardian or on such  
30 shorter notice as the court prescribes. The court shall proceed to hear and  
31 determine that motion as expeditiously as possible. **IF THE WARD OBJECTS TO**

1 THE PERSON OR ENTITY WHO IS TEMPORARILY APPOINTED, THE COURT SHALL APPOINT AN  
2 ALTERNATIVE IF A SUITABLE ALTERNATIVE IS AVAILABLE TO SERVE IN THAT CAPACITY.

3 G. The hearing on a petition for the appointment of a temporary  
4 guardian shall be held in the same manner as a hearing on a preliminary  
5 injunction. The court may order the hearing on the petition for appointment  
6 of a permanent guardian to be advanced and consolidated with the hearing of  
7 the petition for temporary appointment. If the court does not order this  
8 consolidation any evidence received on a petition for temporary appointment  
9 that would be admissible at the hearing on a petition for a permanent  
10 appointment becomes part of the record and need not be repeated at a later  
11 hearing. This subsection does not limit the parties to any rights they may  
12 have to trial by jury.

13 H. After notice and a hearing, if the court finds that a temporary  
14 guardian is necessary and the provisions of this section have been met, the  
15 court shall make an appointment of a temporary guardian for a specific  
16 purpose and for a specific period of time of not more than six months unless  
17 the court extends this time period for good cause shown.

18 I. A temporary guardian is responsible to provide the care and custody  
19 of the ward. The authority of a permanent guardian previously appointed by  
20 the court is suspended as long as the temporary guardian has authority. A  
21 temporary guardian may be removed at any time. A temporary guardian shall  
22 make any report the court requires. In all other respects, the provisions of  
23 this title concerning guardians apply to temporary guardians.

24 Sec. 5. Section 14-5401, Arizona Revised Statutes, is amended to read:

25 14-5401. Protective proceedings

26 ~~Upon~~ ON petition and after notice and a hearing in accordance with the  
27 provisions of this article, the court may appoint a conservator or make  
28 another protective order for cause as follows:

29 1. Appointment of a conservator or other protective order may be made  
30 in relation to the estate and affairs of a minor if the court determines that  
31 a minor owns money or property that requires management or protection ~~which~~  
32 THAT cannot otherwise be provided or has or may have affairs ~~which~~ THAT may

1 be jeopardized or prevented by ~~his~~ minority or that funds are needed for ~~his~~  
2 **THE MINOR'S** support and education and that protection is necessary or  
3 desirable to obtain or provide funds.

4 2. Appointment of a conservator or other protective order may be made  
5 in relation to the estate and affairs of a person if the court  
6 determines both of the following **BY CLEAR AND CONVINCING EVIDENCE**:

7 (a) The person is unable to manage the person's estate and affairs  
8 effectively for reasons such as mental illness, mental deficiency, mental  
9 disorder, physical illness or disability, chronic use of drugs, chronic  
10 intoxication, confinement, detention by a foreign power or disappearance.

11 (b) The person has property ~~which~~ **THAT** will be wasted or dissipated  
12 unless proper management is provided, or that funds are needed for the  
13 support, care and welfare of the person or those entitled to be supported by  
14 the person and that protection is necessary or desirable to obtain or provide  
15 funds.

16 Sec. 6. Section 14-5401.01, Arizona Revised Statutes, is amended to  
17 read:

18 **14-5401.01. Temporary conservators; appointment; notice;**  
19 **hearings**

20 A. If a person in need of protection has no conservator and an  
21 emergency exists or if an appointed conservator is not effectively performing  
22 the duties of a conservator and the estate or affairs of the protected person  
23 are found to require immediate action, the person in need of protection, the  
24 protected person or any person interested in that person's estate or affairs  
25 may petition for a finding of a need for interim protection and for the  
26 appointment of a temporary conservator. No finding and appointment may be  
27 made without notice, pursuant to section 14-5405, except as provided in  
28 subsection B of this section.

