

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 57

By: Anderson

AS INTRODUCED

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.

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

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

4 a. the persons entitled to notice pursuant to Section 2-
5 101 of this title for minors, or

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

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

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

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

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

19 a. upon the filing of an objection to the annual report;
20 or

21 b. when the court is considering issuing an order other
22 than an order accepting the report and granting the
23 relief requested.
24

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

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

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

18 E. The compensation for the guardian, the guardian's attorney,
19 and any other person entitled to compensation from the property of
20 the ward shall be determined by the court in the manner required by
21 the provisions of the Oklahoma Guardianship and Conservatorship Act.
22 Such order, whether issued at the expiration of the fifteen (15)
23 days within which an objection to the annual report may be filed or
24 after a hearing on the report, shall be final with respect to all

1 persons given copies of the annual report or notice of such hearing,
2 except with regard to any such person who may be determined to have
3 been subject to a legal disability at the time such notice was
4 given. Such order also shall be final with respect to the guardian
5 except with respect to challenge by the ward upon the removal of the
6 ward's legal disability.

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

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

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

19 3. If the court requires a new bond of a greater penal amount
20 than the bond previously submitted, failure of the guardian to
21 submit such new bond within the thirty-day period set forth in this
22 subsection shall constitute grounds for removal of such guardian or
23 limited guardian.

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

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

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

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

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

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

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

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

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

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