

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1000
Judiciary

(Delegate Pippy)

Judicial Proceedings

**Estates and Trusts - Guardian of Property of Minor or Disabled Person -
Prohibition on Distribution or Disbursement**

This bill prohibits a guardian of the property of a minor or disabled person, who is not a family member of the minor or disabled person, from distributing or disbursing property without court authorization or confirmation if the distribution or disbursement would financially benefit (1) the guardian (except for specified reasonable compensation and reimbursement for expenses) or (2) a family member of the guardian. A guardian who violates this prohibition is liable for breach of the guardian’s fiduciary duty to the minor or disabled person or to interested persons for resulting damage or loss to the same extent as a trustee of an express trust. “Family member” means a child, parent, spouse, grandparent, brother, sister, uncle, or aunt by blood, adoption, or marriage.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State government operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law: The appointment and qualification of a guardian of the property of a minor or disabled person vests in the guardian title to all property of the minor or protected person that is held at the time of the appointment or acquired later. A guardian must utilize powers

conferred by statute to perform services, exercise discretion, and discharge the guardian's duties for the best interest of the minor or disabled person or the minor or disabled person's dependents. A guardian must exercise the care and skill of a person of ordinary prudence dealing with the person's own property in the administration of the estate and the guardian's powers. Subject to exceptions, the guardian is entitled to the same compensation and reimbursement for actual and necessary expenses as the trustee of a trust.

A guardian may petition the appointing court for permission to act in any matter relating to the administration of the estate. Upon hearing, after notice, and upon good cause shown, the court may issue an appropriate order.

A guardian of a minor may, without court authorization or confirmation, pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and education of the minor. A guardian of a disabled person may, without court authorization or confirmation, pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and rehabilitation of the disabled person. Income and principal also may be paid or applied, without court authorization or confirmation, for the benefit of persons legally dependent upon the minor or disabled person. With the approval of a court, income and principal may also be paid or applied for the benefit of other persons maintained and supported in whole or in part by the disabled person prior to the appointment of a guardian.

If a guardian's exercise of a power is improper, the guardian is liable for breach of the guardian's fiduciary duty to the minor or disabled person or to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2021
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