29 B. The court may enter a finding of a need for interim protection and  
30 may appoint a temporary conservator without notice to the proposed protected  
31 person or the proposed protected person's attorney if all of the following  
32 conditions are met:

1           1. It clearly appears from specific facts shown by affidavit or by the  
2 verified petition that immediate and irreparable injury, loss or damage will  
3 result before the proposed protected person or that person's attorney can be  
4 heard in opposition.

5           2. The petitioner or the petitioner's attorney certifies to the court  
6 in writing any efforts that the petitioner or the attorney has made to give  
7 the notice or the reasons supporting the claim that notice should not be  
8 required.

9           3. The petitioner files with the court a request for a hearing on the  
10 petition for the appointment of a temporary conservator.

11           4. The petitioner or the petitioner's attorney certifies that notice  
12 of the petition, order and all filed reports and affidavits will be given to  
13 the proposed protected person by personal service within the time period the  
14 court directs but not more than seventy-two hours after entry of the order of  
15 appointment.

16           C. Unless the proposed protected person is represented by independent  
17 counsel, the court shall appoint an attorney to represent that person in the  
18 proceeding on receipt of the petition for temporary appointment. The  
19 attorney shall visit the proposed protected person as soon as practicable and  
20 shall be prepared to represent that person's interests at any hearing on the  
21 petition.

22           D. Every order finding a need for interim protection and appointing a  
23 temporary conservator granted without notice expires as prescribed by the  
24 court but within a period of not more than thirty days unless within that  
25 time the court extends it for good cause shown for the same period or unless  
26 the attorney for the proposed protected person consents that it may be  
27 extended for a longer period. The court shall enter the reasons for the  
28 extension on the record.

29           E. The court shall schedule a hearing on the petition for a finding of  
30 the need for interim protection and the appointment of a temporary  
31 conservator within the time specified in subsection D of this section. If

1 the petitioner does not proceed with the petition the court, on the motion of  
2 any party or on its own motion, may dismiss the petition.

3 F. If the court orders the appointment of a temporary conservator  
4 without notice, the proposed protected person may appear and move for its  
5 dissolution or modification on two days' notice to the petitioner and to the  
6 temporary conservator, or on such shorter notice as the court prescribes. The  
7 court shall proceed to hear and determine that motion as expeditiously as  
8 possible. IF THE PROPOSED PROTECTED PERSON OBJECTS TO THE PERSON OR ENTITY  
9 WHO IS TEMPORARILY APPOINTED, THE COURT SHALL APPOINT AN ALTERNATIVE IF A  
10 SUITABLE ALTERNATIVE IS AVAILABLE TO SERVE IN THAT CAPACITY.

11 G. The hearing on a petition for the appointment of a temporary  
12 conservator shall be held in the same manner as a hearing on a preliminary  
13 injunction. The court may order the hearing on the petition for appointment  
14 of a permanent conservator to be advanced and consolidated with the hearing  
15 ~~of~~ ON the petition for temporary appointment. If the court does not order  
16 this consolidation any evidence received on a petition for temporary  
17 appointment that would be admissible at the hearing on a petition for a  
18 permanent appointment becomes part of the record and need not be repeated at  
19 a later hearing. This subsection does not limit the parties to any rights  
20 they may have to trial by jury.

21 H. After notice and a hearing, if the court finds that a temporary  
22 conservator is necessary and the provisions of this section have been met,  
23 the court shall make an appointment of a temporary conservator for a  
24 specified period of time of not more than six months unless the court extends  
25 this time period for good cause shown.

26 Sec. 7. Section 14-5407, Arizona Revised Statutes, is amended to read:

27 14-5407. Procedure concerning hearing and order on original  
28 petition

29 A. On the filing of a petition for appointment of a conservator or any  
30 other protective order because of minority, the court shall set a hearing  
31 date on the matters alleged in the petition. If, at any time in the  
32 proceeding, the court determines that the interests of the minor are or may

1 be inadequately represented, it shall appoint an attorney to represent the  
2 minor. If the minor is at least fourteen years of age the court shall  
3 consider the choice of the minor.

