

# LEGISLATIVE COMMITTEE AMENDMENTS FOR 2014

As of November 13, 2013

1. 75-2-114. Parent and child relationship - Adoption issue.
2. 75-3-107(4). Delete “also” re court’s continuing jurisdiction to appoint PR
3. 75-3-301. Informal probate or appointment proceedings - language added to conform with efilings of wills and technical correction to move subsection 2(f) to 3(d)
4. 75-5-310. Emergency and Temporary Guardians - add “emergency guardian” and allow court after notice and hearing and finding good cause to appoint temporary guardian until further order of the court; also requires hearing within 14 days after an emergency guardian is appointed.
5. 75-5-312. General powers and duties of guardian - empowers guardian to compel production of the ward’s estate documents and advance health care directives.
6. 75-5-408. Permissible court orders - language added to provide for a temporary conservator until further order of the court (consistent with the appointment of a temporary guardian); “temporary conservator” is also provided under 75-5-416(1)(d).
7. 75-5-415. Death resignation, or removal of conservator - language added to make consistent with guardianship Code Section 75-5-307 re no attorney necessary when just substituting a conservator that is not being contested.
8. 75-5-416. Petitions for orders subsequent to appointment - change “trust” to “conservatorship estate.”
9. 75-5-424. Powers of conservator in administration - empowers conservator to compel production of protected’s persons estate documents and advance health care directives.
10. 75-7-508. Notice to Creditors (re Trusts) - language added in subsection (5) to clarify that the Notice applies to the Trust and to the deceased settlor’s estate.

1 75-2-114. Parent and child relationship.  
2

3 (1) Except as provided in Subsections (2) and (3), for purposes of intestate  
4 succession by, through, or from a person, an individual is the child of the individual's  
5 natural parents, regardless of their marital status. The parent and child relationship may  
6 be established as provided in Title 78B, Chapter 15, Utah Uniform Parentage Act.  
7

8 (2) An adopted individual is the child of the adopting parent or parents and not of  
9 the natural parents, but adoption of a child by the spouse of either natural parent has no  
10 effect on:

11  
12 ~~— (a) the relationship between the child and that natural parent; or~~

13  
14 ~~— (b) the right of the child or a descendant of the child to inherit from or through the~~  
15 ~~other~~ natural parent.  
16

17 (3) Inheritance from or through a child by either natural parent or his kindred is  
18 precluded unless that natural parent has openly treated the child as his, and has not  
19 refused to support the child.

1 75-3-107. Probate, testacy, and appointment proceedings -- Ultimate time limit --  
2 Presumption and order of intestacy.

3  
4 (1) No informal probate proceeding or formal testacy proceeding, other than a  
5 proceeding to probate a will previously probated at the testator's domicile and  
6 appointment proceedings relating to an estate in which there has been a prior  
7 appointment, may be commenced more than three years after the decedent's death, except:

8  
9 (a) If a previous proceeding was dismissed because of doubt about the fact of the  
10 decedent's death, appropriate probate, appointment, or testacy proceedings may be  
11 maintained at any time thereafter upon a finding that the decedent's death occurred prior  
12 to the initiation of the previous proceeding and the applicant or petitioner has not delayed  
13 unduly in initiating the subsequent proceeding.

14  
15 (b) Appropriate probate, appointment, or testacy proceedings may be maintained  
16 in relation to the estate of an absent, disappeared, or missing person for whose estate a  
17 conservator has been appointed, at any time within three years after the conservator  
18 becomes able to establish the death of the protected person.

19  
20 (c) A proceeding to contest an informally probated will and to secure appointment  
21 of the person with legal priority for appointment in the event the contest is successful,  
22 may be commenced within the later of 12 months from the informal probate or three years  
23 from the decedent's death.

24  
25 (2) The limitations provided in Subsection (1) do not apply to proceedings to  
26 construe probated wills or determine heirs of an intestate. In cases under Subsection (1)(a)  
27 or (b), the date on which a testacy or appointment proceeding is properly commenced  
28 shall be deemed to be the date of the decedent's death for purposes of other limitations  
29 provisions of this title which relate to the date of death.

30  
31 (3) If no will is probated within three years from death, the presumption of  
32 intestacy is final and the court shall upon filing a proper petition enter an order to that  
33 effect.

