

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

400W0376

## SENATE BILL NO. 35

Introduced by: The Committee on State Affairs at the request of the Department of Veterans Affairs

1 FOR AN ACT ENTITLED, An Act to repeal certain outdated and unnecessary statutes and rules  
2 related to the Department of Veterans Affairs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 33A-1-9 be repealed.

5 ~~— 33A-1-9. The secretary of the Department of Veterans Affairs shall give bond to the state~~  
6 ~~in the sum of ten thousand dollars, premium on said bond to be paid out of funds of the~~  
7 ~~department.~~

8 Section 2. That § 33A-1-14 be repealed.

9 ~~— 33A-1-14. The Department of Veterans Affairs shall compile and maintain such records of~~  
10 ~~disabled veterans and their dependents as may be necessary to ensure that their rights will be~~  
11 ~~protected.~~

12 Section 3. That § 33A-1-27 be repealed.

13 ~~— 33A-1-27. The Department of Veterans Affairs shall promulgate rules pursuant to chapter~~  
14 ~~1-26 establishing criteria and procedures for the county veterans' service officers training~~  
15 ~~program pursuant to this chapter.~~



1 Section 4. That § 33A-2-26 be repealed.

2 ~~—33A-2-26. The director shall prepare application forms and rules governing administration~~  
3 ~~of §§ 33A-2-10 to 33A-2-33, inclusive, as the commission directs and authorizes under § 33A-~~  
4 ~~2-25. The application forms and rules shall be completed and made available to eligible veterans~~  
5 ~~when funds are available to the commission. Payment of all claims approved by the commission~~  
6 ~~shall be made as funds are available and in the order determined by the commission.~~

7 Section 5. That § 33A-2-27 be repealed.

8 ~~—33A-2-27. All claims for compensation under §§ 33A-2-10 to 33A-2-33, inclusive, shall be~~  
9 ~~presented to the commission on such forms as it may require no later than three years after the~~  
10 ~~date to be determined by the South Dakota Legislature. If approved for payment by the~~  
11 ~~commission, the secretary shall submit an authorized voucher to the state auditor, who shall~~  
12 ~~issue the warrant for the amount of the approved claim to the person found by the commission~~  
13 ~~to be entitled to the claim.~~

14 Section 6. That § 33A-2-29 be repealed.

15 ~~—33A-2-29. Any decision of the Veterans' Commission as to the payment or nonpayment of~~  
16 ~~a bonus claim, or eligibility for the bonus, is final.~~

17 Section 7. That § 33A-3-1 be repealed.

18 ~~—33A-3-1. Terms used in this chapter mean:~~

19 ~~—(1)—"Benefits," all moneys paid or payable by the United States through the United States~~  
20 ~~Department of Veterans' Affairs;~~

21 ~~—(2)—"Conservator," any fiduciary for the estate of a ward;~~

22 ~~—(3)—"Estate," income on hand and assets acquired partially or wholly with "income";~~

23 ~~—(4)—"Guardian," any fiduciary for the person of a ward;~~

24 ~~—(5)—"Income," moneys received from the United States Department of Veterans' Affairs~~

1 and revenue or profit from any property wholly or partially acquired therewith;

2 ~~— (6) — "Person," any individual, partnership, limited liability company, corporation, or~~  
3 ~~association;~~

4 ~~— (7) — "Secretary of veterans' affairs," the secretary of veterans' affairs of the United States~~  
5 ~~Department of Veterans' Affairs or his successor;~~

6 ~~— (8) — "United States Department of Veterans' Affairs," the United States Department of~~  
7 ~~Veterans' Affairs, its predecessors or successors;~~

8 ~~— (9) — "Ward," a beneficiary of the United States Department of Veterans' Affairs.~~

