

1 ENGROSSED SENATE
2 BILL NO. 1029

By: Treat and Boren of the
Senate

3 and

4 McCall of the House

5
6
7 An Act relating to guardianship; amending 30 O.S.
8 2011, Section 3-113, as amended by Section 1, Chapter
9 86, O.S.L. 2019 (30 O.S. Supp. 2020, Section 3-113),
10 which relates to specific determinations of capacity;
11 requiring court to issue findings of fact on certain
12 capacity; and providing an effective date.

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

14 SECTION 1. AMENDATORY 30 O.S. 2011, Section 3-113, as
15 amended by Section 1, Chapter 86, O.S.L. 2019 (30 O.S. Supp. 2020,
16 Section 3-113), is amended to read as follows:

17 Section 3-113. A. The order appointing a guardian, based upon
18 evidence adduced, shall set forth:

- 19 1. The determinations made by the court at the hearing;
- 20 2. The name and address of the individual, if any, appointed to
21 serve as the limited guardian or guardian;
- 22 3. The specific limitations imposed upon the ward, if the ward
23 is a partially incapacitated person;
- 24

1 4. Any authority granted a guardian of the person of the ward
2 to change the place of abode of the ward outside of the state or
3 county without the prior permission of the court; ~~and~~

4 5. Findings of fact as to whether the ward retains sufficient
5 capacity to vote; and

6 6. Whenever the court determines a review hearing is necessary
7 or desirable, the date of the review hearing.

8 B. In establishing the specific limitations on the legal
9 activities of a ward for whom a limited guardian of the person is
10 appointed, the court shall make specific determinations regarding
11 the capacity of the subject of the proceeding, including but not
12 limited to determining whether the ward retains sufficient capacity:

13 1. To vote;

14 2. To serve as a juror;

15 3. To operate a motor vehicle;

16 4. To be licensed or continue to practice any profession of the
17 ward; and

18 5. To make personal medical decisions including but not limited
19 to decisions to withhold or withdraw life-sustaining procedures, to
20 receive hospice services through a home or inpatient hospice
21 program, to donate organs, to undergo elective surgery, or to
22 consent to routine or necessary medical or other professional care,
23 treatment or advice.

1 C. In establishing the specific limitations on the legal
2 abilities of a ward for whom a limited guardian of the property is
3 appointed, the court shall make specific determinations regarding
4 the capacity of the subject of the proceeding, including but not
5 limited to determining whether the ward retains sufficient capacity
6 to:

- 7 1. Appoint an agent to act on his behalf;
- 8 2. Enter into contracts;
- 9 3. Grant conveyances; or
- 10 4. Make gifts of property.

11 D. If not submitted with the petition or at the hearing, the
12 guardian or limited guardian shall submit a guardianship plan as
13 required by Section 3-120 or 3-122 of this title, or both, as
14 appropriate and a copy of said plan shall be mailed to those persons
15 entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of
16 subsection A of Section 3-110 of this title. The guardianship plan
17 as approved by the court shall be made a part of the order of the
18 court. Said plan may be modified as provided by this act.

19 E. The court may, in its discretion, make such further orders
20 as the court deems necessary for the best interest of the ward for
21 care of the ward and maintenance or management of the ward's
22 property, including but not limited to:

- 23 1. Order the guardian of the property of the ward to provide
24 the ward from such property with specified amounts of money,

1 monthly, or from time to time, which the ward may dispose of as the
2 ward shall determine and for which, other than a showing of the
3 amounts paid to the ward, the guardian will not be required to
4 account. Such order may be modified upon application of the
5 guardian or any interested person, and a hearing conducted thereon,
6 with notice of the hearing on such application to be given to those
7 persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of
8 subsection A of Section 3-110 of this title and shall be given as
9 provided in Section 3-110 of this title; and

10 2. The amount of the bond as required by Section 4-201 of this
11 title.

12 SECTION 2. This act shall become effective November 1, 2021.

13 Passed the Senate the 10th day of March, 2021.

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15 _____
16 Presiding Officer of the Senate

17 Passed the House of Representatives the ____ day of _____,
18 2021.

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20 _____
21 Presiding Officer of the House
22 of Representatives
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