

1 H.308

2 Introduced by Representatives Jewett of Ripton, Donahue of Northfield and
3 Haas of Rochester

4 Referred to Committee on

5 Date:

6 Subject: Fiduciary relations; guardianships

7 Statement of purpose: This bill proposes to require a guardian's first status
8 report to be filed with the court within 90 days of the guardian's appointment
9 and to require the attorney for the person under guardianship to remain in the
10 case until the inventory is filed.

11 An act relating to guardianships

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 14 V.S.A. § 3065 is amended to read:

14 § 3065. COUNSEL

15 (a)(1) The respondent shall have the right to be represented by counsel of
16 his or her own choosing at any stage of a guardianship proceeding. Unless a
17 respondent is already represented, the court:

18 (A) shall appoint counsel for the respondent when an initial petition
19 for guardianship is filed;

1 (B) shall appoint counsel for the respondent in any subsequent
2 proceeding if the respondent or a party requests appointment in writing; and

3 (C) may appoint counsel for the respondent on the court's initiative
4 in any subsequent proceeding.

5 (2) ~~Appointed~~ Except as provided in subdivision (3) of this subsection,
6 appointed counsel shall have the right to withdraw upon conclusion of the
7 proceeding for which he or she has been appointed.

8 (3) Counsel for a person under guardianship shall not withdraw until
9 after the inventory is filed with the court unless the court finds good cause for
10 permitting withdrawal at an earlier time.

11 * * *

12 (c) Respondent's counsel shall be compensated from the respondent's
13 estate unless the respondent is found indigent in accordance with Rule 3.1 of
14 the Rules of Civil Procedure. For indigent respondents, the court shall
15 maintain a list of pro bono counsel from the private bar to be used before
16 appointing nonprofit legal services organizations to serve as counsel.

17 Sec. 2. 14 V.S.A. § 3076 is amended to read:

18 § 3076. ANNUAL REPORTS; FINAL ACCOUNTING; FEES

19 (a) The guardian shall file a report with the appointing court within 90 days
20 of the date of the appointment and shall file an annual report with the
21 appointing court within 30 days of the anniversary date of the appointment.

1 (b) ~~The annual~~ A report filed pursuant to this section shall contain:

2 (1) a financial accounting as required by section 2921 of this title if the
3 guardian has been granted power over income and resources pursuant to
4 subdivision 3069(b)(4) of this title;

5 (2) a report on the progress and condition of the person under
6 guardianship, including his or her health, medical and dental care, residence,
7 education, employment, and habilitation;

8 (3) a report on the manner in which the guardian carried out his or her
9 powers and fulfilled his or her duties; and

10 (4) the guardian's opinion regarding the continued need for
11 guardianship.

12 (c) If the guardian has been granted power over income and resources
13 pursuant to subdivision 3069(b)(4) of this title, at the termination of the
14 guardianship, the guardian shall render a final accounting as required by
15 section 2921 of this title.

16 (d)(1) Except as provided in subdivision (2) of this subsection, the guardian
17 shall not be paid any fees to which he or she may be entitled, or reimbursed for
18 any of his or her expenses from the estate of the person under guardianship
19 until the annual reports or final accounting required by this section has been
20 filed with the court.

1 (2) The guardian may at any time apply by motion to the probate court
2 for payment of fees or reimbursement of expenses incurred as a result of the
3 guardianship. The court may grant the motion and approve payment if it finds
4 the expenses were reasonable and supported by documentary evidence.