9 Section 8. That § 33A-3-2 be repealed.

10 ~~— 33A-3-2. If, in any proceeding under the laws of this state for the commitment of a person~~  
11 ~~alleged to be of unsound mind or otherwise in need of confinement in a hospital or other~~  
12 ~~institution for his proper care, it is determined after such adjudication of the status of such~~  
13 ~~person as may be required by law that commitment to a hospital for mental disease or other~~  
14 ~~institution is necessary for safekeeping or treatment and it appears that such person is eligible~~  
15 ~~for care or treatment by the United States Department of Veterans' Affairs or other agency of~~  
16 ~~the United States government, the court, upon receipt of a certificate from the United States~~  
17 ~~Department of Veterans' Affairs or such other agency showing that facilities are available and~~  
18 ~~that such person is eligible for care or treatment therein, may commit such person to the United~~  
19 ~~States Department of Veterans' Affairs or other agency.~~

20 Section 9. That § 33A-3-3 be repealed.

21 ~~— 33A-3-3. The person whose commitment is sought shall be personally served with notice~~  
22 ~~of the pending commitment proceeding in the manner as provided by the law of this state.~~  
23 ~~Nothing in this chapter affects the person's right to appear and be heard in the proceedings.~~

24 Section 10. That § 33A-3-4 be repealed.

1 ~~— 33A-3-4. Upon commitment, such person, when admitted to any facility operated by any~~  
2 ~~federal agency within or without this state, is subject to the rules and regulations of the United~~  
3 ~~States Department of Veterans' Affairs or other agency. The chief officer of any facility of the~~  
4 ~~United States Department of Veterans' Affairs or institution operated by any other agency of the~~  
5 ~~United States to which the person is so committed shall with respect to such person be vested~~  
6 ~~with the same powers as superintendents of state hospitals for mental diseases within this state~~  
7 ~~with respect to retention of custody, transfer, parole, or discharge.~~

8 Section 11. That § 33A-3-5 be repealed.

9 ~~— 33A-3-5. Jurisdiction is retained in the committing or other appropriate court of this state~~  
10 ~~at any time to inquire into the mental condition of the person committed, pursuant to § 33A-3-2,~~  
11 ~~and to determine the necessity for continuance of the person's restraint, and all commitments~~  
12 ~~pursuant to this chapter are so conditioned.~~

13 Section 12. That § 33A-3-6 be repealed.

14 ~~— 33A-3-6. Upon receipt of a certificate of the United States Department of Veterans' Affairs~~  
15 ~~or other agency of the United States that facilities are available for the care or treatment of any~~  
16 ~~person heretofore committed to any hospital for the mentally ill or other institution for the care~~  
17 ~~or treatment of persons similarly afflicted and that such person is eligible for care or treatment,~~  
18 ~~the superintendent of the institution may cause the transfer of such person to the United States~~  
19 ~~Department of Veterans' Affairs or other agency of the United States for care or treatment. Upon~~  
20 ~~effecting any such transfer, the committing court shall be notified thereof by the transferring~~  
21 ~~agency.~~

22 Section 13. That § 33A-3-7 be repealed.

23 ~~— 33A-3-7. No person may be transferred to the United States Department of Veterans' Affairs~~  
24 ~~or other agency of the United States if the person is confined pursuant to conviction of any~~

1 ~~felony or misdemeanor or if the person has been acquitted of the charge solely on the ground~~  
2 ~~of mental illness, unless prior to transfer the court or other authority originally committing the~~  
3 ~~person enters an order for the transfer after appropriate motion and hearing.~~

4 ~~— Any person transferred as provided in §§ 33A-3-2 to 33A-3-7, inclusive, is deemed to be~~  
5 ~~committed to the United States Department of Veterans' Affairs or other agency of the United~~  
6 ~~States pursuant to the original commitment.~~

