

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2451

By: Seikel

AS INTRODUCED

An Act relating to guardians and wards; amending 30 O.S. 1991, Sections 4-201 and 4-303, as amended by Section 2, Chapter 115, O.S.L. 1992 (30 O.S. Supp. 1993, Section 4-303), which relate to bonds; increasing certain amounts for exceptions; and providing an effective date.

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

SECTION 1. AMENDATORY 30 O.S. 1991, Section 4-201, is amended to read as follows:

Section 4-201. A. Before the entry of an order appointing a person or organization as a guardian of the person and before the letters issue, the court may require the person or organization to be appointed to provide a bond to the State of Oklahoma, with sufficient sureties, to be approved by the court, and in such penal sum as he shall order, conditioned that the guardian will faithfully execute the duties of his trust according to law.

B. 1. Before the entry of an order appointing a person or organization as the guardian of a minor or as the guardian or limited guardian of the property of an incapacitated or partially

incapacitated person takes effect, and before the letters issue, the court shall require the person or organization to be appointed to provide a bond, in an amount not less than the value of intangible personal property as alleged in the petition or otherwise determined by the court at the hearing on the petition, to the State of Oklahoma, with sufficient sureties, to be approved by the court, and in such penal sum as he shall order, conditioned that the guardian will faithfully execute the duties of his trust according to law.

2. Except as otherwise provided by paragraph 3 of this subsection, upon a finding by the court that:

a. the anticipated annual income to a ward for one (1) year plus the value of the personal property of the ward is less than ~~Forty Thousand Dollars (\$40,000.00)~~ Sixty Thousand Dollars (\$60,000.00); and

b. the guardian of the ward is either a parent, spouse, grandparent, child or grandchild of the ward,

the court may order that a bond is not necessary.

3. A bond shall be required and maintained for cases subject to the Uniform ~~Veterans~~ Veterans' Guardianship Act.

C. In the event the intangible personal property of the ward, as determined by the inventory, is in a greater amount than as alleged in the petition or determined by the court at the hearing on the petition, the guardian will file at the time the inventory is filed a bond to the full amount of the intangible personal property, which bond will be in substitution for the bond originally filed on the appointment of the guardian. The amount of the bond in the future may be adjusted up or down in amount based upon the intangible personal property shown in future annual accountings, provided however, no bond shall be reduced except upon order of the court.

SECTION 2. AMENDATORY 30 O.S. 1991, Section 4-303, as amended by Section 2, Chapter 115, O.S.L. 1992 (30 O.S. Supp. 1993, Section 4-303), is amended to read as follows:

Section 4-303. A. Except as otherwise provided by subsection B of this section, a guardian or limited guardian of the property shall, upon the expiration of a year from the time of his appointment, and at least annually thereafter, present his accounts to the court for settlement and allowance as part of his guardianship report as required by Section 4-306 of this title.

B. 1. In addition, a guardian or limited guardian of the property shall:

- a. present accounts whenever the court requires that such report or accounts be presented, and
- b. with his annual report of his accounts, report any changes of property listed on the inventory required by Section 4-301 of this title. The report shall state the compensation requested by the guardian and for his attorneys.

2. If there has been a significant change in the physical or mental condition of the ward, or the ward's financial resources, the details thereof shall be set forth in the annual report required by subsection A of this section.

3. Except as otherwise directed by the court or required by the Uniform ~~Veteran's~~ Veterans' Guardianship Act (72 U.S.C. 126.1, et seq.), the provisions of this subsection regarding the filing of an annual accounting and annual plan shall not apply to any guardianship of the property of a ward if the ward's financial resources or assets, other than a homestead, are worth less than ~~Forty Thousand Dollars (\$40,000.00)~~ Sixty Thousand Dollars (\$60,000.00) if a bond has been posted, or are worth less than Ten Thousand Dollars (\$10,000.00) regardless of whether or not a bond has been posted, and if the guardian or limited guardian of the

property is the spouse or a relative of the ward within the fourth degree of consanguinity.

C. In addition to the reports required by subsections A and B of this section, a guardian or limited guardian shall submit a report:

1. If the ward is an incapacitated or partially incapacitated person, when there is a significant change in the capacity of the ward to meet the essential requirements for his physical health or safety or to manage his financial resources;

2. If the ward is a minor, any significant change in the condition of the minor or in the condition of the estate of the minor;

3. When the guardian or limited guardian resigns or is removed; and

4. When the guardianship is terminated.

D. 1. A guardian or limited guardian of the person of an incapacitated or partially incapacitated person shall file a report on the guardianship of the person pursuant to Section 4-305 of this title.

2. A guardian of the person of a minor ward shall file such reports of the guardianship of the person of the ward as required by the court in such form as the court may require.

3. A guardian or limited guardian of the property of a ward shall file a report on the guardianship of the property pursuant to Section 4-306 of this title.

E. If the same person or organization is required to file reports as to both the person and the property of a ward, the reports may be consolidated.

F. An accounting information submitted by a guardian or limited guardian of the property of a ward shall be verified and shall be rendered in the same manner as required by Title 58 of the Oklahoma Statutes with respect to an information of an estate of a decedent.

Such information shall also set forth any charges to the property of the ward which have accrued since the previous accounting or, in the case of an initial accounting, since the filing of an inventory of the property of the ward placed under the control of the guardian or limited guardian.

G. In addition to other specified information any order of the court approving an annual guardianship plan and report shall include the date certain by which the guardian shall file the next annual report.

SECTION 3. This act shall become effective September 1, 1994.

44-2-7963

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