

**STATEMENT OF RIGHTS TO SEEK MODIFICATION OR TERMINATION OF
GUARDIANSHIP**

STATE OF SOUTH DAKOTA:

IN CIRCUIT COURT

SS:

COUNTY OF _____

_____ JUDICIAL CIRCUIT

IN THE MATTER OF THE GUARDIANSHIP
OF

_____,
Minor Child.

File No: _____

**STATEMENT OF RIGHTS TO SEEK
MODIFICATION OR TERMINATION OF
GUARDIANSHIP**

COMES NOW (ENTER TEXT), as attorney for the Petitioners, and makes this Statement of Rights to Seek Modification or Termination of Guardianship to all interested parties:

1. Pursuant to SDCL 29A-5-501 and 503, the appointment of a guardian will terminate upon death of the protected person or the guardian, resignation or removal of the guardian, or upon termination by the Court of the guardianship. A guardian may petition the Court for termination, but the Court may not grant permission to allow the termination unless there is a suitable successor willing to act, unless there is a showing of good cause.

2. Pursuant to SDCL 29A-5-504, upon petition by an interested person or on the Court's own motion, the Court may remove a guardian or order other appropriate relief if the guardian:

- a. Is acting under letters secured by material misrepresentation or mistake, whether fraudulent or innocent;
- b. Has an incapacity or illness, including substance abuse, which affects fitness for office, or is adjudged to be a protected person in this or in any other jurisdiction;
- c. Is convicted of a crime which reflects on fitness for office;
- d. Wastes or mismanages the estate, unreasonably withholds distributions, or makes distributions in a negligent or profligate manner, or otherwise abuses power or fails to discharge duties;
- e. Neglects the care and custody of the minor, the protected person, or legal dependents;
- f. Has an interest adverse to the faithful performance of duties, such that is a substantial risk that the guardian or conservator will fail to properly perform those duties;

- g. Fails to file reports or accountings when required, or fails to comply with any order of the Court.
- h. Acts in a manner that threatens the personal or financial security of a co-guardian or co-conservator, or endangers the surety on the bond;
- i. Fails to file sufficient bond after being ordered by the Court to do so;
- j. Avoids service of process or notice;
- k. Becomes incapable of or unsuitable for the discharge of duties;
- l. Is not acting in the best interests of the minor child, the protected person, or the estate, even though without fault; or
- m. Fails to complete or timely complete the training curricula required pursuant to SDCL 29A-5-119.

3. Pursuant to SDCL 29A-5-508, upon petition by the protected person, by the guardian, by any other interested person, or upon the Court's own motion, the Court may terminate a guardianship or modify the type of appointment or areas of protection, management or assistance previously granted to a limited guardian if:

- a. The protected person is no longer in need of assistance or protection of a guardian or conservator;
- b. The extent of protection, management or assistance previously granted is either excessive or insufficient, considering the current need therefor;
- c. The protected person's understanding or capacity to manage the estate and financial affairs or to provide for health, care, or safety has so changed to warrant such action; or
- d. No suitable guardian or conservator can be secured who is willing to exercise the assigned duties.

Dated (ENTER DATE)

By:

(NAME)

Attorney for Petitioners

(STREET ADDRESS)

(CITY), SD (ZIP CODE)

(PHONE)

(EMAIL)