

*As Engrossed: 1/30/91*

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Wayne Dowd**

**A Bill ACT 11 OF 1991**  
**SENATE BILL 70**

**For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE 28-65-204 TO PROVIDE THAT  
9 IN APPOINTING A GUARDIAN FOR A MINOR CHILD, THE COURT  
10 SHALL GIVE DUE REGARD TO ANY WRITTEN INSTRUMENT EXECUTED  
11 BY THE LEGAL CUSTODIAN OF THE MINOR CHILD; AND FOR OTHER  
12 PURPOSES."

13  
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. Arkansas Code 28-65-204 is hereby amended to read as  
17 follows:

18 "28-65-204. Preferences.

19 (a) The parents of an unmarried minor, or either of them, if qualified  
20 and, in the opinion of the court, suitable, shall be preferred over all others  
21 for appointment as guardian of the person.

22 (b) Subject to this rule, the court shall appoint as guardian of an  
23 incapacitated person the one most suitable who is willing to serve, having due  
24 regard to:

25 (1) Any request contained in a will or other written instrument  
26 executed by the parent or by the legal custodian of a minor child for the  
27 appointment of a person as guardian of the minor child;

28 (2) Any request for the appointment of a person as his guardian made by  
29 a minor of the age of fourteen (14) years or over;

30 (3) Any request for the appointment of a person made by the spouse of  
31 an incapacitated person;

32 (4) The relationship by blood or marriage to the person for whom  
33 guardianship is sought.

34 (c) Prior to the appointment of a guardian, the court shall take into  
35 consideration any request made by the incapacitated person concerning his

1 preference regarding the person to be appointed guardian. This request may be  
2 made to the court by any means, but there shall be no necessity that the  
3 incapacitated person appear before the court for the purpose of indicating his  
4 preference."

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6 SECTION 2. All provisions of this Act of a general and permanent nature  
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 3. If any provision of this Act or the application thereof to  
11 any person or circumstance is held invalid, such invalidity shall not affect  
12 other provisions or applications of the Act which can be given effect without  
13 the invalid provision or application, and to this end the provisions of this  
14 Act are declared to be severable.

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16 SECTION 4. All laws and parts of laws in conflict with this Act are  
17 hereby repealed.

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19 SECTION 5. EMERGENCY. *It is found and determined by the General  
20 Assembly of the State of Arkansas that in appointing a guardian for a minor  
21 child the court should give due regard to any written instrument executed by  
22 the legal custodian of the minor child; and this act is immediately necessary  
23 to insure that an appropriate guardian is appointed for a minor child.  
24 Therefore, an emergency is hereby declared to exist and this act being  
25 necessary for the immediate preservation of the public peace, health and  
26 safety shall be in full force and effect from and after its passage and  
27 approval.*

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29 /s/Dowd

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31 APPROVED: 2-1-91

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