

## SENATE PROPOSAL OF AMENDMENT

### H. 507

An act relating to fostering connections to success in guardianships

The Senate proposes to the House to amend the bill as follows:

First: Before Sec. 6, by striking out the heading “\* \* \* Technical Corrections \* \* \*”

Second: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. 33 V.S.A. § 5307(h) is added to read as follows:

(h) The department shall provide information to relatives and others with a significant relationship with the child about options to take custody or participate in the care and placement of the child, about the advantages and disadvantages of the options, and about the range of available services and supports.

Third: By inserting a new section to be numbered Sec. 9 to read as follows:

Sec. 9. 14 V.S.A. § 2671 is amended to read:

§ 2671. VOLUNTARY GUARDIANSHIP

(a) Any person of at least ~~eighteen~~ 18 years of age, who desires assistance with the management of his or her affairs, may file a petition with the probate court requesting the appointment of a guardian.

(b) The petition shall:

(1) state that the petitioner ~~is not mentally ill or mentally retarded~~ understands the nature, extent, and consequences of the guardianship;

\* \* \*

(d) ~~A petition for voluntary guardianship shall be granted if the court finds that:~~

~~(1) the petitioner is not mentally ill or mentally retarded; and~~

~~(2) the petitioner is uncoerced; and~~

~~(3) the petitioner understands the nature, extent and consequences of the guardianship requested and the procedures for revoking the guardianship.~~

(1) The court shall hold a hearing on the petition, with notice to the petitioner and the proposed guardian.

(2) At the hearing, the court shall explain to the petitioner the nature, extent, and consequences of the proposed guardianship and determine if the petitioner agrees to the appointment of the named guardian.

(3) At the hearing, the court shall explain to the petitioner the procedures for terminating the guardianship.

(4) After the hearing, the court shall make findings on the following issues:

(A) whether the petitioner is uncoerced;

(B) whether the petitioner understands the nature, extent, and consequences of the proposed guardianship; and

(C) whether the petitioner understands the procedures for terminating the guardianship.

~~(e) In its discretion, the~~ The court may order that the petitioner be evaluated by a qualified mental health professional a person who has specific training and demonstrated competence to evaluate the petitioner. The scope of the evaluation shall be limited to:

~~(1) whether the petitioner is mentally ill or mentally retarded; and~~

~~(2) the capacity of the petitioner to understand~~ understands the nature, extent and consequences of the guardianship requested and the procedures for revoking the guardianship.

~~(f) If after the hearing the court finds that the petitioner meets the criteria set forth in subsection (d) of this section is uncoerced, understands the nature, extent and consequences of the proposed guardianship, and understands the procedures for terminating the guardianship,~~ it shall enter judgment specifying the powers of the guardian as requested in the petition. The court shall mail a copy of its order to the petitioner and the guardian, and it shall attach to the order a notification to the petitioner setting forth the procedures for terminating the guardianship.

~~(g) If the court finds that the petitioner does not meet the criteria set forth in subsection (d) of this section, it shall dismiss the petition; provided, however, that if the court finds that the petitioner is mentally ill or mentally retarded does not understand the nature, extent, and consequences of the guardianship and in the court's opinion requires assistance with the management of his or her personal or financial affairs,~~ the court may treat the petition as if filed pursuant to section 3063 of this title.

~~(h) The ward person under guardianship~~ may, at any time, file a motion to revoke the guardianship. Upon receipt of the motion, the court shall give notice as provided by the rules of probate procedure. Unless the guardian files a motion pursuant to section 3063 of this title within ten days from the date of the notice, the court shall enter judgment revoking the guardianship and shall provide the ward and the guardian with a copy of the judgment.

(i)(1) Any person interested in the welfare of the ~~ward~~ person under guardianship, as defined by section 3061 of this chapter, may petition the court where venue lies for termination of the guardianship. Grounds for termination of the guardianship shall be:

~~(1)~~(A) failure to render an account after having been duly cited by the court;

~~(2)~~(B) failure to perform an order or decree of the court;

~~(3)~~(C) a finding that the guardian has become incapable of or unsuitable for exercising his or her powers; or

~~(4)~~(D) the death of the guardian.

(2) The court may also consider termination of the guardianship on the court's own motion.

(j) The guardian shall file an annual report with the appointing court ~~on~~ within 30 days of the anniversary date of appointment containing the information required by section 3076 of this title.

(k) The court shall mail an annual notice on the anniversary date of the appointment of the guardian to the person under a guardianship setting forth the procedure for terminating the guardianship and the right of the person under guardianship to receive and review the annual reports filed by the guardian.

(l) At the termination of a voluntary guardianship, the guardian shall render a final accounting as required by section 2921 of this title.

~~(m)~~(m) The guardian shall not be paid any fees to which the guardian may be entitled from the estate of the ~~ward~~ person under guardianship until the annual reports or final accounting required by this section have been filed with the court.

and that after passage, the title of the bill be amended to read: "An act relating to voluntary guardianship and children in foster care"