

ARKANSAS SENATE
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of Senate Bill No. 820

"AN ACT TO PROVIDE FOR PUBLIC GUARDIANSHIP OF INCAPACITATED ADULTS."

Amendment No. 1 to Senate Bill No. 820.

Amend Senate Bill No. 820 as originally introduced:

Page 1, delete lines 25 through 27 and substitute the following:

"(1) Many adults lack the capacity to provide"

AND

Page 1, line 30 add "and" to the end of the line

AND

Page 1, delete lines 31 through 35 and substitute the following:

"(2) It is therefore necessary for the preservation of the public"

AND

Page 2, delete lines 5 through 36

AND

Delete page 3 entirely

AND

Appropriately renumber the remaining SECTIONS

AND

Page 5, delete lines 19 through 26 and substitute the following:

"(b)(1) In addition to the qualifications required under § 28-65-203,
the public guardian shall:

(A) Hold a degree in law or social work or a related
field;

(B) Submit to a criminal background check with
satisfactory results as prescribed by the Division of Aging and Adult



Services of the Department of Health and Human Services ;

(C) Attend and complete at least twenty (20) hours of training approved by the division; and

(D) Demonstrate competency and ability to carry out the values of the ward.

(2) The Public Guardian for Adults shall devote his or her entire time to the duties of the Office of Public Guardian for Adults.

(c) The Public Guardian for Adults:

(1) May consent or withhold consent to health and long term care treatment;

(2) Shall advocate for the ward; and

(3) Shall be functionally separate from and share no duties with any Department of Health and Human Services employee whose job it is to prepare and offer services, treatment plans, or both, to any person.”

AND

Page 5, delete lines 34 and 35 and substitute the following:

“(3)(A) May accept the services of volunteers who shall possess all of the qualifications of a guardian required under § 28-65-203.

(B) If approved by the Public Guardian for Adults, the volunteer shall be reimbursed for expenses in the same manner as public employees.

(C) A volunteer shall not be an employee of any facility or program that provides services to the ward.

(D) Volunteers shall not be related to the owner or any staff member of any facility or program that provides services to the ward.”

AND

Page 6, delete lines 2 through 16 and substitute the following:

“(c) The Public Guardian for Adults may petition to be appointed guardian of the person of an adult or guardian of the property of an adult, or both, if:

(1) The Public Guardian has probable cause to believe that the adult lacks the capacity to make and communicate decisions necessary for the adult’s health, safety, and welfare or to manage his or her property;

(2) The Public Guardian believes that the adult is incapacitated;

(3) There is no suitable private guardian qualified and willing to accept the guardianship appointment; and

(4) A circuit court determines that the Public Guardian for Adults would be a suitable guardian for the incapacitated adult.

(d) If requested by the court having jurisdiction of the ward, the Public Guardian may petition to intervene in an established guardianship and petition to be named a successor guardian if all of the following conditions are met:

(1) The Public Guardian determines that the current guardian is unable or unwilling to perform his or her duties under the guardianship;

(2) There is no suitable private guardian qualified and willing to accept the guardianship appointment; and

(3) A circuit court determines that the Public Guardian would be

a suitable guardian for the incapacitated adult.

(e)(1) The Public Guardian for Adults either directly or through staff”

AND

Page 6, delete lines 24 through 26 and substitute the following:

“(f)(1) The Public Guardian for Adults shall keep and maintain financial, case control, and statistical records in accordance with generally accepted professional business and accounting standards in all cases for which the Office of Public Guardian for Adults has been appointed guardian.”

AND

Page 6, delete line 31 and substitute the following:

“record retention rules.

(g) Unless specifically provided otherwise in this subchapter, Arkansas Code Title 28, Chapter 65 is applicable to any guardianship established under this subchapter.”

AND

Page 7, delete line 6 and substitute the following:

“28-65-706. Termination of Guardianships.

(a) The court having jurisdiction of the ward shall not terminate the guardianship of a living ward of the Public Guardian for Adults unless the court declares that the ward is restored to capacity or a successor guardian is appointed.

(b) Neither the Public Guardian for Adults, the Office of Public Guardian for Adults, nor a volunteer shall be entitled to compensation under § 28-65-108.

28-65-707. Department of Health and Human Services – Adoption of”

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Critcher

MGF/JLH - 03-26-2007 08:40

MGF632

Secretary