

As Engrossed: 1/30/91

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

A Bill

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."

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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

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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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