

FIRST REGULAR SESSION

# HOUSE BILL NO. 978

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REEDY.

2132H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 475.120, RSMo, and to enact in lieu thereof one new section relating to powers and duties of a guardian.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 475.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 475.120, to read as follows:

475.120. 1. The guardian of the person of a minor shall be entitled to the custody and control of the ward and shall provide for the ward's education, support, and maintenance.

2. A guardian or limited guardian of an incapacitated person shall act in the best interest of the ward. A limited guardian of an incapacitated person shall have the powers and duties enumerated by the court in the adjudication order or any later modifying order.

3. The general powers and duties of a guardian of an incapacitated person shall be to take charge of the person of the ward and to ~~provide for~~ **make decisions regarding** the ward's care, treatment, habilitation, education, support and maintenance; and the powers and duties shall include, but not be limited to, the following:

(1) Assure that the ward resides in the best and least restrictive setting reasonably available;

(2) Assure that the ward receives medical care and other services that are needed;

(3) Promote and protect the care, comfort, safety, health, and welfare of the ward;

(4) Provide required consents on behalf of the ward;

(5) To exercise all powers and discharge all duties necessary or proper to implement the provisions of this section.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           4. A guardian of an adult or minor ward is not obligated by virtue of such guardian's  
18 appointment to use the guardian's own financial resources for the support of the ward. If the  
19 ward's estate and available public benefits are inadequate for the proper care of the ward, the  
20 guardian or conservator may apply to the county commission pursuant to section 475.370.

21           5. No guardian of the person shall have authority to seek admission of the guardian's  
22 ward to a mental health or intellectual disability facility for more than thirty days for any purpose  
23 without court order except as otherwise provided by law.

24           6. Only the director or chief administrative officer of a social service agency serving as  
25 guardian of an incapacitated person, or such person's designee, is legally authorized to act on  
26 behalf of the ward.

27           7. A social service agency serving as guardian of an incapacitated person shall notify the  
28 court within fifteen days after any change in the identity of the professional individual who has  
29 primary responsibility for providing guardianship services to the incapacitated person.

30           8. Any social service agency serving as guardian may not provide other services to the  
31 ward.

32           9. In the absence of any written direction from the ward to the contrary, a guardian may  
33 execute a preneed contract for the ward's funeral services, including cremation, or an irrevocable  
34 life insurance policy to pay for the ward's funeral services, including cremation, and authorize  
35 the payment of such services from the ward's resources. Nothing in this section shall interfere  
36 with the rights of next-of-kin to direct the disposition of the body of the ward upon death under  
37 section 194.119. If a preneed arrangement such as that authorized by this subsection is in place  
38 and no next-of-kin exercises the right of sepulcher within ten days of the death of the ward, the  
39 guardian may sign consents for the disposition of the body, including cremation, without any  
40 liability therefor. A guardian who exercises the authority granted in this subsection shall not be  
41 personally financially responsible for the payment of services.

42           10. Except as otherwise limited by the court, a guardian shall make decisions regarding  
43 the adult ward's support, care, education, health, and welfare. A guardian shall exercise authority  
44 only as necessitated by the adult ward's limitations and, to the extent possible, shall encourage  
45 the adult ward to participate in decisions, act on the adult ward's own behalf, and develop or  
46 regain the capacity to manage the adult ward's personal affairs.

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