

HOUSE BILL 109

N2

5lr1178

By: **Delegates Dumais and Vallario**

Introduced and read first time: January 23, 2015

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Guardianship of the Person – Disabled Persons – Attorney’s Fees**

3 FOR the purpose of authorizing a court to order payment of certain attorney’s fees in a
4 proceeding for the appointment of a guardian of the person of a disabled person under
5 certain circumstances; authorizing a court to require the deposit of a certain sum of
6 money in a certain attorney’s escrow account under certain circumstances; making
7 stylistic changes; and generally relating to attorney’s fees and actions for
8 guardianship of the person.

9 BY repealing and reenacting, with amendments,
10 Article – Estates and Trusts
11 Section 13–704 and 13–705(d)
12 Annotated Code of Maryland
13 (2011 Replacement Volume and 2014 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Estates and Trusts**

17 13–704.

18 **(A)** The court may [superintend]:

19 **(1)** **SUPERINTEND** and direct the care of a disabled person[.];

20 **(2)** [appoint] **APPOINT** a guardian of the person[.]; and

21 **(3)** [pass] **PASS** orders and decrees respecting the person as seems proper,
22 including an order:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(I) FOR PAYMENT OF NECESSARY AND REASONABLE**
2 **ATTORNEY'S FEES INCURRED IN SUCCESSFULLY PETITIONING FOR THE**
3 **APPOINTMENT OF A GUARDIAN OF THE PERSON OF A DISABLED PERSON; AND**

4 **(II) [directing] DIRECTING** the disabled person to be sent to a
5 hospital.

6 **(B)** Procedures in these cases shall be as prescribed by the Maryland Rules and
7 in accordance with the provisions of this subtitle and Title 13.5 of this article.

8 13-705.

9 (d) (1) **(I)** Subject to paragraph (2) of this subsection, unless the alleged
10 disabled person has counsel of [his] **THE PERSON'S** own choice, the court shall appoint an
11 attorney to represent [him] **THE PERSON** in the proceeding **AND MAY REQUIRE THE**
12 **DEPOSIT OF AN APPROPRIATE SUM INTO THE ATTORNEY'S ESCROW ACCOUNT**
13 **WITHIN 15 DAYS AFTER THE APPOINTMENT, SUBJECT TO FURTHER ORDER OF THE**
14 **COURT.**

15 **(II)** If the person is indigent, the State shall pay a reasonable
16 attorney's fee.

17 (2) In any action in which payment for the services of a court-appointed
18 attorney for the alleged disabled person is the responsibility of the local department of
19 social services, unless the court finds that it would not be in the best interests of the alleged
20 disabled person, the court shall:

21 (i) Appoint an attorney who has contracted with the Department of
22 Human Resources to provide those services, in accordance with the terms of the contract;
23 and

24 (ii) In an action in which an attorney has previously been appointed,
25 strike the appearance of the attorney previously appointed and appoint the attorney who
26 is currently under contract with the Department of Human Resources, in accordance with
27 the terms of the contract.

28 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
29 October 1, 2015.