

2024 -- H 7239

LC003762

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE -- LIMITED GUARDIANSHIP AND GUARDIANSHIP OF ADULTS

Introduced By: Representatives Cortvriend, Spears, Carson, Bennett, Knight, Ajello, Caldwell, McGaw, Kislak, and Boylan

Date Introduced: January 19, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Section 33-15-47 of the General Laws in Chapter 33-15 entitled "Limited Guardianship and Guardianship of Adults" is hereby amended to read as follows:

33-15-47. Forms.

The following forms shall be used for the purposes of this chapter:

STATE OF RHODE ISLAND PROBATE COURT OF THE
COUNTY OF COUNTY No.
ESTATE OF
PERSONAL ESTATE ESTIMATED AT \$ CITY/TOWN OF
20

PETITION FOR LIMITED GUARDIANSHIP

OR GUARDIANSHIP

hereby petitions the Probate Court of the city/town of

Petitioner

to appoint a limited guardian/guardian for who currently resides at

, in the city/town of, and whose date of birth

Address

1 is _____.

2 Based upon an assessment conducted by _____ on _____, which

3 _____ Date

4 functional assessment reflects the current level of functioning of _____, it has been

5 _____ Respondent

6 determined that _____ lacks decision-making ability in one or more of the following

7 _____ Respondent

8 areas as indicated:

9 _____ health care

10 _____ financial matters

11 _____ residence

12 _____ association

13 _____ other

14 Regarding each area indicated, please describe the specific assistance needed:

15 _____
16 _____
17 _____
18 _____
19 _____

20 Indicate which of the following less restrictive alternatives to guardianship have been explored

21 and deemed inappropriate as indicated:

22 _____ Durable Power of Attorney for Health Care

23 _____ Living Will

24 _____ Power of Attorney

25 _____ Durable Power of Attorney

26 _____ Trusts

27 _____ Joint Property Arrangements

28 _____ Representative Payee

29 _____ Money Management

30 _____ Single Court Transactions

31 _____ Government Benefit and Social Service Programs

32 _____ Housing Options

33 _____ [Supported Decision-Making, see chapter 66.13 of title 42](#)

34 _____ Other

1 Please describe the basis for the determination that the alternative will not meet the needs of the
2 respondent for each alternative explored and deemed inappropriate:

3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____

18 The following individual/agency is willing to serve as guardian:
19 _____
20 _____
21 _____

- 22 Upon information and belief the above individual/agency has:
- 23 No conflict of interest that would interfere with guardianship duties.
 - 24 No criminal background that would interfere with guardianship duties.
 - 25 The capacity to manage financial resources involved.
 - 26 The ability to meet requirements of law and unique needs of individual.
 - 27 Demonstrated willingness to undergo training.

28 The Respondent has the following heirs at law:

29 NAME:	RESIDENCE:
30 _____	_____
31 _____	_____
32 _____	_____
33 _____	_____
34 _____	_____

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Signature

Name

Address

Telephone

Subscribed and sworn to before me this as to the truth of the above facts by _____ in _____
on the _____ day of _____, 20_____.

Notary Public

Print Name

DECREE

Dated PROBATE JUDGE

This notice should be served at once and returned to the clerk of the court.

NOTICE

STATE OF RHODE ISLAND

BY THE PROBATE COURT OF THE _____ OF _____

BY THE COUNTY OF _____ AND STATE AFORESAID

To _____

Estate or _____

Docket No. _____

GREETING:

A petition for Limited Guardianship/Guardianship has been filed in the Probate Court of the
city/town of _____.

_____ has requested that the Probate Court appoint a limited
Petitioner

guardian/guardian for you.

A hearing regarding this Petition shall be held

On: _____

date

1 At: _____

2 time

3 at the Probate Court for the town of _____ .

4 _____

5 Address

6 _____

7 The Petition requests that the Probate Court consider the qualification of the following
8 individual/agency to serve as your limited guardian/guardian:

9 _____

10 _____

11 A guardian ad litem will be appointed by the Probate Court to visit you, explain the
12 process and inform you of your rights.

13 You have the right to attend the hearing to contest the petition, to request that the powers
14 of the guardian be limited or to object to the appointment of particular individual/agency limited
15 guardian/ guardian. If you wish to contest the petition, you have the right to be represented by an
16 attorney, at state expense, if you are indigent.

17 If the Petition is granted and a limited guardian/guardian is appointed, the Probate Court
18 may give the limited guardian/guardian the power to make decisions about one or more of the
19 following:

20 Your health care; your money; where you live; and with whom you associate.

21 Copies of this Notice will be mailed to:

22 The administrator of any care or treatment facility where you live or receive primary
23 services; your spouse, and heirs at law; any individual or entity known to petitioner to be regularly
24 supplying protection services to you.

25 CERTIFICATION OF SERVICE

26 I certify that I hand-delivered and read this Notice to _____ on the
27 _____ day of _____, 20_____.

28 _____

29 Signature

30 _____

31 Print Name

32 _____

33 Address

34 CERTIFICATION OF NOTICE

1 I certify that, as required by Rhode Island General Laws § 33-15-17.1(e), I mailed a copy
2 of this Notice to the following persons, at the addresses listed, on the _____ day of _____,
3 20____.

