

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1165

(Delegate Saab, *et al.*)

Health and Government Operations

Judicial Proceedings

Estates - Duties of Guardian of the Person - Fostering and Preserving Family Relationships

This bill expands the duties that a court may confer on a guardian of the person of a disabled person to include, if it is in the best interest of the disabled person, the duty to foster and preserve family relationships including, as appropriate, assisting to arrange visitation and communication through telephone calls, personal mail, and electronic communications.

Fiscal Summary

State Effect: None. The change is technical in nature and does not directly affect governmental finances.

Local Effect: None. The change is technical in nature and does not directly affect local governmental finances.

Small Business Effect: None.

Analysis

Current Law: The court may (1) superintend and direct the care of a disabled person; (2) appoint a guardian of the person; and (3) pass orders and decrees respecting the person as seems proper. On petition and after any required notice or hearing, a guardian of the person of a disabled person is appointed if the court determines from clear and convincing evidence that (1) the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or drug addiction and (2) no less restrictive form of intervention is available

which is consistent with the person's welfare and safety. Statutory provisions set forth procedures for granting guardianship, including authorizing the director of a local department of social services, the Secretary of Aging, or the director of the local area on aging to be appointed as guardian if there are no other suitable alternatives.

A court may grant to a guardian of the person of a disabled person only those powers necessary to provide for the demonstrated need of the disabled person. A court may appoint a guardian of the person of a disabled person for the limited purpose of decisions related to health care, as specified, or for a limited period of time, as specified. Subject to these limitations, the court order may include specified rights, duties, and powers. Among these, the court may delegate the duty to provide for the disabled person's care, comfort, and maintenance (including social, recreational, and friendship requirements) and the duty to take reasonable care of the personal effects of the disabled person, including the initiation of protective proceedings, if necessary.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Aging; Baltimore City; Montgomery County; Judiciary (Administrative Office of the Courts); Department of Human Resources; Department of Legislative Services

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