

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 725

By: Smith of the Senate

and

Toure of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to civil procedure; amending 12 O.S. 2001, Sections 721, 990.4 and 2503, as amended by Section 33, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2002, Section 2503), which relate to foreign judgments, stays of enforcement and physician and psychotherapist-patient privilege; modifying requirements for filing certain judgments for specified purpose; modifying requirements related to certain offers; limiting bond required to be paid by certain parties; clarifying applicability of provision; qualifying certain exclusion; amending 23 O.S. 2001, Section 9.1, as amended by Section 1, Chapter 462, O.S.L. 2002 (23 O.S. Supp. 2002, Section 9.1), which relates to punitive damages; modifying requirements for certain findings; amending 30 O.S. 2001, Sections 4-201 and 4-303, which relate to guardian's bond and settlement of accounts; modifying requirement for certain finding by court; modifying requirements for filing of certain report; repealing 12 O.S. 2001, Section 1101.1, as amended by Section 7, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2002, Section 1101.1), which relates to offers of judgment; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2001, Section 721, is amended to read as follows:

Section 721. A copy of any foreign judgment authenticated in accordance with the applicable Act of Congress or of the statutes of this state may be filed in the office of the court clerk of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of any county of this state. A judgment so filed has the same effect and is subject

to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a district court of this state and may be enforced or satisfied in like manner. Provided, however, that no such filed foreign judgment shall be a lien on real estate of the judgment debtor until ~~a certified copy of the judgment so filed is also filed in the office of the county clerk in the county where the real estate is located~~ the judgment creditor complies with the requirements of subsection B of Section 706 of this title.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1101.1A of Title 12, unless there is created a duplication in numbering, reads as follows:

A. SERVICE OF OFFER; TIME FOR ACCEPTANCE. The party against whom a claim for the recovery of money is asserted may serve a written offer to confess judgment on the claim. In the event such an offer is made, the claimant may at any time thereafter serve a written offer to accept judgment on the claim. An offer to confess or accept judgment shall state that it is made pursuant to this section, name the offeror and offeree, identify the claim to which it relates, specify its amount, and include a certificate of service setting forth the name of the person served and the date, place, and method of service. The offer shall be deemed to include any recoverable prejudgment interest, attorney fees, and costs attributable to the claim to which it relates. The offer must be served more than twenty (20) days prior to trial, except that an offer served by mail must be served more than twenty-three (23) days prior to trial. Unless the offeree serves a written acceptance of the offer within twenty (20) days from the date the offer is served, the offer will be deemed rejected by the offeree. A pending offer is deemed void upon the court's decision on the merits of the claim to which the offer relates, and shall have no consequences under this section.

B. PARTIES. More than a single party may be named as offerors or offerees only with respect to jointly owned claims or claims of joint liability. Nothing herein prevents multiple parties from making an identical offer, or prevents a party from making identical offers to multiple parties. This section shall not apply if a party's settlement of the claim to which the offer relates requires trial court approval.

C. SUBSEQUENT OFFERS. The making of an offer under this section does not preclude the offeror from making a subsequent offer; however, upon the making of a subsequent offer, all prior offers by that party shall be deemed void and shall have no further effect or consequences under this section.

D. JUDGMENT ON ACCEPTED OFFER. If an offer pursuant to subsection A of this section is timely accepted, copies of the offer and acceptance shall be filed promptly with an affidavit showing that acceptance was timely, and judgment shall be entered on the claim to which the offer relates. The judgment shall be in the amount of the accepted offer, and the judgment creditor shall not be entitled to any further recovery against the judgment debtor of prejudgment interest, attorney fees, or costs with respect to the claim to which the offer relates. A judgment granted under this subsection shall, if otherwise proper, be deemed final under Section 994 of Title 12 of the Oklahoma Statutes regardless of whether the trial court makes an express determination that there is no just reason for delay or expressly directs the filing of a final judgment.