4 _____
5 Signature
6 _____
7 Print Name
8 _____
9 Address

10 Subscribed and sworn to before me this _____ day of _____, 20____.
11 _____
12 Notary Public

13 WITNESS
14 Judge of the Probate Court of the _____ of _____ this _____ day of _____,
15 20____.
16 _____
17 Clerk

18 DECISION-MAKING ASSESSMENT TOOL
19 Name of Individual being assessed: Current Address:
20 _____
21 _____
22 Date of Birth: Permanent Address (if different):
23 _____
24 _____

25 Instructions for Completion
26 This document will be used by a Probate Court to determine whether to appoint a
27 guardian to assist this individual in some or all areas of decision-making.
28 This document has two parts. Please first complete the part which is right after these
29 instructions, titled Assessment. Then complete the second section, titled Summary.
30 To a physician completing this document: The individual's treating physician must
31 complete this document. If there is any information of which the treating physician completing
32 this document does not have direct knowledge, he or she is encouraged to make such inquiries of
33 such other persons as are necessary to complete the entire form. Those persons might include
34 other medical personnel such as nurses, or other persons such as family members or social service

1 professionals who are acquainted with the individual. If the physician has received information
2 from others in completing the form, the names of those individuals must be listed on the
3 Summary.

4 To a non-physician completing this document: Professionals or other persons acquainted
5 with the individual being assessed may also complete this document. If there is information of
6 which a non-physician completing this document does not have knowledge, such non-physician
7 may either leave portions of the document blank, or also make inquiries or do such investigation
8 as is necessary to complete the entire document. Again, the names of any individual from whom
9 information is derived should be listed on the Summary.

10 The document must be signed and dated by the person completing it. It does not need to be
11 notarized.

12 A. BIOLOGICAL ASSESSMENT

13 THE FOLLOWING IS BASED UPON A PHYSICAL EXAMINATION CONDUCTED BY ME
14 ON

15 _____

16 (DATE)

17 1. DIAGNOSIS and PROGNOSIS:

18 _____
19 _____
20 _____
21 _____
22 _____

23 2. MEDICATION (PLEASE LIST):

24 _____
25 _____
26 _____
27 _____
28 _____

29 How do the above medications, if any, affect the individual's decision-making ability? Please
30 explain:

31 _____
32 _____
33 _____
34 _____

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3. CURRENT NUTRITIONAL STATUS:

B. PSYCHOLOGICAL ASSESSMENT

1. MEMORY (CIRCLE ONE)

(A) Intact; (B) Mild Impairment; (C) Moderate Impairment; (D) Severe Impairment

2. ATTENTION (CIRCLE ONE)

(A) Intact; (B) Mild Impairment; (C) Shifting/Wandering; (D) Delirium; (E) Unresponsive

3. JUDGMENT (CIRCLE ONE)

(A) Intact; (B) Able to Make Most Decisions; (C) Impaired; (D) Gross Impairment

4. LANGUAGE (CIRCLE ALL THAT APPLY)

(A) Intact (B) Sensory Deficits (Hearing/Speech/Sight)
(C) Impairment In Comprehension/Speech: Mild/Moderate/Severe
(D) Completely Unresponsive

5. EMOTION (CIRCLE ALL THAT APPLY)

(A) ANXIETY/DEPRESSION: (1) None (2) History of Anxiety/Depression
(3) Moderate Symptoms of Anxiety/Depression
(4) Severe symptoms with sleep/appetite/energy disturbance
(5) Suicide/Homicidal
(B) OTHER: (1) Suspiciousness/Belligerence/Explosiveness
(2) Delusions/Hallucinations (3) Unresponsive

If you circled any of the above, other than (A) or (1) for any of the above categories, please explain whether the situation is treatable or reversible, and if so, how:

C. SOCIAL ASSESSMENT

1. MOBILITY (CIRCLE ALL THAT APPLY)

(A) Intact/Exercises (B) Drives Car Or Uses Public Transportation (C) Independent Ambulation in Home Only; (D) Walker/Cane; (E) Requires Assistance

If you circled (C), (D), or (E), is situation treatable or reversible? If so, how?

