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February 10, 2015

SENATE BILL NO. 57

By: Anderson of the Senate

and

Williams 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; updating language; providing for renewal of certain letters; clarifying statutory reference; 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 unless renewed by the court pursuant to Section 4-307 of this title. 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.

1 SECTION 2. AMENDATORY 30 O.S. 2011, Section 4-307, is
2 amended to read as follows:

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

6 a. the persons entitled to notice pursuant to Section 2-
7 101 of this title for minors, or

8 b. those persons entitled to notice pursuant to
9 paragraphs 1, 2, 3 and 7 of subsection A of Section 3-
10 110 of this title for adults, and

11 c. the attorney of the ward, if any.

12 2. Attached to the copy of the report shall be a statement
13 notifying the person receiving copies of ~~said~~ the reports that any
14 objection to the report must be filed within fifteen (15) days after
15 the date of the filing of the annual report with the court.

16 3. Any person entitled to receive a copy of the annual report
17 may file an objection to ~~said~~ the report within fifteen (15) days
18 after the filing of the annual report with the court.

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

21 a. upon the filing of an objection to the annual report;
22 or

1 b. when the court is considering issuing an order other
2 than an order accepting the report and granting the
3 relief requested.

4 2. Notice for a hearing on an annual report shall be given, by
5 mail, to the persons entitled to notice pursuant to Section 2-101 of
6 this title for minors or paragraphs 1, 2, 3 and 7 of subsection A of
7 Section 3-110 of this title for adults at least ten (10) days prior
8 to the date set for the hearing. Notice shall be in such form as
9 the court may direct and shall be sent by regular first-class mail.

10 C. The court may enter an order granting the relief requested
11 in the report without notice if the court determines that such
12 relief should be granted immediately. In that event, the court
13 shall grant such relief on a temporary basis pending a hearing on
14 the report or the expiration of the fifteen (15) days within which
15 an objection to the report may be filed.

16 D. When no objection to an annual report is filed and no
17 hearing on the annual report is held as otherwise provided by this
18 section, the court shall issue an order accepting the annual report,
19 ~~and~~ granting the relief requested, and renewing the letters of
20 guardianship.

21 E. The compensation for the guardian, the guardian's attorney,
22 and any other person entitled to compensation from the property of
23 the ward shall be determined by the court in the manner required by
24 the provisions of the Oklahoma Guardianship and Conservatorship Act.

1 Such order, whether issued at the expiration of the fifteen (15)
2 days within which an objection to the annual report may be filed or
3 after a hearing on the report, shall be final with respect to all
4 persons given copies of the annual report or notice of such hearing,
5 except with regard to any such person who may be determined to have
6 been subject to a legal disability at the time such notice was
7 given. Such order also shall be final with respect to the guardian
8 except with respect to challenge by the ward upon the removal of the
9 ward's legal disability.

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

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

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

22 3. If the court requires a new bond of a greater penal amount
23 than the bond previously submitted, failure of the guardian to
24 submit such new bond within the thirty-day period set forth in this

1 subsection shall constitute grounds for removal of such guardian or
2 limited guardian.

3 G. At any hearing held upon an annual report:

4 1. If required by the court, the guardian or limited guardian
5 shall be present;

6 2. The court shall review the annual report and consider any
7 objection made thereto, and thereupon enter such order as the court
8 deems appropriate including, but not limited to, renewing the
9 letters of guardianship; and

10 3. The court may make any order which the court deems to be in
11 the best interest of the ward or the estate of the ward. The court
12 may also set for further hearing, with prior notice to be given as
13 provided in this section, any other matter which the court deems
14 should be considered in the best interest of the ward or the estate
15 of the ward. Subject to appeal or vacation within the time
16 permitted, an order entered after the hearing of an annual report
17 after notice adjudicates as to liabilities concerning the matters
18 considered in connection with ~~said~~ the hearing.

19 H. At a hearing upon an annual report the court may appoint an
20 attorney to represent the ward who is an incapacitated or partially
21 incapacitated person, in the same manner and with the same
22 compensation as provided in ~~this act~~ the Oklahoma Guardianship and
23 Conservatorship Act for appointment of an attorney for the subject
24 of the proceeding following the filing of a petition for appointment

1 of a guardian or limited guardian of the person or property of an
2 alleged incapacitated or partially incapacitated person. The
3 appointment of such attorney shall cease:

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

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

12 3. Upon application of ~~said~~ the attorney, the court may allow
13 the attorney to withdraw from the case and shall appoint another
14 attorney to represent the subject of the proceeding in any appeal
15 proceeding.

16 SECTION 3. This act shall become effective November 1, 2015.

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
18 February 10, 2015 - DO PASS
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