

ENGROSSED SENATE AMENDMENTS
TO
ENGROSSED HOUSE BILL NO. 2015

By: Davis of the House

and

Hendrick of the Senate

An Act relating to probate procedure and guardianship; amending 58 O.S. 1991, Sections 541 and 550, which relate to certain vouchers and accounts; modifying certain procedure; requiring certain proof of payment if requested; providing for certain time for certain filings and information; exempting certain itemized accountings; requiring certain oaths; amending 30 O.S. 1991, Sections 3-124, 4-201 and 4-763, which relate to sale or lease of certain properties; modifying certain procedures for manner of sale; providing for certain waivers; providing for notice; authorizing certain conveyance procedures; adding to list of persons from whom certain bonds are not necessary; repealing 58 O.S. 1991, Sections 547 and 551, which relate to certain probate reports and certain items without vouchers; and providing an effective date.

AMENDMENT NO. 1. Page 1, strike the title to read

"[probate procedure and guardianship - 58 O.S. 1991,
Sections 541 and 550 - vouchers and accounts - 30 O.S.

1991, Sections 3-124, 4-201 and 4-763 - sale or lease of
certain properties - 58 O.S. 1991, Sections 547 and 551 -
repealing certain probate reports and items without
vouchers - effective date]"

AMENDMENT NO. 2. Page 2, line 20 1/2, insert a new Section 3 to
read

"SECTION 3. AMENDATORY 30 O.S. 1991, Section 3-115, is
amended to read as follows:

Section 3-115. A. The court may appoint a special guardian for
a person who appears to be or has been found to be an incapacitated
or partially incapacitated person when it appears:

1. there is imminent danger that the health or safety of said
person will be seriously impaired or that the financial resources of
said person will be seriously damaged or dissipated unless immediate
action is taken; and

2. no other person appears to have authority to act in the
circumstances or the guardian previously appointed is unable to or
refuses to take action.

Except as otherwise provided by this section, the appointment of
a special guardian shall be for a period not to exceed ten (10)
days.

B. The request for appointment of a special guardian may be
included in the petition to appoint a guardian or by separate
petition, either of which must be verified.

C. The court shall appoint an attorney, separate and apart from
the petitioner's attorney, for the subject of the proceeding who
does not have legal representation and either cannot afford a
private attorney or cannot retain counsel due to incapacity and may
proceed to hear the petition as same pertains to appointment of a
special guardian with or without notice. If notice is required, the

notice shall set a time for hearing on the petition within seventy-two (72) hours. Notice shall be served on:

1. the subject of the proceeding;
2. the attorney of the subject of the proceeding, if any;
3. the spouse of the subject of the proceeding, if any, and if the spouse is not the petitioner; and

4. at least one other adult relative of the subject of the proceeding or any other person who is not the petitioner, as directed by the court.

Notice shall be personally served in the manner as the court directs on the subject of the proceeding and on other persons receiving notice as directed by the court.

D. The court may without notice appoint a special guardian upon the filing of the petition ~~and~~, upon presentation of evidence of the incapacity of the subject of the proceeding, upon a showing that an immediate or reasonably foreseeable serious physical harm to the subject of the proceeding or serious impairment of the financial resources of said person will result from a delay, and upon presentation of a proposed emergency plan of care for the subject of the proceeding. Whenever a special guardian is immediately appointed as provided by this subsection, the court shall cause a copy of the petition, order and letters of special guardianship to be served on:

1. the subject of the proceeding;
2. the spouse of the subject of the proceeding, if any, if the spouse is not the petitioner; and

3. at least one other adult relative of the subject of the proceeding, if such relative is known or can be ascertained with reasonable diligence, or by any other person who is not the petitioner, as directed by the court.

The notice shall be served in the manner the court directs.

E. The court shall grant the special guardian only those powers necessary to act with respect to the particular emergency, as determined by the court. The special guardian shall be granted only powers to accomplish acts that are both supported by the proposed emergency plan of care and found necessary by the court. Power to change the place of residence of the subject of the proceeding shall be specifically granted by the court upon a showing that the needs of the subject of the proceeding cannot be met within such subject's present residential arrangements. The court's approval shall be required for any changes in either the emergency plan of care or the specified powers of the special guardian. The letters for a special guardian shall state that the person is a special guardian, the date of the expiration of the special guardianship, and the specific power or powers of the special guardian.

F. The appointment of a special guardian shall be effective from the date of appointment until a guardian is appointed pursuant to Section 1-112 of this title, or for thirty (30) days, whichever is less.

G. The court shall ~~not~~ require bond if ~~such~~ the appointment ~~is over the person only, and may require or waive bond if the appointment is as to the property of the ward~~ grants the guardian powers over the property of the ward who possesses an estate valued in excess of Forty Thousand Dollars (\$40,000.00).

H. The authority of any guardian or limited guardian previously appointed by the court is suspended with regard to the powers granted to the special guardian, but not otherwise, for as long as a special guardian has authority as provided by this section.

I. The court may remove a special guardian at any time. The special guardian shall file a report showing all actions taken during the special guardianship and shall make any other report the court requires."

and renumber subsequent sections and when the title is restored, amend the title to conform

AMENDMENT NO. 3. Page 4, line 27 1/2, insert a new Section 6 to read

"SECTION 6. AMENDATORY 30 O.S. 1991, Section 1-124, is amended to read as follows:

Section 1-124. ~~The Office of the Court Administrator~~
Administrative Office of the Courts shall prepare a guardianship and conservatorship handbook for distribution to the district courts. The handbook shall be written in clear, simple language and shall include information about the laws and procedures which apply to adult guardianships and conservatorships and the duties and responsibilities of such guardians and conservators. In conjunction with the guardianship handbook, the Administrative Office of the Courts shall develop a summary of the duties of guardians and conservators including, but not limited to, statutory notices, timetables, and required court approvals. The summary shall emphasize the significant of timely accountability to the court and to the ward as well as the sanctions and penalties which may be imposed for failure to comply with the requirements of the law or orders of the court. Copies of the handbook shall be made available to the public through the offices of the district court clerks."

and renumber subsequent sections and when the title is restored, amend the title to conform

Passed the Senate the 13th day of April, 1994.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1994.

Speaker

of the House of
Representatives