

HOUSE BILL No. 1023

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-3; IC 31-9-2; IC 31-15-2-5.

Synopsis: Guardian filing for dissolution of marriage. Allows a guardian, including a volunteer advocates for senior program or a volunteer advocates for incapacitated adults program, to request permission to file a petition for dissolution of marriage on behalf of a protected person. Allows the court to grant a request for permission to file a petition for a dissolution of marriage on behalf of a protected person only if the guardian proves by a preponderance of the evidence that the dissolution of marriage is in the best interests of the protected person. Provides that the guardian may not delegate the power to request permission to file a petition for dissolution. Requires the guardian to: (1) be named in a petition for dissolution of marriage; and (2) file, with the petition for dissolution of marriage, a copy of the court order granting the request for permission to file the petition.

Effective: July 1, 2014.

Mayfield

January 7, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1023



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-3-6-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) At any time after the
3 appointment of a guardian or the issuance of a protective order, any
4 person may, in person or by the person's attorney, serve upon the
5 guardian or the guardian's attorney, and file with the clerk of the court
6 where the proceedings are pending, a written request together with a
7 written admission or proof of service stating that the person desires
8 written notice of all hearings and copies of all pleadings or other papers
9 in connection with:

- 10 (1) the settlement of accounts;
- 11 (2) the sale, mortgage, lease, or exchange of any property of the
- 12 protected person;
- 13 (3) allowances of any nature payable from the protected person's
- 14 property;
- 15 (4) the investment of funds of the protected person;
- 16 **(5) a request for permission to file a petition of dissolution of**



1 **marriage on behalf of the protected person;**

2 ~~(5)~~ **(6)** the removal, suspension, or discharge of the guardian;

3 ~~(6)~~ **(7)** the final termination of the guardianship; or

4 ~~(7)~~ **(8)** any other notice or matter as specified in the request.

5 The applicant requesting special notice must include in the written
6 request the applicant's post office address or that of the applicant's
7 attorney. The court may determine that any person requesting notice
8 under this section has no interest in the proceeding, either generally or
9 with respect to a particular matter, and is not entitled to the notice
10 requested. Unless the court otherwise directs, upon filing the request,
11 the guardian or the guardian's attorney shall comply with the request.

12 (b) Failure to comply with a request for notice under this section
13 does not affect the validity of the proceeding.

14 SECTION 2. IC 29-3-8-4.5 IS ADDED TO THE INDIANA CODE
15 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
16 1, 2014]: **Sec. 4.5. (a) This section applies to a guardian of an
17 incapacitated person.**

18 **(b) A guardian may file with the court a request for permission
19 to file a petition for dissolution of marriage on behalf of the
20 protected person.**

21 **(c) The court may grant a request filed under subsection (b)
22 only if the guardian proves by a preponderance of the evidence
23 that a dissolution of marriage is in the best interests of the
24 protected person.**

25 **(d) If the court grants a request under subsection (c), the
26 guardian may file a petition for dissolution of marriage on behalf
27 of the protected person.**

28 SECTION 3. IC 29-3-8.5-4, AS AMENDED BY P.L.72-2010,
29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2014]: **Sec. 4. (a) A volunteer advocates for seniors program
31 or a volunteer advocates for incapacitated adults program may:**

32 (1) consent to medical and other professional care and treatment
33 for the incapacitated person's or senior's health and welfare;

34 (2) secure the appointment of a guardian or coguardian in another
35 state;

36 (3) take custody of the incapacitated person or senior and
37 establish the incapacitated person's or senior's residence within
38 Indiana or another state in accordance with IC 29-3-9-2;

39 (4) institute proceedings or take other appropriate action to
40 compel the performance by any person of a duty to support the
41 incapacitated person's or senior's health or welfare;

42 (5) protect and preserve the property of the incapacitated person



1 or senior and preserve any property in excess of the incapacitated
2 person's or senior's current needs; ~~and~~

3 (6) delegate to the incapacitated person or senior certain
4 responsibilities for decisions affecting the incapacitated person's
5 or senior's business affairs and well-being; ~~and~~

6 **(7) request permission to file a petition for dissolution of**
7 **marriage on behalf of the protected person as described in**
8 **IC 29-3-8-4.5.**

9 (b) A volunteer advocates for seniors program or a volunteer
10 advocates for incapacitated adults program may exercise the powers of
11 a guardian of a minor listed in IC 29-3-8-2 and IC 29-3-8-4.

