

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2588

6 By: Roberts (Sean)

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to guardians; amending 30 O.S. 2011,
10 Section 3-119, as amended by Section 2, Chapter 86,
11 O.S.L. 2019 (30 O.S. Supp. 2019, Section 3-119),
12 which relates to limitation of powers of guardian;
13 requiring separate order from court; providing
14 requirements to be included in order; limiting
15 authorization to certain circumstances; and providing
16 an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 30 O.S. 2011, Section 3-119, as
19 amended by Section 2, Chapter 86, O.S.L. 2019 (30 O.S. Supp. 2019,
20 Section 3-119), is amended to read as follows:

21 Section 3-119. A guardian shall have no powers except as
22 provided by the Oklahoma Statutes or given to such guardian in the
23 orders in the guardianship proceeding. This limitation of powers
24 includes but is not limited to the following:

1 1. No guardian shall have the power to consent on behalf of the
2 ward to the withholding or withdrawal of life-sustaining procedures
3 as provided in the Oklahoma Advance Directive Act from the ward,
4 except, in accordance with Section 3102.4 of Title 63 of the
5 Oklahoma Statutes:

- 6 a. with specific authorization of the court having
7 jurisdiction over the guardianship proceedings which
8 authorization must be granted in a separate order and
9 only at such time as the ward is in need of life-
10 sustaining treatment, and must include specific
11 findings of fact and conclusions of law based on the
12 standard established in Section 3101.16 of Title 63 of
13 the Oklahoma Statutes,
- 14 b. as authorized by an advance directive executed
15 pursuant to the Oklahoma Advance Directive Act,
- 16 c. as authorized by a consent not to resuscitate made
17 pursuant to the Oklahoma Do-Not-Resuscitate Act, or
- 18 d. to receive hospice services as authorized by a
19 licensed physician who determines the ward is
20 terminally ill, as defined in Section 1-860.2 of Title
21 63 of the Oklahoma Statutes, provided that withholding
22 or withdrawal of life-sustaining procedures can be
23 authorized only in accordance with the provisions of
24 this paragraph;

1 2. No guardian or court having jurisdiction of the guardianship
2 proceeding shall have the power to consent on behalf of the ward or
3 order the consent on behalf of the ward to the termination or
4 relinquishment of parental rights of the ward;

5 3. Except in an emergency and only as necessary to preserve the
6 life of the ward, no guardian shall have the power to consent on
7 behalf of the ward to an abortion, psychosurgery, removal of a
8 bodily organ, performance of any experimental biomedical or
9 behavioral procedure, or participation in any biomedical or
10 behavioral experiment, except with specific authorization of the
11 court having jurisdiction of the guardianship proceeding;

12 4. No guardian shall have the power to prohibit the marriage or
13 divorce of a ward except with specific authorization of the court
14 having jurisdiction of the guardianship proceeding; and

15 5. No guardian shall have the power to consent on behalf of the
16 ward to placement of the ward in a facility or institution to which
17 a person without a guardian would have to be committed pursuant to
18 the laws of this state absent formal commitment proceedings in which
19 the ward has independent counsel.

20 SECTION 2. This act shall become effective November 1, 2020.

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