

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL

1672

By: Representatives Ward, Cabe and Mahony

"AN ACT TO AMEND SECTION 21 OF ACT 940 OF 1985 [ARK. STAT. 57-840] TO PROVIDE FOR THE APPOINTMENT OF TEMPORARY GUARDIANS FOR INCAPACITATED PERSONS; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 21 of Act 940 of 1985, the same being Arkansas Statute 57-840, is hereby amended to read as follows:

"Section 21. If the court finds that there is imminent danger to the life or health of the incapacitated person or of loss, damage, or waste to the property of an incapacitated person and such requires the immediate appointment of a guardian of his person or of his estate, or of both, it may, with or without notice, appoint a temporary guardian for the incapacitated person for a specified period, which period including all extensions thereof, shall not exceed ninety (90) days, and remove or discharge him or terminate the guardianship.

(a) The petitioner shall within seventy-two (72) hours of the entry of the Temporary Guardianship Order, cause notice to be served upon the Ward. Such notice shall include: (a) a copy of the Petition; (b) a copy of the Temporary Order and Order of Appointment; (c) notice of a hearing date; and (d) statement of rights as provided in Section 16. Such notice shall be personally served upon the Ward, unless the court determines that personal service is not possible, in which case, service shall be upon such other persons as the court directs.

(b) Within three (3) working days of the entry of the Temporary Guardianship Order, a full hearing on the merits shall be held.

(c) The provisions of said sections (a) and (b) apply only if the Ward is over fourteen (14) years of age.

(d) The appointment may be to perform duties respecting specific pro-

perty or to perform particular acts, as stated in the Order of Appointment. The temporary guardian shall make such reports as the court shall direct, and shall account to the court upon termination of his authority. In other respects, the provisions of this Act concerning guardians shall apply to temporary guardians and an appeal may be taken from the Order of Appointment of a temporary guardian. The letters issued to a temporary guardian shall state the date of expiration of the authority of the temporary guardian.

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. It is hereby found and determined by the General Assembly that the Arkansas Supreme Court recently invalidated Arkansas' Temporary Guardianship Law; that this Act is designed to meet the court's objections to the previous law; that until this Act goes into effect, there will be no Temporary Guardianship Law; and that a temporary guardianship law is immediately necessary in order to adequately protect incapacitated persons. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation for the public peace, health and safety shall be in full force and effect from and after its passage and approval.