12 SECTION 4. IC 29-3-9-1, AS AMENDED BY P.L.178-2011,
13 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2014]: Sec. 1. (a) **Except as provided in subsection (b)**, by
15 a properly executed power of attorney, a parent of a minor or a
16 guardian (other than a temporary guardian) of a protected person may
17 delegate to another person for:

18 (1) any period during which the care and custody of the minor or
19 protected person is entrusted to an institution furnishing care,
20 custody, education, or training; or

21 (2) a period not exceeding twelve (12) months;

22 any powers regarding support, custody, or property of the minor or
23 protected person. ~~except the power to consent to the marriage or~~
24 ~~adoption of a protected person who is a minor.~~ A delegation described
25 in this subsection is effective immediately unless otherwise stated in
26 the power of attorney.

27 **(b) A parent of a minor or a guardian of a protected person may**
28 **not delegate under subsection (a) the power to:**

29 **(1) consent to the marriage or adoption of a protected person**
30 **who is a minor; or**

31 **(2) request permission to file a petition for dissolution of**
32 **marriage on behalf of a protected person as described in**
33 **IC 29-3-8-4.5.**

34 ~~(b)~~ (c) A person having a power of attorney executed under
35 subsection (a) has and shall exercise, for the period during which the
36 power is effective, all other authority of the parent or guardian
37 respecting the support, custody, or property of the minor or protected
38 person except any authority expressly excluded in the written
39 instrument delegating the power. However, the parent or guardian
40 remains responsible for any act or omission of the person having the
41 power of attorney with respect to the affairs, property, and person of the
42 minor or protected person as though the power of attorney had never



1 been executed.

2 (e) (d) Except as otherwise stated in the power of attorney
3 delegating powers under this section, a delegation of powers under this
4 section may be revoked by a written instrument of revocation that:

5 (1) identifies the power of attorney revoked; and

6 (2) is signed by the:

7 (A) parent of a minor; or

8 (B) guardian of a protected person;

9 who executed the power of attorney.

10 SECTION 5. IC 31-9-2-49 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 49. (a) **"Guardian",**
12 **for purposes of IC 31-15-2-5, has the meaning set forth in**
13 **IC 29-3-1-6.**

14 (b) "Guardian", for purposes of the juvenile law, means a person
15 appointed by a court to have the care and custody of a child or the
16 child's estate, or both.

17 SECTION 6. IC 31-9-2-99.2 IS ADDED TO THE INDIANA CODE
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
19 1, 2014]: Sec. 99.2. **"Protected person", for purposes of**
20 **IC 31-15-2-5, has the meaning set forth in IC 29-3-1-13.**

21 SECTION 7. IC 31-15-2-5 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A petition for
23 dissolution of marriage must:

24 (1) be verified; and

25 (2) set forth the following:

26 (A) The residence of each party and the length of residence in
27 the state and county.

28 (B) The date of the marriage.

29 (C) The date on which the parties separated.

30 (D) The name, age, and address of:

31 (i) any living child less than twenty-one (21) years of age;
32 and

33 (ii) any incapacitated child;
34 of the marriage and whether the wife is pregnant.

35 (E) The grounds for dissolution of the marriage.

36 (F) The relief sought.

37 **(G) If a guardian of a protected person is filing the petition**
38 **for dissolution of marriage on behalf of the protected**
39 **person, the name and address of the guardian.**

40 (b) **If a guardian of a protected person files a petition for**
41 **dissolution of a marriage on behalf of the protected person, the**
42 **guardian shall file with the petition a copy of the court order**



1 **granting permission to file the petition for dissolution of marriage**
2 **described in IC 29-3-8-4.5.**

