

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1751

By: Dossett

AS INTRODUCED

An Act relating to guardianship; amending 30 O.S. 2021, Section 1-114, which relates to powers of court; authorizing court to require certain training; amending 30 O.S. 2021, Sections 3-104, 3-111, and 3-112, which relate to appointment of guardian or limited guardian; requiring verification of completion of certain training to be submitted to court; requiring completion of certain training prior to appointment as guardian for certain persons; requiring Department of Human Services to maintain certain list; updating statutory language; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 30 O.S. 2021, Section 1-114, is amended to read as follows:

Section 1-114. A. In all cases the court making the appointment of a guardian has exclusive jurisdiction to control such guardian in the management and disposition of the person and property of the ward.

B. The court has jurisdiction over guardianship proceedings, and has the following powers, which must be exercised in the manner prescribed by statute, to:

- 1           1. Appoint and remove guardians for minors and for  
2 incapacitated and partially incapacitated persons;
- 3           2. Compel any applicant for guardian to complete prerequisite  
4 training;
- 5           3. Issue and revoke letters of guardianship;
- 6           ~~3.~~ 4. Control the conduct of guardians with regard to the care  
7 and treatment provided to their wards;
- 8           ~~4.~~ 5. Control the conduct of guardians with regard to the  
9 management of the financial resources of their wards, including but  
10 not limited to the power to:
- 11           a. compel guardians to submit plans, reports, inventories  
12 and accountings to the court,
- 13           b. compel payment and delivery by guardians of property  
14 belonging to their wards,
- 15           c. order the payment of debts, the sale of property, and  
16 order and regulate the distribution of property which  
17 has been placed under the control or management of a  
18 guardian, and
- 19           d. settle the accounts of guardians;
- 20           ~~5.~~ 6. Appoint appraisers of the property of wards;
- 21           ~~6.~~ 7. Compel the attendance of witnesses and the production of  
22 documents and property;
- 23           ~~7.~~ 8. After a petition has been filed for appointment of a  
24 guardian for a minor, make or modify any temporary order of

1 guardianship during the progress of the proceedings that would be in  
2 the best interest of the ward. Any such temporary order may be  
3 entered ex parte with written notice sent to all parties directing  
4 them to appear before the court, at a time and place therein  
5 specified, not more than twenty (20) days from the time of making  
6 such order, to show cause why the order should not be granted for  
7 temporary guardianship; and

8 ~~8.~~ 9. Exercise all powers conferred by the Oklahoma  
9 Guardianship and Conservatorship Act, Section 1-101 et seq. of this  
10 title, and to make such orders as may be necessary for the exercise  
11 of ~~said~~ such powers.

12 C. The chief judge of each district court shall establish by  
13 court rule a system for:

14 1. The filing of guardianship and conservatorship cases and  
15 records which distinguish them from probate cases; and

16 2. Monitoring the filing of annual reports and inventories  
17 required by this title for the purpose of assuring that the court  
18 will be notified of annual reports as they fall due and whether or  
19 not ~~said~~ such reports are filed.

20 SECTION 2. AMENDATORY 30 O.S. 2021, Section 3-104, is  
21 amended to read as follows:

22 Section 3-104. A. The following priorities shall guide the  
23 selection by the court of a guardian or limited guardian of an  
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1 incapacitated or partially incapacitated person from among those  
2 eligible:

3 1. The individual or individuals nominated by the subject of  
4 the proceeding pursuant to Section 3-102 of this title;

5 2. The current guardian or limited guardian appointed or  
6 recognized by the appropriate court of any other jurisdiction in  
7 which the incapacitated or partially incapacitated person resides;

8 3. An individual nominated by the will or by other writing of a  
9 deceased parent, spouse, or an adult child who was serving as the  
10 guardian or limited guardian of the subject of the proceeding;

11 4. The spouse of the subject of the proceeding;

12 5. An adult child of the subject of the proceeding;

13 6. A parent of the subject of the proceeding;

14 7. A sibling of the subject of the proceeding;

15 8. Any individual approved by the court with whom the subject  
16 of the proceeding has been living for more than six (6) months prior  
17 to the filing of the petition. Provided that any owner, operator,  
18 administrator or employee of a facility subject to the provisions of  
19 the Nursing Home Care Act, the Residential Home Care Act or the  
20 Group Homes for ~~the Developmentally Disabled or Physically~~  
21 ~~Handicapped Persons Act~~ Persons with Developmental or Physical  
22 Disabilities Act shall not be appointed guardian or limited guardian  
23 of a resident of such facility unless the owner, operator,  
24 administrator or employee is the spouse of the resident, or a

1 relative of the resident within the second degree of consanguinity  
2 and is otherwise eligible for appointment; or

3 9. If applicable, an individual volunteer qualified for  
4 appointment as a guardian of a veteran pursuant to the Veterans  
5 Volunteer Guardianship Act.

6 B. When the guardian or limited guardian of an incapacitated or  
7 partially incapacitated person is the guardian of property only, the  
8 court may appoint an organization which is eligible to manage the  
9 financial resources of an individual and has fiduciary powers, or  
10 its successor in interest, when:

11 1. Such organization is nominated by the subject of the  
12 proceeding pursuant to Section 3-102 of this title;

13 2. Such organization is nominated by a person eligible to make  
14 such nomination pursuant to Section 3-103 of this title; or

15 3. The appointment of such organization is in the best interest  
16 of the subject of the proceeding.