34  
35 (4) The court ~~also~~ has continuing jurisdiction to:

36  
37 (a) determine what property was owned by the decedent at the time of death; and

38  
39 (b) appoint a personal representative or special administrator to administer the  
40 decedent's estate.

1 75-3-301. Informal probate or appointment proceedings -- Application -- Contents.

2  
3 (1) Applications for informal probate or informal appointment shall be directed to  
4 the registrar, and verified by the applicant to be accurate and complete to the best of his  
5 knowledge and belief as to the appropriate information required under this section.

6  
7 (2) Every application for informal probate of a will or for informal appointment of  
8 a personal representative, other than a special or successor representative, shall contain  
9 the following:

10  
11 (a) a statement of the interest of the applicant;

12  
13 (b) the name and date of death of the decedent, his age, the county and state of his  
14 domicile at the time of death, and the names and addresses of the spouse, children, heirs,  
15 and devisees and the ages of any who are minors so far as known or ascertainable with  
16 reasonable diligence by the applicant;

17  
18 (c) if the decedent was not domiciled in the state at the time of his death, a  
19 statement showing venue;

20  
21 (d) a statement identifying and indicating the address of any personal  
22 representative of the decedent appointed in this state or elsewhere whose appointment has  
23 not been terminated; and

24  
25 (e) a statement indicating whether the applicant has received a demand for notice  
26 or is aware of any demand for notice of any probate or appointment proceeding  
27 concerning the decedent that may have been filed in this state or elsewhere; and.

28  
29  
30 ~~Text Was Moved From Here: †~~

31  
32 (3) An application for informal probate of a will shall state the following in  
33 addition to the statements required by Subsection (2):

34  
35 (a) that the original of the decedent's last will ~~is~~:

36  
37 (i) is in the possession of the court;

38  
39 (ii) was ~~presented to~~ filed with the ~~court for electronic storage and~~ court's  
40 electronic filing system and is now in the possession of the applicant or the applicant's  
41 attorney; or

42

43 (iii) ~~accompanies the application, or that~~ an authenticated copy of a will probated  
44 in another jurisdiction accompanies the application; or was filed with the court's  
45 electronic filing system and the authenticated copy is now in the possession of the  
46 applicant or the applicant's attorney.  
47

48 (b) that the applicant, to the best of his knowledge, believes the will to have been  
49 validly executed; ~~and~~  
50

51 (c) that after the exercise of reasonable diligence, the applicant is unaware of any  
52 instrument revoking the will, and that the applicant believes that the instrument which is  
53 the subject of the application is the decedent's last will; and  
54

55  
56 **Text Moved Here: 1**

57 (fd) that the time limit for informal probate ~~or appointment~~ as provided in this  
58 chapter has not expired either because three years or less have passed since the decedent's  
59 death, or if more than three years from death have passed, that circumstances as described  
60 by Section 75-3-107 authorizing tardy probate ~~or appointment~~ have occurred.

61 **End Of Moved Text**  
62

1 75-5-310. Emergency and Temporary guardians.  
2

3 (1) If an incapacitated person has no guardian and an emergency exists or if an  
4 appointed guardian is not effectively performing his duties and the court further finds that  
5 the welfare of the incapacitated person requires immediate action, it may, without notice,  
6 appoint an ~~appropriate official as temporary~~emergency guardian for the person for a  
7 specified period not to exceed 30 days pending notice and hearing.  
8

9 (2) The court shall, in all cases in which a ~~temporary~~emergency guardian is  
10 appointed, hold a hearing within ~~five~~14 days pursuant to Section 75-5-303. =  
11

12 (3) If after notice and hearing the court finds good cause, the court may appoint a  
13 temporary guardian until further order of the court.  
14

15 (4) Unless the allegedly incapacitated person has already obtained counsel ~~or an~~  
16 attorney has been already appointed for the person, the court may appoint an ~~appropriate~~  
17 ~~official or~~ attorney to represent ~~that~~e person in the proceeding. =  
18

19 (5) Until the full hearing and order of the court, the temporary guardian shall be  
20 charged with the care and custody of the ward and shall not permit the ward to be  
21 removed from this state. The authority of any permanent guardian previously appointed  
22 by the court is suspended so long as a temporary guardian has authority. A temporary  
23 guardian may be removed at any time, and shall obey such orders and make such reports  
24 as the court requires.

1 75-5-312. General powers and duties of guardian -- Penalties.