4 B. On the filing of a petition for appointment of a conservator or any  
5 other protective order for reasons other than minority, the court shall set a  
6 hearing date. Unless the person to be protected has counsel of ~~his~~ THAT  
7 PERSON'S own choice, the court shall appoint an attorney to represent ~~him~~  
8 THAT PERSON. If the alleged disability is mental illness, mental deficiency,  
9 mental disorder, physical illness or disability, chronic use of drugs, or  
10 chronic intoxication, the court shall appoint an investigator to interview  
11 the person to be protected. On petition by an interested person or on the  
12 court's own motion, the court may direct that an appropriate medical or  
13 psychological evaluation of the person be conducted. The investigator and  
14 the person conducting the medical or psychological evaluation shall submit  
15 written reports to the court before the hearing date.

16 C. In any case where the veterans administration is or may be an  
17 interested party, a certificate of an authorized official of the veterans  
18 administration that the person allegedly in need of protection has been found  
19 incapable of handling the benefits payable, on examination in accordance with  
20 the laws and regulations governing the veterans administration, is prima  
21 facie evidence of the necessity for appointment of a conservator.

22 D. The person allegedly in need of protection is entitled to be  
23 present at the hearing, to be represented by counsel, to present evidence and  
24 to cross-examine witnesses, including any court appointed examiner and  
25 investigator. The issue may be determined at a closed hearing if the person  
26 allegedly in need of protection or that person's counsel so requests.

27 E. After the hearing, ~~upon~~ ON a finding BY CLEAR AND CONVINCING  
28 EVIDENCE that a basis for the appointment of a conservator or any other  
29 protective order has been established, the court shall make an appointment or  
30 other appropriate protective order.

1           Sec. 8. Section 14-5415, Arizona Revised Statutes, is amended to read:

2           14-5415. Death, resignation or removal of conservator

3           A. The court may remove a conservator for good cause, ~~upon~~ ON notice  
4 and hearing, or accept the resignation of a conservator. After ~~his~~ A  
5 CONSERVATOR'S death, resignation or removal, the court may appoint another  
6 conservator. A conservator so appointed succeeds to the title and powers of  
7 ~~his~~ THE CONSERVATOR'S predecessor.

8           B. A PROTECTED PERSON MAY PETITION THE COURT FOR REMOVAL OF A  
9 CONSERVATOR FOR ANY OR NO CAUSE AND FOR APPOINTMENT OF A SUCCESSOR  
10 CONSERVATOR. THE COURT SHALL GRANT THIS REQUEST IF THE PROTECTED PERSON HAS  
11 NOT MADE AND BEEN GRANTED THE SAME REQUEST WITHIN THE PRECEDING TWELVE MONTHS  
12 AND A SUITABLE SUCCESSOR CONSERVATOR IS AVAILABLE TO SERVE.

13           Sec. 9. Section 14-5419, Arizona Revised Statutes, is amended to read:

14           14-5419. Accounts; definition

15           A. Except as provided pursuant to subsection F of this section, every  
16 conservator must account to the court for the administration of the estate  
17 not less than annually on the anniversary date of qualifying as conservator  
18 and also on resignation or removal, and on termination of the protected  
19 person's minority or disability, except that for good cause shown on the  
20 application of an interested person, the court may relieve the conservator of  
21 filing annual or other accounts by an order entered in the minutes.

22           B. The court may take any appropriate action on filing of annual or  
23 other accounts. In connection with any account, the court may require a  
24 conservator to submit to a physical check of the estate in the conservator's  
25 control, to be made in any manner the court may specify.

26           C. An adjudication allowing an intermediate or final account can be  
27 made only on petition, notice and a hearing. Notice must be given to:

28           1. The protected person.

29           2. A guardian of the protected person if one has been appointed,  
30 unless the same person is serving as both guardian and conservator.

31           3. If no guardian has been appointed or the same person is serving as  
32 both guardian and conservator, a spouse or, if the spouse is the conservator,

1           there is no spouse or the spouse is incapacitated, a parent or an adult child  
2           who is not serving as a conservator.