7 Section 14. That § 33A-3-8 be repealed.

8 ~~— 33A-3-8. The judgment or order of commitment by a court of competent jurisdiction of~~  
9 ~~another state or of the District of Columbia, committing a person to the United States~~  
10 ~~Department of Veterans' Affairs, or other agency of the United States government for care or~~  
11 ~~treatment has the same force and effect as to the committed person while in this state as in the~~  
12 ~~jurisdiction in which is situated the court entering the judgment or making the order. The courts~~  
13 ~~of the committing state, or of the District of Columbia, retain jurisdiction of the person so~~  
14 ~~committed for the purpose of inquiring into the mental condition of the person, and of~~  
15 ~~determining the necessity for continuance of the person's restraint as provided in § 33A-3-5 with~~  
16 ~~respect to persons committed by the courts of this state. Consent is hereby given to the~~  
17 ~~application of the law of the committing state or district in respect to the authority of the chief~~  
18 ~~officer of any facility of the United States Department of Veterans' Affairs, or of any institution~~  
19 ~~operated in this state by any other agency of the United States to retain custody, or transfer,~~  
20 ~~parole, or discharge the committed person.~~

21 Section 15. That § 33A-3-9 be repealed.

22 ~~— 33A-3-9. If, pursuant to any law of the United States or regulation of the United States~~  
23 ~~Department of Veterans' Affairs, it is necessary, prior to payment of benefits, that a conservator~~  
24 ~~be appointed, the appointment may be made in the manner hereinafter provided.~~

1 Section 16. That § 33A-3-10 be repealed.

2 ~~—33A-3-10. The administrator is a party in interest in any proceeding for the appointment or~~  
3 ~~removal of a conservator or for the removal of the disability of minority or mental incapacity~~  
4 ~~of a ward, and in any suit or other proceeding affecting in any manner the administration by the~~  
5 ~~conservator of any present or former ward whose estate includes assets derived in whole or in~~  
6 ~~part from benefits heretofore or hereafter paid by the United States Department of Veterans'~~  
7 ~~Affairs.~~

8 Section 17. That § 33A-3-11 be repealed.

9 ~~—33A-3-11. Not less than fourteen days before hearing on the matter, notice in writing of the~~  
10 ~~time and place of the hearing shall be given by mail (unless waived in writing) to the office of~~  
11 ~~the United States Department of Veterans' Affairs having jurisdiction over the area in which the~~  
12 ~~suit or any such proceeding is pending.~~

13 Section 18. That § 33A-3-12 be repealed.

14 ~~—33A-3-12. The court, or clerk thereof, shall mail to the office of the United States~~  
15 ~~Department of Veterans' Affairs a copy of each order entered in any conservatorship proceeding~~  
16 ~~wherein the secretary of veterans' affairs is an interested party.~~

17 Section 19. That § 33A-3-13 be repealed.

18 ~~—33A-3-13. If a copy of any public record is required by the United States Department of~~  
19 ~~Veterans' Affairs to be used in determining the eligibility of any person to participate in benefits~~  
20 ~~made available by the United States Department of Veterans' Affairs, the official custodian of~~  
21 ~~such public record shall without charge provide the applicant for such benefits or any person~~  
22 ~~acting on his behalf or the authorized representative of the United States Department of~~  
23 ~~Veterans' Affairs with a certified copy of such record.~~

24 Section 20. That § 33A-3-14 be repealed.

1 ~~— 33A-3-14. A petition for the appointment of a conservator may be filed by any relative or~~  
2 ~~friend of the ward or by any person who is authorized by law to file such a petition. If there is~~  
3 ~~no person so authorized or if the person so authorized refuses or fails to file such a petition~~  
4 ~~within thirty days after mailing of notice by the United States Department of Veterans' Affairs~~  
5 ~~to the last known address of the person, if any, indicating the necessity for the same, a petition~~  
6 ~~for appointment may be filed by any resident of this state.~~

7 Section 21. That § 33A-3-15 be repealed.

8 ~~— 33A-3-15. The petition for appointment shall set forth the name, age, place of residence of~~  
9 ~~the ward, the name and place of residence of the nearest relative, if known, and the fact that the~~  
10 ~~ward is entitled to receive benefits payable by or through the United States Department of~~  
11 ~~Veterans' Affairs and shall set forth the amount of moneys then due and the amount of probable~~  
12 ~~future payments. The petition shall also set forth the name and address of the person or~~  
13 ~~institution, if any, having actual custody of the ward and the name, age, relationship, if any,~~  
14 ~~occupation and address of the proposed conservator and if the nominee is a natural person, the~~  
15 ~~number of wards for whom the nominee is presently acting as guardian or conservator.~~  
16 ~~Notwithstanding any law as to priority of persons entitled to appointment, or the nomination in~~  
17 ~~the petition, the court may appoint some other individual or a bank or trust company as~~  
18 ~~conservator, if the court determines it is for the best interest of the ward.~~

