

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2153

BY: BENSON

AS INTRODUCED

AN ACT RELATING TO GUARDIAN AND WARD; AMENDING 30
O.S. 1991, SECTIONS 4-307 AND 4-803, WHICH RELATE
TO THE OKLAHOMA GUARDIANSHIP AND CONSERVATORSHIP
ACT; MODIFYING FILING PERIOD FOR OBJECTIONS TO
ANNUAL REPORT; MODIFYING TERMINATION OF AUTHORITY
AND RESPONSIBILITY TO INCLUDE CONSERVATOR;
MODIFYING PROCEDURE FOR FILING FINAL ACCOUNT;
PROVIDING FOR NOTICE AND HEARING; AND PROVIDING AN
EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 30 O.S. 1991, Section 4-307, is
amended to read as follows:

Section 4-307. A. 1. Upon the filing of an annual report the
court shall immediately cause a copy of the report to be mailed by
first-class mail to:

- a. the persons entitled to notice pursuant to Section
2-101 of this title for minors, or
- b. those persons entitled to notice pursuant to
paragraphs 1, 2, 3 and 7 of subsection A of Section 3-
110 of this title for adults, and
- c. the attorney of the ward, if any.

2. Attached to the copy of the report shall be a statement notifying the person receiving copies of said reports that any objection to the report must be filed within ~~thirty (30)~~ ten (10) days after the date of the filing of the annual report with the court.

3. Any person entitled to receive a copy of the annual report may file an objection to said report within ~~thirty (30)~~ ten (10) days after the filing of the annual report with the court.

B. 1. After notice, the court may on its own motion hold a hearing on an annual report and shall hold a hearing:

- a. upon the filing of an objection to the annual report;
or
- b. when the court is considering issuing an order other than an order accepting the report and granting the relief requested.

2. Notice for a hearing on an annual report shall be given, by mail, to the persons entitled to notice pursuant to Section 2-101 of this title for minors or Section 3-110 of this title for adults at least ten (10) days prior to the date set for the hearing. Notice shall be in such form as the court may direct and shall be sent by regular first-class mail.

C. The court may enter an order granting the relief requested in the report without notice if the court determines that such relief should be granted immediately. In that event, the court shall grant such relief on a temporary basis pending a hearing on the report or the expiration of the ~~thirty (30)~~ ten (10) days within which an objection to the report may be filed.

D. When no objection to an annual report is filed and no hearing on the annual report is held as otherwise provided by this section, the court shall issue an order accepting the annual report and granting the relief requested.

E. The compensation for the guardian, the guardian's attorney, and any other person entitled to compensation from the property of the ward shall be determined by the court in the manner required by the provisions of the Oklahoma Guardianship and Conservatorship Act. Such order, whether issued at the expiration of the ~~thirty (30)~~ ten (10) days within which an objection to the annual report may be filed or after a hearing on the report, shall be final with respect to all persons given copies of the annual report or notice of such hearing, except with regard to any such person who may be determined to have been subject to a legal disability at the time such notice was given. Such order also shall be final with respect to the guardian except with respect to challenge by the ward upon the removal of the ward's legal disability.

F. With regard to an annual report of a guardian of the property of a ward, the court shall examine the changes, if any, to the property of the ward as set forth in the report. If the guardian was required to submit a bond, and if the total value of the ward's property which is subject to the proceeding differs significantly from the total value of the ward's property as last disclosed to the court:

1. The court shall direct such guardian to obtain a new bond of a lesser or greater penal amount as will adequately protect the ward's property which is subject to the proceeding;

2. Such new bond shall be filed with the district court clerk within thirty (30) days following the date of the order; and

3. If the court requires a new bond of a greater penal amount than the bond previously submitted, failure of the guardian to submit such new bond within the thirty-day period set forth in this subsection shall constitute grounds for removal of such guardian or limited guardian.