E. EFFECT OF RESULT LESS FAVORABLE TO OFFEREE THAN REJECTED OFFER. If a claimant's offer is rejected, and the judgment obtained on the claim is not less than the amount of the offer, the claimant shall be entitled to recover reasonable attorney fees and costs, and in enforcing claimant's rights under this subsection, from the date the offer was served. If a claimant rejects an offer, and the

judgment obtained on such claim is less than the amount of the offer, the offeror shall be entitled to recover reasonable attorney fees and costs incurred in defending the claim, and in enforcing the offeror's rights under this subsection, from the date the offer was served. A claimant who voluntarily dismisses a claim after rejecting an offer shall not be liable for attorney fees and costs, unless the claimant files a subsequent action asserting the same claim and the judgment obtained on the claim is less than the amount of the rejected offer in the prior action. In the event adverse parties have each rejected offers made by the other which both qualify for an award of attorney fees and costs, the party who made the first offer shall be entitled to attorney fees and costs only until the date the second offer was served, after which the party making the second offer shall be entitled to attorney fees and costs. The recovery of attorney fees under this subsection shall not depend upon whether other authority supports recovery of attorney fees.

F. COMPARISON OF OFFER TO JUDGMENT. For purposes of comparing the amount of a judgment with the amount of an offer under subsection E of this section, the offer shall be compared to the amount of the judgment on the claim after any remittitur or additur, and adding any recoverable prejudgment interest, attorney fees, and costs attributable to the claim to which the offer relates until the date the offer was served.

G. SERVICE. An offer or acceptance under this section shall be served by hand delivery, facsimile transmission, or mail. Subsection D of Section 2006 of Title 12 of the Oklahoma Statutes, relating to computation of time after service of a document by mail, shall apply in computing the twenty (20) day period for accepting an offer under this section.

H. OTHER CLAIMS. This section applies to a claim asserted in a civil action for the recovery of money, regardless of whether other

claims for either monetary or non-monetary relief are also asserted. When an offer under this section is rejected and claims are adjudicated which are not the subject of the offer, a special verdict form shall be used by which the jury identifies the amount awarded on the claim which is the subject of the offer.

I. OTHER PROVISIONS FOR ATTORNEY FEES OR COSTS. Where an award of attorney fees and costs is proper under subsection E of this section with respect to a claim for which other authority provides for recovery of attorney fees or costs, such other authority shall govern entitlement to such attorney fees or costs incurred with respect to the claim until the date the rejected offer was made, and this section shall govern the award of attorney fees and costs thereafter.

J. APPELLATE ATTORNEY FEES. Where a party is entitled to recover trial-related attorney fees and costs under this section with respect to a claim, that party is also entitled to recover reasonable attorney fees and costs incurred on appeal with respect to the claim if the party prevails on appeal as to the claim.

K. EVIDENCE OF REJECTED OFFER. Evidence of an offer which is rejected under this section shall not be admissible in any action or proceeding for any purpose except after judgment to determine rights conferred by this section.

L. EXECUTION; AUTOMATIC STAY. Where a claimant rejects an offer under this section, the portion of the judgment on the claim to which the offer relates shall be automatically stayed and the ten (10) day stay of execution provided by subsection A of Section 990.3 of Title 12 of the Oklahoma Statutes shall not commence until the filing of the final order determining entitlement to and amount of any attorney's fees and costs which may be recoverable under subsection E of this section with respect to the offer.

M. CERTAIN ACTIONS EXCLUDED. In a civil action for the recovery of money as the result of a claim for personal injury,

wrongful death, or pursuant to Chapter 21 of Title 25 or Section 5 of Title 85 of the Oklahoma Statutes, this section shall not apply unless the plaintiff demands in a pleading or in trial proceedings more than One Hundred Thousand Dollars (\$100,000.00), or the defendant makes an offer of judgment more than One Hundred Thousand Dollars (\$100,000.00). Any offer of judgment under this section may precede the demand.

N. SCOPE. This section shall apply to all civil actions filed from the date upon which it becomes effective.

SECTION 3. AMENDATORY 12 O.S. 2001, Section 990.4, is amended to read as follows:

Section 990.4 A. Except as provided in subsection C of this section, a party may obtain a stay of the enforcement of a judgment, decree or final order:

1. While a post-trial motion is pending;
2. During the time in which an appeal may be commenced; or
3. While an appeal is pending.