19 Section 22. That § 33A-3-16 be repealed.

20 ~~— 33A-3-16. In the case of a mentally incompetent ward the petition shall show that such ward~~  
21 ~~has been rated incompetent by the United States Department of Veterans' Affairs on~~  
22 ~~examination in accordance with the laws and regulations governing the United States~~  
23 ~~Department of Veterans' Affairs.~~

24 Section 23. That § 33A-3-17 be repealed.

1 ~~— 33A-3-17. Upon the filing of a petition for the appointment of a conservator under §§ 33A-~~  
2 ~~3-1 to 33A-3-40, inclusive, notice of hearing shall be given as provided in § 33A-3-22 or 33A-3-~~  
3 ~~35, whichever may be applicable. Notice shall be given in the same manner to the United States~~  
4 ~~Department of Veterans' Affairs.~~

5 Section 24. That § 33A-3-18 be repealed.

6 ~~— 33A-3-18. If a petition is filed for the appointment of a conservator for a minor, a certificate~~  
7 ~~of the secretary of veterans' affairs or his authorized representative, setting forth the age of such~~  
8 ~~minor as shown by the records of the United States Department of Veterans' Affairs and the fact~~  
9 ~~that the appointment of a conservator is a condition precedent to the payment of any moneys due~~  
10 ~~the minor by the United States Department of Veterans' Affairs shall be prima facie evidence~~  
11 ~~of the necessity for such appointment.~~

12 Section 25. That § 33A-3-19 be repealed.

13 ~~— 33A-3-19. If a petition is filed for the appointment of a conservator for a mentally~~  
14 ~~incompetent ward, a certificate of the secretary of veterans' affairs that the person has been rated~~  
15 ~~incompetent by the United States Department of Veterans' Affairs on examination in accordance~~  
16 ~~with the laws and regulations governing the United States Department of Veterans' Affairs and~~  
17 ~~that the appointment of a conservator is a condition precedent to the payment of any moneys due~~  
18 ~~to the ward by the United States Department of Veterans' Affairs is prima facie evidence of the~~  
19 ~~necessity for the appointment.~~

20 Section 26. That § 33A-3-20 be repealed.

21 ~~— 33A-3-20. Upon the appointment of a conservator, the conservator shall execute and file a~~  
22 ~~bond to be approved by the court in an amount not less than the estimated value of the personal~~  
23 ~~estate and anticipated income of the ward during the ensuing year. The bond shall be in the form~~  
24 ~~and be conditioned as required of conservators appointed under the general conservatorship laws~~



1 of this state. The court may from time to time require the conservator to file an additional bond.

2 Section 27. That § 33A-3-21 be repealed.

3 ~~—33A-3-21. If a bond is tendered by a conservator with personal sureties, there shall be at~~  
4 ~~least two such sureties. Each surety shall file with the court a certificate under oath which~~  
5 ~~describes the property owned, both real and personal, and states that the surety is worth the sum~~  
6 ~~named in the bond as the penalty on the bond over and above all of the surety's debts and~~  
7 ~~liabilities and the aggregate of other bonds on which the surety is principal or surety and~~  
8 ~~exclusive of property exempt from execution. The court may require additional security or may~~  
9 ~~require a corporate surety bond, the premium on the bond to be paid from the ward's estate.~~