2  
3 (1) A guardian of an incapacitated person has only the powers, rights, and duties  
4 respecting the ward granted in the order of appointment under Section 75-5-304.

5  
6 (2) Absent a specific limitation on the guardian's power in the order of  
7 appointment, the guardian has the same powers, rights, and duties respecting the ward  
8 that a parent has respecting the parent's unemancipated minor child except that a guardian  
9 is not liable to third persons for acts of the ward solely by reason of the parental  
10 relationship. In particular, and without qualifying the foregoing, a guardian has the  
11 following powers and duties, except as modified by order of the court:

12  
13 (a) To the extent that it is consistent with the terms of any order by a court of  
14 competent jurisdiction relating to detention or commitment of the ward, the guardian is  
15 entitled to custody of the person of the ward and may establish the ward's place of abode  
16 within or without this state.

17  
18 (b) If entitled to custody of the ward the guardian shall provide for the care,  
19 comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's  
20 training and education. Without regard to custodial rights of the ward's person, the  
21 guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other  
22 personal effects and commence protective proceedings if other property of the ward is in  
23 need of protection.

24  
25 (c) A guardian may give any consents or approvals that may be necessary to  
26 enable the ward to receive medical or other professional care, counsel, treatment, or  
27 service.

28  
29 (d) If no conservator for the estate of the ward has been appointed, the guardian  
30 may:

31  
32 (i) institute proceedings to compel any person under a duty to support the ward or  
33 to pay sums for the welfare of the ward to perform that duty; ~~or~~

34  
35 (ii) receive money and tangible property deliverable to the ward and apply the  
36 money and property for support, care, and education of the ward; but the guardian may  
37 not use funds from the ward's estate for room and board which the guardian, the  
38 guardian's spouse, parent, or child have furnished the ward unless a charge for the service  
39 is approved by order of the court made upon notice to at least one adult relative in the  
40 nearest degree of kinship to the ward in which there is an adult. The guardian must  
41 exercise care to conserve any excess for the ward's needs: ~~and~~ and

43 (iii) compel the production of the ward's estate documents, including the ward's  
44 will, trust, power of attorney, and any advance health care directive.

45  
46 (e) (i) A guardian is required to report the condition of the ward and of the estate  
47 which has been subject to the guardian's possession or control, as required by the court or  
48 court rule.

49  
50 (ii) A guardian is required to immediately notify all interested persons if the  
51 guardian reasonably believes that the ward's death is likely to occur within the next 30  
52 days, based on:

53  
54 (A) the guardian's own observations; or

55  
56 (B) information from the ward's physician or other medical care providers.

57  
58 (iii) A guardian is required to immediately notify all interested persons of the  
59 ward's death.

60  
61 (iv) Unless emergency conditions exist, a guardian is required to file with the  
62 court a notice of the guardian's intent to move the ward and to serve the notice on all  
63 interested persons at least 10 days before the move. The guardian shall take reasonable  
64 steps to notify all interested persons and to file the notice with the court as soon as  
65 practicable following the earlier of the move or the date when the guardian's intention to  
66 move the ward is made known to the ward, the ward's care giver, or any other third party.

67  
68 (v) The guardian shall, for all estates in excess of \$50,000, excluding the  
69 residence owned by the ward, send a report with a full accounting to the court on an  
70 annual basis. For estates less than \$50,000, excluding the residence owned by the ward,  
71 the guardian shall fill out an informal annual report and mail the report to the court. The  
72 report shall include the following: a statement of assets at the beginning and end of the  
73 reporting year, income received during the year, disbursements for the support of the  
74 ward, and other expenses incurred by the estate. The guardian shall also report the  
75 physical conditions of the ward, the place of residence, and a list of others living in the  
76 same household. The court may require additional information. The forms for both the  
77 informal report for estates under \$50,000, excluding the residence owned by the ward,  
78 and the full accounting report for larger estates shall be approved by the Judicial Council.  
79 This annual report shall be examined and approved by the court. If the ward's income is  
80 limited to a federal or state program requiring an annual accounting report, a copy of that  
81 report may be submitted to the court in lieu of the required annual report.

82  
83 (vi) Corporate fiduciaries are not required to petition the court, but shall submit  
84 their internal report annually to the court. The report shall be examined and approved by

85 the court.

