SENATE FLOOR VERSION
February 12, 2013

SENATE BILL NO. 355 By: Anderson of the Senate

and

McCullough of the House

An Act relating to letters of guardianship; amending 30 O.S. 2011, Sections 1-123 and 4-307, which relate to letters of guardianship and annual reports; placing time limitation on validity of certain letters; providing for renewal of certain letters; and providing an effective date.

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

SECTION 1. AMENDATORY 30 O.S. 2011, Section 1-123, is amended to read as follows:

Section 1-123. Letters of guardianship are evidence of the transfer of the management or administration of all assets, or the part thereof specified in the letters, of a ward to the guardian; and are valid for no longer than fifteen (15) months. An order terminating a guardianship is evidence of transfer of the management or administration of all assets subject to the guardianship from the guardian to the ward, or to successors of the ward.

SECTION 2. AMENDATORY 30 O.S. 2011, 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 fifteen (15) 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 fifteen (15) 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 paragraphs 1, 2, 3 and 7 of subsection A of 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 fifteen (15) 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 and renewing the letters of guardianship.

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 fifteen (15) 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 such 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 <u>including, but not limited to, renewing the letters of guardianship</u>; 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. Subject to appeal or vacation within the time permitted, an order entered after the hearing of an annual report after notice adjudicates as to liabilities concerning the matters considered in connection with said hearing.

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 3. This act shall become effective November 1, 2013.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
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