10 Section 28. That § 33A-3-22 be repealed.

11 ~~—33A-3-22. No person other than a bank or trust company may be guardian or conservator~~  
12 ~~of more than five wards at one time, unless all the wards are members of one family. Upon~~  
13 ~~presentation of a petition by an attorney of the United States Department of Veterans' Affairs~~  
14 ~~or other interested person, alleging that a guardian or conservator is acting in fiduciary capacity~~  
15 ~~for more than five wards as provided in this section and requesting the guardian's or~~  
16 ~~conservator's discharge for that reason, the court, upon proof substantiating the petition, shall~~  
17 ~~immediately require a final report or accounting from the guardian or conservator. The court~~  
18 ~~shall discharge the guardian or conservator from guardianships or conservatorships in excess~~  
19 ~~of five and immediately appoint a successor.~~

20 Section 29. That § 33A-3-23 be repealed.

21 ~~—33A-3-23. Each conservator shall invest the surplus funds of the conservator's ward's estate~~  
22 ~~in securities or property authorized under the laws of this state but only upon prior order of the~~  
23 ~~court. However, the funds may be invested, without prior court authorization, in federally~~  
24 ~~insured interest-bearing accounts, in direct unconditional interest-bearing obligations of this~~

1 ~~state or of the United States, and in obligations the interest and principal of which are~~  
2 ~~unconditionally guaranteed by the United States. A signed duplicate or certified copy of the~~  
3 ~~petition for authority to invest shall be furnished to the proper office of the United States~~  
4 ~~Department of Veterans' Affairs, and notice of hearing on the petition shall be given to the office~~  
5 ~~as provided in the case of hearing on a conservator's account.~~

6 Section 30. That § 33A-3-24 be repealed.

7 ~~— 33A-3-24. The court may authorize the purchase of the entire fee simple title to real estate~~  
8 ~~in this state in which the conservator has no interest, but only as a home for the ward, or to~~  
9 ~~protect the ward's interest, or (if the ward is not a minor) as a home for the ward's dependent~~  
10 ~~family. No purchase of real estate may be made except upon the entry of an order of the court~~  
11 ~~after hearing upon verified petition. A copy of the petition shall be furnished to the proper office~~  
12 ~~of the United States Department of Veterans' Affairs and notice of hearing on the petition shall~~  
13 ~~be given to the office as provided in the case of hearing on a conservator's account.~~

14 Section 31. That § 33A-3-25 be repealed.

15 ~~— 33A-3-25. Before authorizing such investment the court shall require written evidence of~~  
16 ~~value and of title and of the advisability of acquiring such real estate. Title shall be taken in the~~  
17 ~~ward's name.~~

18 Section 32. That § 33A-3-26 be repealed.

19 ~~— 33A-3-26. Sections 33A-3-24 and 33A-3-25 do not limit the right of the conservator on~~  
20 ~~behalf of the conservator's ward to bid and to purchase real estate at a sale of real estate pursuant~~  
21 ~~to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's~~  
22 ~~right in the property so foreclosed or sold. Sections 33A-3-24 and 33A-3-25 do not limit the~~  
23 ~~right of the conservator, if necessary to protect the ward's interest and upon prior order of the~~  
24 ~~court in which the conservatorship is pending, to agree with cotenants of the ward for a partition~~

1 in kind, or to purchase from the cotenants the entire undivided interests held by them, or to bid  
2 and purchase the interests at a sale under a partition decree, or to compromise adverse claims  
3 of title to the ward's realty.

4 Section 33. That § 33A-3-27 be repealed.

5 ~~— 33A-3-27. A conservator may not apply any portion of the income or the estate for the~~  
6 ~~support or maintenance of any person other than the ward, the spouse and the minor children~~  
7 ~~of the ward, except upon petition to and prior order of the court after a hearing. A signed~~  
8 ~~duplicate or certified copy of said petition shall be furnished the proper office of the United~~  
9 ~~States Department of Veterans' Affairs and notice of hearing thereon shall be given said office~~  
10 ~~as provided in the case of hearing on a conservator's account or other pleading.~~

11 Section 34. That § 33A-3-28 be repealed.

12 ~~— 33A-3-28. Each conservator is allowed the amount of the conservator's reasonable expenses~~  
13 ~~incurred in the execution of the conservator's trust. The conservator may receive such~~  
14 ~~compensation for his or her services as the court in which the conservator's accounts are settled~~  
15 ~~deems just and reasonable.~~