3           4. A representative appointed for the protected person, if the court  
4           determines in accordance with section 14-1408 that representation of the  
5           interest of the protected person would otherwise be inadequate.

6           D. An order, made on notice and a hearing, allowing an intermediate  
7           account of a conservator, adjudicates as to the conservator's liabilities  
8           concerning the matters considered in connection therewith. An order, made on  
9           notice and a hearing, allowing a final account adjudicates as to all  
10          previously unsettled liabilities of the conservator to the protected person  
11          or the protected person's successors relating to the conservatorship.

12          E. In any case in which the estate consists, in whole or in part, of  
13          benefits paid by the veterans administration to the conservator or the  
14          conservator's predecessor for the benefit of the protected person, the  
15          veterans administration office that has jurisdiction over the area is  
16          entitled to a copy of any account filed under ~~chapter 5, article 4 of this~~  
17          ~~title~~ ARTICLE. Each year in which an account is not filed with the court,  
18          the conservator, if requested, shall submit an account to the appropriate  
19          veterans administration office. If an account is not submitted as requested,  
20          or if it is found unsatisfactory by the veterans administration, the court on  
21          receipt of notice of the deficiency shall require the conservator to  
22          immediately file an account with the court promptly.

23          F. Unless prohibited by order of the court, the conservator may file  
24          with the court, in lieu of a final account, a verified statement stating  
25          that:

26                 1. The protected person has died. The conservator shall attach a  
27                 certified copy of the protected person's death certificate to the statement.

28                 2. The protected person's successors have all waived in writing their  
29                 right to have the conservator submit to the court a final account of the  
30                 conservator's administration of the protected person's estate. The  
31                 conservator shall attach the originals of the written waivers to the  
32                 statement.

1           3. The conservator has delivered a copy of a closing statement to the  
2 protected person's successors. The conservator shall attach a copy of the  
3 closing statement to the statement.

4           G. The closing statement that is to be delivered to the protected  
5 person's successors shall be a verified statement stating the following:

6           1. The protected person has died and the date of the person's death.

7           2. The persons receiving the closing statement have a right to have  
8 the conservator submit to the court a final account of the conservator's  
9 administration of the protected person's estate.

10          3. If the person wishes to have the final accounting reviewed by the  
11 court, the person should not sign a waiver that waives this right.

12          4. If all persons receiving the closing statement choose to waive the  
13 right to have the conservator submit to the court a final account, the final  
14 account will not be reviewed by the court.

15          5. A list of the property owned by the protected person, as of the  
16 date of the protected person's death, is attached to the closing statement  
17 and that the list states the fair market value of the property as of the date  
18 of the protected person's death.

19          6. The conservator, by the closing statement, shall inform the  
20 protected person's successors that if they waive court review of the  
21 conservator's final account, the conservatorship will be terminated, the  
22 conservator will be discharged from all liabilities relating to the  
23 conservatorship, the bond or other security posted by the conservator will be  
24 exonerated and any restrictions previously imposed on the assets of the  
25 conservatorship will be lifted.

26          H. The conservator shall file an affidavit with the court that states  
27 that the closing statement was sent or delivered to the protected person's  
28 successors on a date before the date that the protected person's successors  
29 signed the written waiver.

30          I. Unless proceedings are pending against the conservator, on the  
31 filing of the statement described in subsection F of this section and the  
32 affidavit described in subsection H of this section, the court shall enter an

1 order terminating the conservatorship, discharging the conservator from all  
2 liabilities relating to the conservatorship, exonerating and releasing any  
3 bond or other security posted by the conservator and releasing any  
4 restrictions previously imposed on the assets of the conservatorship.

5 J. ON REQUEST OF THE PROTECTED PERSON OR THAT PERSON'S ATTORNEY, A  
6 CONSERVATOR MUST PROVIDE THE PROTECTED PERSON OR THE ATTORNEY WITH A MONTHLY  
7 REPORT OF REVENUES AND EXPENSES RELATING TO THE ADMINISTRATION OF THE  
8 CONSERVATORSHIP.

