

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 153

By: Senator Harriman

"AN ACT TO AMEND SECTION 12 OF ACT 940 OF 1985 [ARK. STAT. 57-831] TO PERMIT THE COURT TO REDUCE THE NUMBER OF DAYS OF NOTICE IN GUARDIANSHIP PROCEEDINGS UNDER CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 12 of Act 940 of 1985, the same being Arkansas Statute 57-831, is hereby amended to read as follows:

"Section 12. (a) Notice of the hearing for the appointment of a guardian need not be given to any person:

- (1) Who has signed the petition;
- (2) Who has in writing waived notice of the hearing except the alleged incapacitated person may not waive notice;
- (3) Who actually appears at the hearing;
- (4) Whose existence, relationship to the alleged incapacitated person or whereabouts is unknown and cannot by the exercise of reasonable diligence be ascertained;
- (5) Other than the alleged incapacitated person, whom the court shall find to be beyond the limits of the continental United States or himself incompetent; or
- (6) The alleged incapacitated person if the court finds he is detained or confined by a foreign power or has disappeared.

(b) Except as provided in subsection (a) of this Section, before the court shall appoint a guardian, other than a temporary guardian, notice of the hearing of the application for the appointment of such guardian shall be served upon the following:

- (1) The alleged incapacitated person if over fourteen (14) years of age, and the alleged incapacitated person shall be notified of his rights

under Section 16. This notice shall be served with the notice of hearing;

(2) The parents of the alleged incapacitated person if the alleged incapacitated person is a minor;

(3) The spouse, if any, of the alleged incapacitated person;

(4) Any other person who is the guardian of the person or of the estate of the alleged incapacitated person, or any other person who has the care and custody of the alleged incapacitated person, and to the director of any agency from which the respondent is receiving services;

(5) If there be neither known parent nor known spouse, at least one (1) of the nearest competent relatives by blood or marriage of the alleged incapacitated person; and

(6) If directed by the court:

(i) any department, bureau, agency or political subdivision of the United States or of this State which makes or awards compensation, pension, insurance or other allowance for the benefit of the ward or his estate;

(ii) any department, bureau, agency or political subdivision of the United States or of this State or any charitable organization, which may be charged with the supervision, control or custody of the incompetent; or

(iii) any other person designated by the court.

(c) If the incapacitated person is over fourteen (14) years of age, there shall be personal service upon him if personal service can be had; service on others may be had in any manner provided by Section 12(b) or (e) of Act 140 of 1949.

(d) The court, for good cause shown, may reduce the number of days of notice from twenty (20) days to no less than three (3) days where due process requirements have been met and the court is convinced that the circumstances would not substantially change if the notice period were extended.

(e) It shall not be necessary that the person for whom guardianship is sought be represented by a guardian ad litem in the proceedings."

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