16 Section 35. That § 33A-3-29 be repealed.

17 ~~— 33A-3-29. Any conservator who receives or has received on account of the conservator's~~  
18 ~~ward any moneys or other things of value from the United States Department of Veterans'~~  
19 ~~Affairs shall file with the court annually, on the anniversary date of the appointment, in addition~~  
20 ~~to any other accounts required by the court, a full, true, and accurate account under oath of all~~  
21 ~~moneys or other things of value so received by the conservator. The account shall indicate all~~  
22 ~~earnings, interest, or profits derived from the money or other things of value, all property~~  
23 ~~acquired with the money or other things of value, and all disbursements from the money or other~~  
24 ~~things of value. The account shall indicate the balance of the money or other things of value in~~

1 ~~the conservator's hands at the date of the account and how invested~~

2 Section 36. That § 33A-3-30 be repealed.

3 ~~—33A-3-30. The conservator, at the time of filing any account, shall exhibit all securities or~~  
4 ~~investments held by the conservator to an officer of the bank or other depository in which the~~  
5 ~~securities or investments are held for safekeeping or to an authorized representative of the~~  
6 ~~corporation which is surety on the conservator's bond, or to the judge or clerk of a court of~~  
7 ~~record in this state, or, upon request of the conservator or other interested party, to any other~~  
8 ~~reputable person designated by the court. The person to whom the securities or investments were~~  
9 ~~exhibited shall certify in writing that he or she has examined the securities or investments and~~  
10 ~~identified them with those described in the account and shall note any omissions or~~  
11 ~~discrepancies. If the depository is the conservator, the certifying officer may not be the officer~~  
12 ~~verifying the account. The conservator may exhibit the securities or investments to the judge of~~  
13 ~~the court, who shall endorse on the account and on a copy of the account a certificate that the~~  
14 ~~securities or investments shown in the account as held by the conservator were each in fact~~  
15 ~~exhibited to the judge and that those exhibited to the judge were the same as those shown in the~~  
16 ~~account, and noting any omission or discrepancy. That certificate and the certificate of an~~  
17 ~~official of the bank in which are deposited any funds for which the conservator is accountable,~~  
18 ~~showing the amount on deposit, shall be prepared and signed in duplicate and one of each shall~~  
19 ~~be filed by the conservator with the conservator's account.~~

20 Section 37. That § 33A-3-31 be repealed.

21 ~~—33A-3-31. If the conservator is accountable for property derived from sources other than the~~  
22 ~~United States Department of Veterans' Affairs, the conservator is accountable as required under~~  
23 ~~the applicable law of this state pertaining to the property of minors or protected persons who are~~  
24 ~~not beneficiaries of the United States Department of Veterans' Affairs. With respect to the~~

1 ~~property derived from other sources, the conservator is entitled to the compensation provided~~  
2 ~~by the applicable law. The account for other property may be combined with the account filed~~  
3 ~~in accordance with § 33A-3-29.~~

4 Section 38. That § 33A-3-32 be repealed.

5 ~~— 33A-3-32. At the time of filing in the court any account, a certified copy thereof and a signed~~  
6 ~~duplicate of each certificate filed with the court shall be sent by the conservator to the office of~~  
7 ~~the United States Department of Veterans' Affairs having jurisdiction over the area in which the~~  
8 ~~court is located. A signed duplicate or a certified copy of any petition, motion or other pleading,~~  
9 ~~pertaining to an account, or to any matter other than an account, and which is filed in the~~  
10 ~~conservatorship proceedings or in any proceeding for the purpose of removing the disability of~~  
11 ~~minority or mental incapacity, shall be furnished by the person filing the same to the proper~~  
12 ~~office of the United States Department of Veterans' Affairs.~~