86  
87 (vii) The guardian shall also render an annual accounting of the status of the  
88 person to the court which shall be included in the petition or the informal annual report as  
89 required under Subsection (2)(e). If a fee is paid for an accounting of an estate, no fee  
90 shall be charged for an accounting of the status of a person.

91  
92 (viii) If a guardian:

93  
94 (A) makes a substantial misstatement on filings of annual reports;

95  
96 (B) is guilty of gross impropriety in handling the property of the ward; or

97  
98 (C) willfully fails to file the report required by this subsection, after receiving  
99 written notice from the court of the failure to file and after a grace period of two months  
100 has elapsed, the court may impose a penalty in an amount not to exceed \$5,000. The court  
101 may also order restitution of funds misappropriated from the estate of a ward. The penalty  
102 shall be paid by the guardian and may not be paid by the estate.

103  
104 (ix) These provisions and penalties governing annual reports do not apply if the  
105 guardian is the parent of the ward.

106  
107 (x) For the purposes of Subsections (2)(e)(i), (ii), (iii), and (iv), "interested  
108 persons" means those persons required to receive notice in guardianship proceedings as  
109 set forth in Section 75-5-309.

110  
111 (f) If a conservator has been appointed, all of the ward's estate received by the  
112 guardian in excess of those funds expended to meet current expenses for support, care,  
113 and education of the ward shall be paid to the conservator for management as provided in  
114 this code; and the guardian shall account to the conservator for funds expended.

115  
116 (3) Any guardian of one for whom a conservator also has been appointed shall  
117 control the custody and care of the ward and is entitled to receive reasonable sums for  
118 services and for room and board furnished to the ward as agreed upon between the  
119 guardian and the conservator, if the amounts agreed upon are reasonable under the  
120 circumstances. The guardian may request the conservator to expend the ward's estate by  
121 payment to third persons or institutions for the ward's care and maintenance.

1 75-5-408. Permissible court orders

2  
3 (1) The court has the following powers which may be exercised directly or through a  
4 conservator in respect to the estate and affairs of protected persons:

5 (a) While a petition for appointment of a conservator or other protective order is  
6 pending and after preliminary hearing and without notice to others, the court has power to  
7 preserve and apply the property of the person to be protected as may be required for the  
8 person's benefit or the benefit of the person's dependents.

9 (b) After hearing and upon determining that a basis for an appointment or other  
10 protective order exists with respect to a minor without other disability, the court has all  
11 those powers over the estate and affairs of the minor which are or might be necessary for  
12 the best interests of the minor, the minor's family, and the members of the minor's  
13 household.

14 (c) After hearing and upon determining that a basis for an appointment or other  
15 protective order exists with respect to a person for reasons other than minority, the court  
16 has, for the benefit of the person and members of the person's household, all the powers  
17 over the person's estate and affairs that the person could exercise if present and not under  
18 disability, except the power to make a will. These powers include the power to:

19 (i) make gifts;

20 (ii) convey or release the person's contingent and expectant interests in property  
21 including marital property rights and any right of survivorship incident to joint tenancy or  
22 tenancy by the entirety;

23 (iii) exercise or release the person's powers as personal representative, custodian  
24 for minors, conservator, or donee of a power of appointment;

25 (iv) enter into contracts;

26 (v) create revocable or irrevocable trusts of property of the estate that may extend  
27 beyond the person's disability or life;

28 (vi) exercise options of the person with a disability to purchase securities or other  
29 property;

30 (vii) exercise the person's rights to elect options and change beneficiaries under  
31 insurance and annuity policies and to surrender the policies for their cash value;

32 (viii) exercise the person's right to an elective share in the estate of the person's  
33 deceased spouse; and

34 (ix) renounce any interest by testate or intestate succession or by inter vivos  
35 transfer.

36 (d) The court may exercise, or direct the exercise of, its authority to exercise or  
37 release powers of appointment of which the protected person is donee, to renounce

38 interests, to make gifts in trust or otherwise exceeding 20% of any year's income of the  
39 estate, or to change beneficiaries under insurance and annuity policies, only if satisfied,  
40 after notice and hearing, that it is in the best interests of the protected person, and that the  
41 person either is incapable of consenting or has consented to the proposed exercise of  
42 power.

43 (2) An order made pursuant to this section determining that a basis for appointment of  
44 a conservator or other protective order exists has no effect on the capacity of the protected  
45 person.

46  
47 (3) If the court elects to appoint a conservator under subsection (1) above, the court  
48 may appoint a temporary conservator to serve until further order of the court.

