

# An Act

ENROLLED HOUSE  
BILL NO. 2605

By: Conley, Echols, Munson,  
Lawson and Hasenbeck of the  
House

and

McCortney and Standridge of  
the Senate

An Act relating to guardian and ward; amending 30 O.S. 2011, Section 3-113, which relates to court order appointing guardian; including court determination for capacity of ward to receive hospice program services; amending 30 O.S. 2011, Section 3-119, which relates to limitations on guardian powers; updating act name; modifying exception for power of guardian to consent to certain procedures; and providing an effective date.

SUBJECT: Guardians

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

SECTION 1. AMENDATORY 30 O.S. 2011, Section 3-113, is amended to read as follows:

Section 3-113. A. The order appointing a guardian, based upon evidence adduced, shall set forth:

1. The determinations made by the court at the hearing;
2. The name and address of the individual, if any, appointed to serve as the limited guardian or guardian;
3. The specific limitations imposed upon the ward, if the ward is a partially incapacitated person;

4. Any authority granted a guardian of the person of the ward to change the place of abode of the ward outside of the state or county without the prior permission of the court; and

5. Whenever the court determines a review hearing is necessary or desirable, the date of the review hearing.

B. In establishing the specific limitations on the legal activities of a ward for whom a limited guardian of the person is appointed, the court shall make specific determinations regarding the capacity of the subject of the proceeding, including but not limited to determining whether the ward retains sufficient capacity:

1. To vote;

2. To serve as a juror;

3. To operate a motor vehicle;

4. To be licensed or continue to practice any profession of the ward; and

5. To make personal medical decisions including but not limited to decisions to withhold or withdraw life-sustaining procedures, to receive hospice services through a home or inpatient hospice program, to donate organs, to undergo elective surgery, or to consent to routine or necessary medical or other professional care, treatment or advice.

C. In establishing the specific limitations on the legal abilities of a ward for whom a limited guardian of the property is appointed, the court shall make specific determinations regarding the capacity of the subject of the proceeding, including but not limited to determining whether the ward retains sufficient capacity to:

1. Appoint an agent to act on his behalf;

2. Enter into contracts;

3. Grant conveyances; or

4. Make gifts of property.

D. If not submitted with the petition or at the hearing, the guardian or limited guardian shall submit a guardianship plan as required by Section 3-120 or 3-122 of this title, or both, as appropriate and a copy of said plan shall be mailed to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title. The guardianship plan as approved by the court shall be made a part of the order of the court. Said plan may be modified as provided by this act.

E. The court may, in its discretion, make such further orders as the court deems necessary for the best interest of the ward for care of the ward and maintenance or management of the ward's property, including but not limited to:

1. Order the guardian of the property of the ward to provide the ward from such property with specified amounts of money, monthly, or from time to time, which the ward may dispose of as the ward shall determine and for which, other than a showing of the amounts paid to the ward, the guardian will not be required to account. Such order may be modified upon application of the guardian or any interested person, and a hearing conducted thereon, with notice of the hearing on such application to be given to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title and shall be given as provided in Section 3-110 of this title; and

2. The amount of the bond as required by Section 4-201 of this title.

SECTION 2. AMENDATORY 30 O.S. 2011, Section 3-119, is amended to read as follows:

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

1. No guardian shall have the power to consent on behalf of the ward to the withholding or withdrawal of life-sustaining procedures as ~~defined by provided in the Oklahoma Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act from the ward, except:

- a. with specific authorization of the court having jurisdiction over the guardianship proceedings.—Such

~~authorization must be granted in a separate order and only at such time when the ward is in need of life-sustaining treatment,~~

- b. as authorized by an advance directive executed pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Advance Directive Act, ~~or~~
- c. as authorized by a consent not to resuscitate made pursuant to the Oklahoma Do-Not-Resuscitate Act, or
- d. to receive hospice services as authorized by a licensed physician who determines the ward is terminally ill, as defined in Section 1-860.2 of Title 63 of the Oklahoma Statutes;

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

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

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

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

SECTION 3. This act shall become effective November 1, 2019.

Passed the House of Representatives the 13th day of March, 2019.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 11th day of April, 2019.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_