13 Section 39. That § 33A-3-33 be repealed.

14 ~~— 33A-3-33. If any conservator fails to file with the court any account as required by this~~  
15 ~~chapter, or by an order of the court, when the account is due or within thirty days after citation~~  
16 ~~issues as provided by law, or if the conservator fails to furnish the United States Department of~~  
17 ~~Veterans' Affairs a true copy of any account, petition, or pleading as required by this chapter,~~  
18 ~~such failure may, in the discretion of the court, be grounds for the conservator's removal.~~

19 Section 40. That § 33A-3-34 be repealed.

20 ~~— 33A-3-34. Unless a hearing is waived in writing by the attorney of the United States~~  
21 ~~Department of Veterans' Affairs, and by all other persons, if any, entitled to notice, the court~~  
22 ~~shall fix a time and place for the hearing on the account, petition, motion, or other pleading not~~  
23 ~~less than fourteen days nor more than thirty days from the date same is filed, unless a different~~  
24 ~~available date be stipulated in writing. Unless waived in writing, written notice of the time and~~

1 ~~place of hearing shall be given the office of the United States Department of Veterans' Affairs~~  
2 ~~concerned and the conservator and any others entitled to notice not less than fourteen days prior~~  
3 ~~to the date fixed for the hearing. The notice may be given by mail in which event it shall be~~  
4 ~~deposited in the mail not less than fourteen days prior to said date.~~

5 Section 41. That § 33A-3-35 be repealed.

6 ~~—33A-3-35. In addition to any other provisions of law relating to judicial restoration and~~  
7 ~~discharge of a conservator, a certificate by the United States Department of Veterans' Affairs~~  
8 ~~showing that a minor ward has attained majority, or that an incompetent ward has been rated~~  
9 ~~competent by the United States Department of Veterans' Affairs upon examination in~~  
10 ~~accordance with law, is prima facie evidence that the ward has attained majority or has~~  
11 ~~recovered his or her competency.~~

12 Section 42. That § 33A-3-36 be repealed.

13 ~~—33A-3-36. Upon hearing after notice as provided by this chapter and the determination by~~  
14 ~~the court that the ward has attained majority or has recovered his or her competency, an order~~  
15 ~~shall be entered to that effect, and the conservator shall file a final account.~~

16 Section 43. That § 33A-3-37 be repealed.

17 ~~—33A-3-37. Upon hearing after notice to the former ward and to the United States Department~~  
18 ~~of Veterans' Affairs as in case of other accounts, upon approval of the final account, and upon~~  
19 ~~delivery to the ward of the assets due the ward from the conservator, the conservator shall be~~  
20 ~~discharged and the conservator's sureties released.~~

21 Section 44. That § 33A-3-38 be repealed.

22 ~~—33A-3-38. The provisions of §§ 33A-3-1 to 33A-3-40, inclusive, relating to surety bonds and~~  
23 ~~the administration of estates of wards apply to the terms, income and estate, as defined in~~  
24 ~~§ 33A-3-1 whether the conservator has been appointed under this chapter or under any other law~~

1 of this state\

2 Section 45. That § 33A-3-39 be repealed.

3 ~~—33A-3-39. Except where inconsistent with §§ 33A-3-1 to 33A-3-40, inclusive, the laws of~~  
4 ~~this state relating to guardian and ward and the judicial practice relating thereto, including the~~  
5 ~~right to trial by jury and the right of appeal, are applicable to beneficiaries of the United States~~  
6 ~~Department of Veterans' Affairs and their estates.~~

7 Section 46. That § 33A-3-40 be repealed.

8 ~~—33A-3-40. Sections 33A-3-1 to 33A-3-39, inclusive, shall be so construed to make uniform~~  
9 ~~the law of those states which enact them.~~

10 Section 47. That § 33A-3-41 be repealed.

11 ~~—33A-3-41. If a conservator is appointed for a veteran as defined in § 33A-2-1 or for a person~~  
12 ~~now or formerly in the service of the United States as a soldier, sailor, marine, nurse, or other~~  
13 ~~similar capacity, or for the veteran's or person's dependents and beneficiaries under the "War~~  
14 ~~Risk Insurance Act" or "World War Veterans' Act," as amended to January 1, 2007, and if the~~  
15 ~~appointment is found necessary to enable the ward to receive benefits under such acts, the~~  
16 ~~provisions of §§ 33A-3-42 to 33A-3-45, inclusive, apply.~~