1 75-5-415. Death, resignation, or removal of conservator  
2  
3

4 (1) The court may remove a conservator for good cause, upon notice and hearing, or  
5 accept the resignation of a conservator. After the death, resignation, or removal of a  
6 conservator, the court may appoint another conservator. A conservator so appointed  
7 succeeds to the title and powers of the preceding conservator.

8 (2) Before removing a conservator, accepting the resignation of a conservator, or  
9 ordering that a protected person's incapacity has terminated, the court shall follow the  
10 same procedures to safeguard the rights of the protected person as apply to a petition for  
11 appointment of a conservator as provided in *Section 75-5-407*. The court is not required  
12 to appoint an attorney to represent the ward if the case is uncontested and the protected  
13 person's capacity is not at issue.

1 75-5-416. Petitions for orders subsequent to appointment

2  
3  
4 (1) Any person interested in the welfare of a person for whom a conservator has been  
5 appointed may file a petition in the appointing court for an order:

6 (a) Requiring bond or security or additional bond or security, or reducing bond;

7 (b) Requiring an accounting for the administration of the ~~trust~~conservatorship estate;

8 (c) Directing distribution;

9 (d) Removing the conservator and appointing a temporary or successor conservator;

10 or

11 (e) Granting other appropriate relief.

12 (2) A conservator may petition the appointing court for instructions concerning his  
13 fiduciary responsibility.

14 (3) Upon notice and hearing the court may give appropriate instructions or make any  
15 appropriate order.

1 75-5-424. Powers of conservator in administration.

2  
3 (1) A conservator has all of the powers conferred in this chapter and any  
4 additional powers conferred by law on trustees in this state. In addition, a conservator of  
5 the estate of an unmarried minor as to whom no one has parental rights, has the duties and  
6 powers of a guardian of a minor described in Section 75-5-209 until the minor attains  
7 majority or marries, but the parental rights so conferred on a conservator do not preclude  
8 appointment of a guardian as provided by Part 2 of this chapter.

9  
10 (2) A conservator has the power to compel the production of the protected person's  
11 estate documents, including the protected person's will, trust, power of attorney, and any  
12 advance health care directives.

13  
14 ~~(23)~~ A conservator has power without court authorization or confirmation to  
15 invest and reinvest funds of the estate as would a trustee.

16  
17 ~~(34)~~ A conservator, acting reasonably in efforts to accomplish the purpose for  
18 which the conservator was appointed, may act without court authorization or  
19 confirmation, to:

20  
21 (a) collect, hold, and retain assets of the estate, including land in another state,  
22 until, in his judgment, disposition of the assets should be made, and the assets may be  
23 retained even though they include an asset in which he is personally interested;

24  
25 (b) receive additions to the estate;

26  
27 (c) continue or participate in the operation of any business or other enterprise;

28  
29 (d) acquire an undivided interest in an estate asset in which the conservator, in any  
30 fiduciary capacity, holds an undivided interest;

31  
32 (e) invest and reinvest estate assets in accordance with Subsection (2);

33  
34 (f) deposit estate funds in a bank including a bank operated by the conservator;

35  
36 (g) acquire or dispose of an estate asset, including land in another state, for cash or  
37 on credit, at public or private sale; and to manage, develop, improve, exchange, partition,  
38 change the character of, or abandon an estate asset;

39  
40 (h) make ordinary or extraordinary repairs or alterations in buildings or other  
41 structures, demolish any improvements, and raze existing or erect new party walls or  
42 buildings;

43 (i) subdivide, develop, or dedicate land to public use; make or obtain the vacation  
44 of plats and adjust boundaries; adjust differences in valuation on exchange or partition by  
45 giving or receiving considerations; and dedicate easements to public use without  
46 consideration;

47  
48 (j) enter for any purpose into a lease as lessor or lessee with or without option to  
49 purchase or renew for a term within or extending beyond the term of the conservatorship;

50  
51 (k) enter into a lease or arrangement for exploration and removal of minerals or  
52 other natural resources or enter into a pooling or unitization agreement;

53  
54 (l) grant an option involving disposition of an estate asset or take an option for the  
55 acquisition of any asset;

56  
57 (m) vote a security, in person or by general or limited proxy;

58  
59 (n) pay calls, assessments, and any other sums chargeable or accruing against or  
60 on account of securities;