9 ~~J.~~ K. For the purposes of this section, "protected person's  
10 successors" means:

11 1. The personal representative of the protected person's estate if the  
12 personal representative and the conservator are not the same person.

13 2. If the conservator and the personal representative of the protected  
14 person's estate are the same person and if the protected person died  
15 intestate, the protected person's heirs.

16 3. If the conservator and the personal representative of the protected  
17 person's estate are the same person and if the protected person died testate,  
18 the devisees under the protected person's will that has been admitted to  
19 probate.

20 Sec. 10. Section 14-5652, Arizona Revised Statutes, is amended to  
21 read:

22 14-5652. Attorneys: fiduciary duties

23 A. Absent an express agreement to the contrary, the performance by an  
24 attorney of legal services for a fiduciary, settlor or testator does not by  
25 itself establish a duty in contract or tort or otherwise to any third party.  
26 For the purposes of this subsection, third party does not apply to the  
27 personal representative, settlor or testator. IF AN ATTORNEY PERFORMS LEGAL  
28 SERVICES FOR A FIDUCIARY AND IS COMPENSATED FROM THE PROTECTED PERSON'S  
29 ESTATE PURSUANT TO SECTION 14-5314 OR 14-5414, THE ATTORNEY HAS THE SAME  
30 DUTIES TO THE WARD OR THE PROTECTED PERSON AS IF THAT PERSON WERE THE  
31 ATTORNEY'S CLIENT.

1           B. An attorney who acts as a personal representative or trustee shall  
2 disclose to all adult persons who have an interest in the estate or trust the  
3 names of any person who has an interest in that estate or trust to whom the  
4 attorney is currently rendering or has in the past rendered legal services.  
5 The attorney must make this disclosure in writing within a reasonable time  
6 after learning that a client or former client has an interest in the estate  
7 or trust. The representation of an interested person by that attorney is not  
8 grounds for removing the attorney as the personal representative or trustee  
9 unless the attorney is unable to perform the fiduciary duties as personal  
10 representative or trustee without violating the attorney's ethical  
11 responsibilities to the client or former client.

12           Sec. 11. Section 14-10706, Arizona Revised Statutes, is amended to  
13 read:

14           14-10706. Removal of trustee

15           A. The settlor, a cotrustee or a beneficiary may request the court to  
16 remove a trustee or a trustee may be removed by the court on its own  
17 initiative.

18           B. The court may remove a trustee if:

19           1. The trustee has committed a material breach of trust.

20           2. Lack of cooperation among cotrustees substantially impairs the  
21 administration of the trust.

22           3. Because of unfitness, unwillingness or persistent failure of the  
23 trustee to administer the trust for the benefit of the beneficiaries, the  
24 court determines that removal of the trustee best serves the interests of the  
25 beneficiaries.

26           4. There has been a substantial change of circumstances or removal is  
27 requested by all of the qualified beneficiaries, the court finds that removal  
28 of the trustee best serves the interests of all of the beneficiaries and is  
29 not inconsistent with a material purpose of the trust and a suitable  
30 cotrustee or successor trustee is available.

31           C. Pending a final decision on a request to remove a trustee, or in  
32 lieu of or in addition to removing a trustee, the court may order appropriate

1 relief under section 14-11001, subsection B as may be necessary to protect  
2 the trust property or the interests of the beneficiaries.

3 D. A BENEFICIARY MAY PETITION THE COURT FOR REMOVAL OF A TRUSTEE FOR  
4 ANY OR NO CAUSE AND FOR APPOINTMENT OF A SUCCESSOR TRUSTEE. THE COURT SHALL  
5 GRANT THIS REQUEST IF THE BENEFICIARY HAS NOT MADE AND BEEN GRANTED THE SAME  
6 REQUEST WITHIN THE PRECEDING TWELVE MONTHS AND A SUITABLE SUCCESSOR TRUSTEE  
7 IS AVAILABLE TO SERVE."

8 Renumber to conform

9 Page 2, lines 33 and 34, strike "Two" insert "Three"

10 Amend title to conform

DAVID BURNELL SMITH

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02/15/2011  
2:23 PM  
C: jcs