17 C. The court shall make reasonable inquiry to determine whether  
18 the person or organization proposed to serve as the guardian or  
19 limited guardian of an incapacitated or partially incapacitated  
20 person is suitable and will exercise the powers and carry out the  
21 duties and responsibilities of guardian or limited guardian in the  
22 best interest of the ward. The court shall require verification or  
23 attestation of completion of prerequisite training specific to the  
24 needs of the ward to be filed in the case or submitted to the court

1 prior to appointment of the guardian. The court shall also inquire  
2 of the proposed guardian of the person of the ward as to how the  
3 guardian proposes to provide for the care of the ward, and of the  
4 proposed guardian of the estate of the ward as to how the guardian  
5 proposes to manage the property of the ward and to provide for the  
6 ward's financial care. The court shall make such orders with  
7 respect thereto as the court deems to be for the best interest of  
8 the ward.

9 D. A public agency shall not be appointed to serve as guardian  
10 for an adult except as provided in Section 1415 of Title 10 and  
11 Section 10-108 of Title 43A of the Oklahoma Statutes.

12 SECTION 3. AMENDATORY 30 O.S. 2021, Section 3-111, is  
13 amended to read as follows:

14 Section 3-111. A. At the hearing on the petition the court  
15 shall determine whether or not it is necessary to appoint a guardian  
16 of the person, property or both. If a guardian is needed, the court  
17 shall determine:

18 1. When a general or limited guardian of the person of the  
19 subject of the proceeding is requested, the essential requirements  
20 for the health and safety of the subject of the proceeding and the  
21 skills and knowledge necessary to meet those requirements;

22 2. When a general or limited guardian of the property of the  
23 subject of the proceeding is requested, the type and amount of the  
24 financial resources of the subject of the proceeding, the essential

1 requirements for managing the financial resources and the skills and  
2 knowledge necessary to manage the financial resources;

3 3. The nature and extent of the incapacity of the subject of  
4 the proceeding, if any; and

5 4. Whether by clear and convincing evidence the subject of the  
6 proceeding is an incapacitated or partially incapacitated person.

7 B. If after a full hearing and examination upon such petition,  
8 the court finds by clear and convincing evidence that the subject of  
9 the proceeding is an incapacitated or partially incapacitated  
10 person, the court shall determine the extent of the incapacity and  
11 the feasibility of less restrictive alternatives to guardianship to  
12 meet the needs of the subject of the proceeding. Upon such  
13 determination, the court may:

14 1. Dismiss the action if the court finds that less restrictive  
15 alternatives to guardianship are feasible and adequate to meet the  
16 needs of the subject of the proceeding; or

17 2. Appoint a guardian or limited guardian who has completed any  
18 prerequisite training specific to the needs of the ward. An order  
19 making such an appointment shall include a specific finding that it  
20 was established by clear and convincing evidence that the identified  
21 needs of the subject of the proceeding require a guardianship  
22 instead of less restrictive alternatives.

23 C. Guardianship for an incapacitated person shall be:  
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1 1. Used only as is necessary to promote and protect the well-  
2 being of the person and his or her property;

3 2. Designed to encourage the development of maximum self-  
4 reliance and independence of the person; and

5 3. Ordered only to the extent required by the actual mental,  
6 physical and adaptive limitations of the person.

7 SECTION 4. AMENDATORY 30 O.S. 2021, Section 3-112, is  
8 amended to read as follows:

9 Section 3-112. A. Whenever the court finds the subject of the  
10 proceeding to be an incapacitated person the court shall appoint:

11 1. A general guardian of the person; and

12 2. As the court determines to be necessary and appropriate, a  
13 guardian of the property of the ward.

14 B. Whenever the court finds the subject of the proceeding to be  
15 a partially incapacitated person the court shall appoint, as  
16 necessary and appropriate for ~~said~~ the person:

17 1. A limited guardian of the person; ~~or~~

18 2. A general or a limited guardian of the property of ~~said~~ the  
19 person; or

20 3. A limited guardian of the person and a general or limited  
21 guardian of the property of ~~said~~ the person.

22 C. The court may appoint the same or separate persons to serve  
23 as guardian or limited guardian of the person and guardian or  
24 limited guardian of the property of a ward.

1 D. Any person who is to serve as a guardian or limited guardian  
2 of the person or the property of a ward whom the court finds to be  
3 an incapacitated or partially incapacitated adult shall submit  
4 verification or attestation of completion of prerequisite training  
5 specific to:

6 1. Assisting persons with Alzheimer's disease, dementia, or  
7 similar neurological conditions including but not limited to  
8 understanding Alzheimer's disease, communication techniques, and  
9 resources available for care if the ward is over sixty (60) years of  
10 age, or earlier if the person is diagnosed with such a condition;

11 2. Assisting persons with developmental disabilities or similar  
12 disabilities due to injury and resources available for care if the  
13 ward has been diagnosed with such a condition; and

14 3. Assisting persons with Alzheimer's, dementia, or similar  
15 neurological conditions including but not limited to understanding  
16 Alzheimer's disease, communication techniques, and resources  
17 available for care in addition to prerequisite training specific to  
18 assisting persons with developmental disabilities or similar  
19 disabilities due to injury and resources available for care if the  
20 ward meets both age and diagnosis criteria specified in paragraphs 1  
21 and 2 of this subsection.

22 E. A list of approved training programs shall be maintained by  
23 the Department of Human Services. Programs not included on the list  
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1 must be submitted for approval to the Department prior to  
2 guardianship determination.

3 SECTION 5. This act shall become effective November 1, 2024.  
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