61  
62 (o) sell or exercise stock subscription or conversion rights; consent, directly or  
63 through a committee or other agent, to the reorganization, consolidation, merger,  
64 dissolution, or liquidation of a corporation or other business enterprise;

65  
66 (p) hold a security in the name of a nominee or in other form without disclosure of  
67 the conservatorship so that title to the security may pass by delivery, but the conservator is  
68 liable for any act of the nominee in connection with the stock so held;

69  
70 (q) insure the assets of the estate against damage or loss and the conservator  
71 against liability with respect to third persons;

72  
73 (r) borrow money to be repaid from estate assets or otherwise; and advance money  
74 for the protection of the estate or the protected person, and for all expenses, losses, and  
75 liabilities sustained in the administration of the estate or because of the holding or  
76 ownership of any estate assets, and the conservator has a lien on the estate as against the  
77 protected person for advances so made;

78  
79 (s) pay or contest any claim; settle a claim by or against the estate or the protected  
80 person by compromise, arbitration, or otherwise; and release, in whole or in part, any  
81 claim belonging to the estate to the extent that the claim is uncollectible;

82  
83 (t) pay taxes, assessments, compensation of the conservator, and other expenses  
84 incurred in the collection, care, administration, and protection of the estate;

85 (u) allocate items of income or expense to either estate income or principal, as  
86 provided by law, including creation of reserves out of income for depreciation,  
87 obsolescence, or amortization, or for depletion in mineral or timber properties;  
88

89 (v) pay any sum distributable to a protected person or dependent without liability  
90 to the conservator, by paying the sum to the distributee or by paying the sum for the use  
91 of the distributee either to the distributee's guardian, or if none, to a relative or other  
92 person with custody of the person;  
93

94 (w) employ persons, including attorneys, auditors, investment advisors, or agents,  
95 even though they are associated with the conservator, to advise or assist in the  
96 performance of administrative duties; act upon their recommendation without  
97 independent investigation; and instead of acting personally, employ one or more agents to  
98 perform any act of administration, whether or not discretionary;  
99

100 (x) prosecute or defend actions, claims, or proceedings in any jurisdiction for the  
101 protection of estate assets and of the conservator in the performance of the conservator's  
102 duties;  
103

104 (y) act as a qualified beneficiary of any trust in which the protected person is a  
105 qualified beneficiary; and  
106

107 (z) execute and deliver all instruments which will accomplish or facilitate the  
108 exercise of the powers vested in the conservator.  
109

1 75-7-508. Notice to creditors

2  
3 (1) (a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may  
4 publish a notice to creditors:

5 (i) once a week for three successive weeks in a newspaper of general circulation in  
6 the county where the settlor resided at the time of death; and

7 (ii) in accordance with *Section 45-1-101* for three weeks.

8 (b) The notice required by Subsection (1)(a) must:

9 (i) provide the trustee's name and address; and

10 (ii) notify creditors:

11 (A) of the deceased settlor; and

12 (B) to present their claims within three months after the date of the first  
13 publication of the notice or be forever barred from presenting the claim.

14 (2) A trustee shall give written notice by mail or other delivery to any known creditor  
15 of the deceased settlor, notifying the creditor to present his claim within 90 days from the  
16 published notice if given as provided in Subsection (1) or within 60 days from the mailing  
17 or other delivery of the notice, whichever is later, or be forever barred. Written notice  
18 shall be the notice described in Subsection (1) or a similar notice.

19 (3) (a) If the deceased settlor received medical assistance, as defined in *Section 26-19-*  
20 *2*, at any time after the age of 55, the trustee for an inter vivos revocable trust, upon the  
21 death of the settlor, shall mail or deliver written notice to the Director of the Office of  
22 Recovery Services, on behalf of the Department of Health, to present any claim under  
23 *Section 26-19-13.5* within 60 days from the mailing or other delivery of notice, whichever  
24 is later, or be forever barred.

25 (b) If the trustee does not mail notice to the director of the Office of Recovery  
26 Services on behalf of the department in accordance with Subsection (3)(a), the  
27 department shall have one year from the death of the settlor to present its claim.

28 (4) The trustee shall not be liable to any creditor or to any successor of the deceased  
29 settlor for giving or failing to give notice under this section.

30  
31 (5) The notice to creditors shall be valid against any creditor of the trust and also  
32 against any creditor of the estate of the deceased settlor.