

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H2/24/03*

# A Bill

HOUSE BILL 1426

5 By: Representatives Wood, Dees  
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## For An Act To Be Entitled

9 AN ACT TO AMEND PROCEDURES FOR EVALUATING AN  
10 INCAPACITATED PERSON FOR PURPOSES OF GUARDIANSHIP  
11 APPOINTMENTS; AND FOR OTHER PURPOSES.  
12

## Subtitle

13 AN ACT TO AMEND PROCEDURES FOR  
14 EVALUATING AN INCAPACITATED PERSON FOR  
15 PURPOSES OF GUARDIANSHIP APPOINTMENTS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas code 28-65-212 is amended to read as follows:  
22 28-65-212. Evaluations.

23 (a)(1) A professional evaluation shall be performed prior to the court  
24 hearing on any petition for guardianship except when appointment is being  
25 made because of minority, disappearance, detention, or confinement by a  
26 foreign power, or pursuant to § 28-65-218.

27 (2) The evaluation shall be performed by a professional or  
28 professionals with expertise appropriate for the respondent's alleged  
29 incapacity.

30 (b) The evaluation shall include the following:

- 31 (1) The respondent's medical and physical condition;  
32 (2) His adaptive behavior;  
33 (3) His intellectual functioning;  
34 (4) Recommendation as to the specific areas for which assistance  
35 is needed and the least restrictive alternatives available.

36 (c)(1) If no professional evaluations performed within the last six



1 (6) months are available, the court will order an independent evaluation.

2 (2) If the petition is granted, the cost of the independent  
3 evaluation will be borne by the estate of the incapacitated person. In the  
4 event the petition is denied, the costs will be borne by the petitioner.

5 ~~(d)(1) The court may request the assistance of a Department of Human  
6 Services resource person to gather records, investigate the respondent's  
7 condition, and help arrange for appropriate professional evaluations.~~

8 (1) The Department of Human Services shall not be ordered by any  
9 court, except the juvenile division of the circuit court, to gather records,  
10 investigate the respondent's condition or help arrange for appropriate  
11 professional evaluations unless the court has first determined all parties to  
12 the proceeding to be indigent and assistance provided by the Department is  
13 limited to actions within the State of Arkansas.

14 (2) The Department of Human Services shall issue regulations to  
15 implement this provision.

16 (e) Any existing evaluations made by the Department of Human Services  
17 of which the court has notice must be considered by the court.

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19 /s/ Wood, et al  
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