17 Section 48. That § 33A-3-42 be repealed.

18 ~~—33A-3-42. Except as provided in § 33A-3-15, in the appointment of the conservator referred~~  
19 ~~to in § 33A-3-41, the relatives in the following order shall be given preference if otherwise~~  
20 ~~qualified: the widow or widower, the father or mother, the grandfather or grandmother, the sister~~  
21 ~~or brother, and other relatives in the order of relationship. In all cases, however, the judge shall~~  
22 ~~be satisfied that the applicant is fit and proper for such conservatorship.~~

23 Section 49. That § 33A-3-43 be repealed.

24 ~~—33A-3-43. No probate fees may be charged if the appointment referred to in § 33A-3-41 is~~

1 for the purpose of recovering compensation, insurance, pension, or other gratuity payable to the  
2 ward under the laws of the United States.

3 Section 50. That § 33A-3-44 be repealed.

4 ~~33A-3-44. No fees may be charged by the clerk of courts for furnishing certified copies of~~  
5 ~~any documents necessary in order that payments may be made or continued to such conservator~~  
6 ~~or incompetent veteran, or to the minor children of any veteran under conservatorship.~~

7 Section 51. That § 33A-3-45 be repealed.

8 ~~33A-3-45. The fees of any attorney conducting the proceedings referred to in § 33A-3-41~~  
9 ~~shall be fixed by the court on a reasonable basis not to exceed twenty-five dollars.~~

10 Section 52. That § 29A-5-107 be repealed.

11 ~~29A-5-107. Nothing in this chapter affects the provisions of chapter 33A-3, entitled~~  
12 ~~"Veterans' Guardianships," and the provisions of this chapter are in all respects to be~~  
13 ~~supplementary thereto.~~

14 Section 53. That § 33A-4-2 be repealed.

15 ~~33A-4-2. The rights, privileges, and duties of the holders of bonds and other obligations~~  
16 ~~issued, and of the parties to contracts, leases, indentures, and other transactions entered into,~~  
17 ~~before July 1, 1989, by the state or by any agency, officer, or employee thereof, and covenants~~  
18 ~~and agreements as set forth therein, remain in effect, and none of those rights, privileges, duties,~~  
19 ~~covenants, or agreements is impaired or diminished by abolition of an agency in this chapter.~~  
20 ~~The Department of Veterans Affairs replaces the Board of Charities and Corrections for the~~  
21 ~~State Veterans' Home and succeeds to its rights and leases, indentures, and other transactions.~~

22 Section 54. That § 33A-4-3 be repealed.

23 ~~33A-4-3. No judicial or administrative suit, action, or other proceeding lawfully commenced~~  
24 ~~before July 1, 1989, by or against any agency or any officer of the state, in the officer's official~~



1 capacity or in relation to the discharge of the officer's official duties, is abated or affected by any  
2 reorganization under the provisions of this chapter. The court may allow the suit, action, or other  
3 proceeding to be maintained by or against the successor of any agency or any officer affected  
4 by this chapter.

5 Section 55. That § 33A-4-5 be repealed.

6 ~~—33A-4-5. Unless inconsistent with other provisions of this chapter, all rules, regulations, and~~  
7 ~~standards of the State Veterans' Home that are in effect on July 1, 1989, shall continue with full~~  
8 ~~force and effect until they are specifically altered, amended, or revoked in the manner provided~~  
9 ~~by law, unless the statutory authority for such rules is superseded by this chapter.~~

10 Section 56. That ARSD 50:05:01:01 be repealed.

11 ~~—50:05:01:01. Scope. Rules in this chapter apply to the state veterans' home.~~

12 Section 57. That ARSD 50:05:01:02 to 50:05:01:22, inclusive, be repealed.