Such stay may be obtained by filing with the court clerk a written undertaking and the posting of a supersedeas bond or other security as provided in this section. In the undertaking the appellant shall agree to satisfy the judgment, decree or final order, and pay the costs and interest on appeal, if it is affirmed. The undertaking and supersedeas bond or security may be given at any time. The stay is effective when the bond and the sufficiency of the sureties are approved by the trial court or the security is deposited with the court clerk. The enforcement of the judgment, decree or order shall no longer be stayed, and the judgment, decree or order may be enforced against any surety on the bond or other security:

1. If neither a post-trial motion nor a petition in error is filed, and the time for appeal has expired;
2. If a post-trial motion is no longer pending, no petition in error has been filed, and the time for appeal has expired; or

3. If an appeal is no longer pending.

B. The amount of the bond or other security shall be as follows:

1. When the judgment, decree or final order is for payment of money:

a. The bond shall be double the amount of the judgment, decree or final order, unless the bond is executed or guaranteed by a surety as hereinafter provided. The bond shall be for the amount of the judgment, decree or order including costs and interest on appeal where it is executed or guaranteed by an entity with suretyship powers as provided by the laws of Oklahoma.

b. Instead of filing a supersedeas bond, the appellant may obtain a stay by depositing cash with the court clerk in the amount of the judgment or order plus an amount that the court determines will cover costs and interest on appeal. The court shall have discretion to accept United States Treasury notes or general obligation bonds of the State of Oklahoma in lieu of cash. If the court accepts such notes or bonds, it shall make appropriate orders for their safekeeping and maintenance during the stay;

2. When the judgment, decree or final order directs execution of a conveyance or other instrument, the amount of the bond shall be determined by the court. Instead of posting a supersedeas bond or other security, the appellant may execute the conveyance or other instrument and deliver it to the clerk of the court for deposit with a public or private entity for safekeeping, as directed by the court in writing;

3. When the judgment, decree or final order directs the delivery of possession of real or personal property, the bond shall be in an amount, to be determined by the court, that will protect

the interests of the parties. The court may consider the value of the use of the property, any waste that may be committed on or to the property during the pendency of the stay, the value of the property, and all costs. When the judgment, decree or final order is for the sale of mortgaged premises and the payment of a deficiency arising from the sale, the bond must also provide for the payment of the deficiency;

4. When the judgment or final order directs the assignment or delivery of documents, they may be placed in the custody of the clerk of the court in which the judgment or order was rendered, for deposit with a public or private entity for safekeeping during the pendency of the stay, as directed by the court in writing, or the bond shall be in such sum as may be prescribed by the court; or

5. In order to protect any monies payable to the Tobacco Settlement Fund as set forth in Section 50 of Title 62 of the Oklahoma Statutes, the bond in any action or litigation brought under any legal theory involving a tobacco product manufacturer that is a party signatory, successor of a signatory, or an affiliate of a signatory to the Master Settlement Agreement dated November 23, 1998, or a party signatory, successor of a signatory, or an affiliate of a signatory to the Smokeless Tobacco Master Settlement Agreement, also dated November 23, 1998, shall be in an amount not to exceed one hundred percent (100%) of the judgment, exclusive of interest and costs, or Twenty-five Million Dollars (\$25,000,000.00), whichever is less. However, if it is proved by a preponderance of the evidence that the appellant for whom the bond has been limited pursuant to this paragraph is intentionally dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding payment of the judgment, the court shall enter such orders as are necessary to prevent dissipation or diversion, including, but not limited to, requiring that a bond be posted equal to the full amount of security required pursuant to this section.

For purposes of this paragraph, "Master Settlement Agreement" and "tobacco product manufacturer" shall have the same meanings as those terms are defined in paragraphs 5 and 9 of Section 600.22 of Title 37 of the Oklahoma Statutes, and "Smokeless Tobacco Master Settlement Agreement" means the settlement agreement and related documents entered into on November 23, 1998, by this state and leading United States smokeless tobacco product manufacturers.

C. Subsections A and B of this section shall not apply in actions involving temporary or permanent injunctions, actions for divorce, separate maintenance, annulment, paternity, custody, adoption, or termination of parental rights, or in juvenile matters, post-decree matrimonial proceedings or habeas corpus proceedings. The trial or appellate court, in its discretion, may stay the enforcement of any provision in a judgment, decree or final order in any of the types of actions or proceedings listed in this subsection during the pendency of the appeal or while any post-trial motion is pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties. If a temporary or permanent injunction is denied or dissolved, the trial or appellate court, in its discretion, may restore or grant an injunction during the pendency of the appeal and while any post-trial motions are pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties.