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2. SELF CARE (CIRCLE ALL THAT APPLY)

- (A) No Assistance Needed;
 - (B) Requires Assistance with (1) Meals (2) Bathing (3) Dressing (4) Toileting/Feeding
- If you circled any of (B), is individual aware that assistance is required? _____
- Is individual willing to accept assistance? _____
- Is individual able to arrange for assistance? _____

3. CARE PLAN MAINTENANCE (CIRCLE ALL THAT APPLY)

- (A) No Active Problem; (B) Initiates Problem Identification; (C) Actively Cooperative;
- (D) Passively Cooperative; (E) Passively Uncooperative; (F) Actively Uncooperative

4. SOCIAL NETWORK RELATIONSHIPS

(CIRCLE ONE IN (A) AND IN ONE IN (B))

SUPPORT:

- (1) Very Good Supportive Network; (2) Some Support From Family And Friends; (3) No Or Limited Support From Family/Friends; (4) Needs Community Support; (5) Isolated/Homebound

(B) SOCIAL SKILLS:

- (1) Very Good Social Skills; (2) Good Social Skills; (3) Interacts With Prompting; (4) Isolated

D. SUMMARY

I hereby certify that I have reviewed sections A, B, & C attached hereto and based on such assessments that the individual's decision-making ability is as follows:

(1) PLEASE DESCRIBE AS FULLY AS YOU CAN THE INDIVIDUAL'S DECISION-MAKING ABILITY IN EACH OF THE FOLLOWING AREAS:

A. FINANCIAL MATTERS

B. HEALTH CARE MATTERS

1 _____
2 _____
3 _____
4 _____

5 **C. RELATIONSHIPS**

6 _____
7 _____
8 _____
9 _____
10 _____

11 **D. RESIDENTIAL MATTERS**

12 _____
13 _____
14 _____
15 _____
16 _____

17 (2) PLEASE INDICATE YOUR OPINION REGARDING WHETHER THE INDIVIDUAL
18 NEEDS A SUBSTITUTE DECISION-MAKER IN ANY OF THE FOLLOWING AREAS:
19 (Circle one for each category. If you circle "limited" for any category, please explain.)

20 (1) FINANCIAL MATTERS	Yes	No	Limited
21 _____			
22 _____			
23 _____			
24 _____			
25 _____			

26 (2) HEALTH CARE MATTERS	Yes	No	Limited
27 _____			
28 _____			
29 _____			
30 _____			
31 _____			

32 (3) RELATIONSHIPS	Yes	No	Limited
33 _____			
34 _____			

1 _____
 2 _____
 3 _____

4 (4) RESIDENTIAL MATTERS Yes No Limited

5 _____
 6 _____
 7 _____
 8 _____
 9 _____

10 (5) OTHER: If there are any other areas in which you think the individual lacks decision-making
 11 ability or has limited decision-making ability, please explain.

12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____

18 Signature

19 _____
 20 Name (Print or Type)

21 _____
 22 Title

23 _____
 24 Date

25 _____
 26 Names and titles of others who assisted in Preparation of This Assessment.
 27 _____
 28 _____
 29 _____
 30 _____
 31 _____

32 STATE OF RHODE ISLAND PROBATE COURT OF THE
 33 COUNTY OF _____
 34 Estate of _____ Docket No. _____

ANNUAL STATUS REPORT

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(1) The residence of the ward is _____

(2) The medical condition of the ward is:

(3) I perceive the following changes in the decision making capacity of the ward:

(4) The following is a summary of the actions I have taken and decisions I have made on behalf of the ward during the last year:

(If more space is needed, please attach a supplement).

Guardian

Date

STATE OF RHODE ISLAND
COUNTY OF _____
(Estate Name)

PROBATE COURT OF
THE _____

Probate Court No. _____

REPORT OF THE GUARDIAN AD LITEM

Now comes (Name of Guardian Ad Litem) for (Name of Proposed Ward) and reports that on (Date), I personally visited the proposed ward at (Address). I explained to (Name of Proposed Ward) the following:

* The nature, purpose, and legal effect of the appointment of a guardian;

* The hearing procedure, including, but not limited to, the right to contest the petition, to request limits on the guardian's powers, to object to a particular person being appointed guardian, to be present at the hearing, and to be represented by legal counsel;

* The name of the person known to be seeking appointment as guardian:

Based on such visit and the respondent's reaction thereto, I make the following

1 determination regarding the respondent's desire to be present at the hearing, to contest the
2 petition, to have limits placed on the guardian's powers and respondent's objection, if any, to a
3 particular person being appointed as guardian.

4 _____
5 _____
6 _____
7 _____

8 Based on my review of the petition, the decision making assessment tool, my interview
9 with the prospective guardian, my visit with the respondent, and interviews and discussions with
10 other parties, I made the following additional determinations:

11 Regarding whether the respondent is in need of a guardian of the type prayed for in the
12 petition:

13 _____
14 _____
15 _____
16 _____

17 Regarding whether the guardian ad litem has, in the course of fulfilling his or her duties,
18 discovered information concerning the suitability of the individual or entity to serve as such
19 guardian:

20 _____
21 _____
22 _____
23 _____

24 Respectfully submitted,

25 Date: _____

(Name of Guardian Ad Litem)

27 SECTION 2. This act shall take effect upon passage.

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LC003762
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PROBATE PRACTICE AND PROCEDURE -- LIMITED GUARDIANSHIP
AND GUARDIANSHIP OF ADULTS

1 This act would provide that supported decision-making pursuant to chapter 66.13 of title
2 42 be added to the Limited Guardianship and Guardianship of Adults forms section as one of the
3 less restrictive alternatives to guardianship that have been explored.

4 This act would take effect upon passage.

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