G. At any hearing held upon an annual report:

1. if required by the court, the guardian or limited guardian shall be present;

2. the court shall review the annual report and consider any objection made thereto, and thereupon enter such order as the court deems appropriate; and

3. the court may make any order which the court deems to be in the best interest of the ward or the estate of the ward. The court may also set for further hearing, with prior notice to be given as provided in this section, any other matter which the court deems should be considered in the best interest of the ward or the estate of the ward.

H. At a hearing upon an annual report the court may appoint an attorney to represent the ward who is an incapacitated or partially incapacitated person, in the same manner and with the same compensation as provided in this act for appointment of an attorney for the subject of the proceeding following the filing of a petition for appointment of a guardian or limited guardian of the person or property of an alleged incapacitated or partially incapacitated person. The appointment of such attorney shall cease:

1. upon the entry by the court of an order pertaining to the matters considered at such hearing, unless the court otherwise directs, either in the order appointing such attorney or in the order pertaining to the matters considered at such hearing;

2. unless an appeal is taken from the order of the court pertaining to the matters considered at such hearing, in which event such attorney shall continue to represent the ward until final disposition of the appeal or as otherwise ordered by the court; or

3. upon application of said attorney, the court may allow the attorney to withdraw from the case and shall appoint another attorney to represent the subject of the proceeding in any appeal proceeding.

SECTION 2. AMENDATORY 30 O.S. 1991, Section 4-803, is amended to read as follows:

Section 4-803. A. The authority and responsibility of a guardian terminates upon the death of the guardian, conservator, or the ward, the determination of incapacity of the guardian or conservator, or upon removal or resignation of the guardian or conservator. Termination does not affect the liability of a guardian or conservator for prior acts or the obligation to account for any funds and assets of the ward under the control of the guardian or conservator. The authority and responsibility of a guardian of a minor also terminates upon the marriage or majority of the ward.

B. The court, after notice and hearing, may remove a guardian or conservator for cause if the guardian or conservator has failed for thirty (30) days, after he is required to do so, to render an account or make a report, and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto.

C. Every guardian or conservator may resign when it appears proper to allow the same and upon the resignation or removal of a guardian or conservator the court may appoint a successor guardian or conservator in the place of the guardian or conservator who has resigned or has been removed or make other appropriate orders pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act.

D. Upon termination of the disability of the ward or upon his death, ~~a guardian shall account to the court or to the former ward or the successors of the ward. Subject to appeal or vacation within the time permitted, an order after notice and hearing allowing an intermediate report of a guardian adjudicates as to liabilities concerning the matters considered in connection with said hearing. An order, following notice and hearing, allowing a final report adjudicates as to all previously unsettled liabilities of the~~

~~guardian to the ward's successors relating to the guardianship. In connection with any report, the court may require a guardian to submit to an actual review of the estate of the ward, to be made in any manner the court specifies~~ or upon the resignation or removal of the guardian or conservator, a guardian or conservator shall file his final account and request for final compensation with the court within thirty (30) days after such event.

1. The court shall set a date for hearing on the final account at a date not less than fifteen (15) days after the filing thereof. Notice of such hearing shall be given at least ten (10) days prior to the date set for hearing, by mailing a copy of the notice of hearing by first-class mail, to the persons entitled to notice pursuant to Section 2-101 of this title if the ward is still a minor, or to the ward only if the ward has attained majority or has married, or to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title for incapacitated or partially incapacitated persons and the attorney of the ward, if any, or, in the case of a conservatorship, to the ward or the next of kin of the ward as the court may determine.

2. Any person to whom notice is given in accordance with this subsection may appear at the hearing on final account and file his exceptions in writing to the final account and contest same.

3. The settlement of the account and the allowance thereof by the court shall be conclusive against all persons interested in the estate of the ward, except as to persons subject to a legal disability at the time the notice of hearing is given.

4. Upon approval of the final account, the guardian or conservator shall be discharged and the bond of the guardian or conservator released and terminated.

SECTION 3. This act shall become effective September 1, 1992.

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