D. In any action not provided for in subsections A, B or C, the court may stay the enforcement of any judgment, decree or final order during the pendency of the appeal or while any post-trial motion is pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties.

E. The trial court shall have continuing jurisdiction during the pendency of any post-trial motion and appeal to modify any order it has entered regarding security or other conditions in connection with a stay.

F. The execution of a supersedeas bond shall not be a condition for the granting of a stay of judgment, decree or final order of any judicial tribunal against any county, municipality, or other political subdivision of the State of Oklahoma.

G. Executors, administrators and guardians who have given bond in this state, with sureties, according to law, are not required to provide a supersedeas bond if they are granted a stay of enforcement of a judgment, decree or final order.

H. After an appeal has been decided, but before the mandate has issued, a party whose trial court judgment has been affirmed, may move the appellate court to order judgment on the bond or other security in the amount of the judgment plus interest, appeals costs and allowable appeal-related attorney's fees. After mandate has issued, a party who has posted a bond or other security may move for exoneration of the bond or other security only in the trial court; and all motions concerning the bond or other security must be addressed to the trial court.

SECTION 4. AMENDATORY 12 O.S. 2001, Section 2503, as amended by Section 33, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2002, Section 2503), is amended to read as follows:

Section 2503. A. As used in this section:

1. A "patient" is a person who consults or is examined or interviewed by a physician or psychotherapist;

2. A "physician" is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient to be so authorized;

3. A "psychotherapist" is:

a. a person authorized to practice medicine in any state or nation, or reasonably believed by the patient to be so authorized, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, or

- b. a person licensed or certified as a psychologist under the laws of any state or nation, or reasonably believed by the patient to be so licensed or certified, while similarly engaged; and

4. A communication is "confidential" if not intended to be disclosed to third persons, except persons present to further the interest of the patient in the consultation, examination or interview, persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

B. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental or emotional condition, including alcohol or drug addiction, among the patient, the patient's physician or psychotherapist, and persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

C. The privilege may be claimed by the patient, the patient's guardian or conservator or the personal representative of a deceased patient. The person who was the physician or psychotherapist at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient.

D. ~~There is no privilege under this section for communications~~  
The following shall be exceptions to a claim of privilege:

1. ~~Relevant~~ There is no privilege under this section for communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

2. ~~Made~~ Communications made in the course of a court-ordered examination of the physical, mental or emotional condition of a patient, whether a party or a witness, are not privileged under this section when they relate to the particular purpose for which the examination is ordered unless the court orders otherwise; or

3. ~~Relevant~~ The privilege under this Code as to a communication relevant to the physical, mental or emotional condition of the patient in any proceeding in which the patient relies upon that condition as an element of the patient's claim or defense or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of the party's claim or defense, is qualified to the extent that an adverse party in the proceeding may obtain relevant information regarding the condition by statutory discovery

~~4. If the services of the physician or psychotherapist were sought or obtained to enable or aid anyone to commit or plan to commit what the patient knew, or reasonably should have known, was a crime or fraud or physical injury to the patient or another individual;~~

~~5. In which the patient has expressed an intent to engage in conduct likely to result in imminent death or serious bodily injury to the patient or another individual;~~

~~6. Relevant to an issue in a proceeding challenging the competency of the physician or psychotherapist;~~

~~7. Relevant to a breach of duty by the physician or psychotherapist; or~~

~~8. That are subject to a duty to disclose under statutory law.~~

SECTION 5. AMENDATORY 23 O.S. 2001, Section 9.1, as amended by Section 1, Chapter 462, O.S.L. 2002 (23 O.S. Supp. 2002, Section 9.1), is amended to read as follows:

Section 9.1 A. In an action for the breach of an obligation not arising from contract, the jury, in addition to actual damages,

may, subject to the provisions and limitations in subsections B, C and D of this section, award punitive damages for the sake of example and by way of punishing the defendant based upon the following factors:

1. The seriousness of the hazard to the public arising from the defendant's misconduct;

2. The profitability of the misconduct to the defendant;

3. The duration of the misconduct and any concealment of it;

4. The degree of the defendant's awareness of the hazard and of its excessiveness;

5. The attitude and conduct of the defendant upon discovery of the misconduct or hazard;

6. In the case of a defendant which is a corporation or other entity, the number and level of employees involved in causing or concealing the misconduct; and

7. The financial condition of the defendant.

B. Category I. Where the jury finds by clear and convincing evidence that:

1. The defendant has been guilty of reckless disregard for the rights of others; or

2. An insurer has recklessly disregarded its duty to deal fairly and act in good faith with its insured; the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in an amount not to exceed the greater of:

a. One Hundred Thousand Dollars (\$100,000.00), or

b. the amount of the actual damages awarded.

Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.

C. Category II. Where the jury finds by clear and convincing evidence that:

1. The defendant has acted intentionally and with malice towards others; or

2. An insurer has intentionally and with malice breached its duty to deal fairly and act in good faith with its insured; the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in an amount not to exceed the greatest of:

- a. Five Hundred Thousand Dollars (\$500,000.00),
- b. twice the amount of actual damages awarded, or
- c. the increased financial benefit derived by the defendant or insurer as a direct result of the conduct causing the injury to the plaintiff and other persons or entities.

The trial court shall reduce any award for punitive damages awarded pursuant to the provisions of subparagraph c of this paragraph by the amount it finds the defendant or insurer has previously paid as a result of all punitive damage verdicts entered in any court of this state for the same conduct by the defendant or insurer. Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.

D. Category III. 1. Where the jury finds by clear and convincing evidence that:

~~1.~~

- a. The defendant has acted intentionally and with malice towards others~~;~~ or

~~2.~~

- b. An insurer has intentionally and with malice breached its duty to deal fairly and act in good faith with its insured; and ~~the~~

2. The court finds, on the record and out of the presence of the jury, that there is evidence beyond a reasonable doubt that the

defendant or insurer acted intentionally and with malice and engaged in conduct life-threatening to humans, the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in any amount the jury deems appropriate, without regard to the limitations set forth in subsections B and C of this section. Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.

E. In determining the amount, if any, of punitive damages to be awarded under either subsection B, C or D of this section, the jury shall make the award based upon the factors set forth in subsection A of this section.

F. The provisions of this section are severable, and if any part or provision thereof shall be held void, the decision of the court shall not affect or impair any of the remaining parts or provisions thereof.

G. This section shall apply to all civil actions filed after the effective date of this act.

SECTION 6. AMENDATORY 30 O.S. 2001, 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 this state, with sufficient sureties, to be approved by the court, and in such penal sum as the court shall order, conditioned that the guardian will faithfully execute the duties of the 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 this state, with sufficient sureties, to be approved by the court, and in such penal sum as the court shall order, conditioned that the guardian will faithfully execute the duties of the 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);  
and
- ~~b.~~ ~~the guardian of the ward is either a parent, spouse, brother, sister, grandparent, child, or grandchild of the ward,~~

the court may order that a bond is not necessary. For purposes of this paragraph, personal property shall not include property owned with a joint tenant.

3. The provisions of this section shall not apply to cases subject to the Uniform 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 shall file at the time the inventory is filed a bond sufficient for 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 7. AMENDATORY 30 O.S. 2001, 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 appointment, and at least annually thereafter, present accounts to the court for settlement and allowance as part of the 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 the annual report of 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 the 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 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) 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 the physical health or safety of the ward or to manage the financial resources of the ward;

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. Unless waived at the discretion of the court, 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. ~~Unless waived at the discretion of the court, or not required by Section 21.5 of Title 10 of the Oklahoma Statutes, a~~ A guardian of the person of a minor ward shall not be required to file such annual reports of the guardianship of the person of the ward ~~as required unless ordered 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. The court shall not waive the filing of any report for a period in excess of five (5) years.

F. 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.

G. 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.

H. 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 8. REPEALER 12 O.S. 2001, Section 1101.1, as amended by Section 7, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2002, Section 1101.1), is hereby repealed.

SECTION 9. This act shall become effective November 1, 2003.

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