

20107204D

HOUSE BILL NO. 304

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice on February 5, 2020)

(Patron Prior to Substitute—Delegate Hope)

A BILL to amend and reenact §§ 64.2-2002 and 64.2-2014 of the Code of Virginia, relating to guardianship and conservatorship petitions; identifying characteristics of respondent; petition contents.

Be it enacted by the General Assembly of Virginia:

1. That §§ 64.2-2002 and 64.2-2014 of the Code of Virginia are amended and reenacted as follows: § 64.2-2002. Who may file petition; contents.

A. Any person may file a petition for the appointment of a guardian, a conservator, or both.

B. A petition for the appointment of a guardian, a conservator, or both, shall state the petitioner's name, place of residence, post office address, and relationship, if any, to the respondent and, to the extent known as of the date of filing, shall include the following:

1. The respondent's name, date of birth, place of residence or location, post office address, and the sealed filing of the social security number;

1a. A statement as to whether the respondent may pose a threat of harm to himself or to others. If such a statement is included in the petition, the petition shall further include the sealed filing of such respondent's sex, height, weight, hair color, eye color, and state of birth;

2. The basis for the court's jurisdiction under the provisions of Article 2 (§ 64.2-2105 et seq.) of Chapter 21;

3. The names and post office addresses of the respondent's spouse, adult children, parents, and adult siblings or, if no such relatives are known to the petitioner, at least three other known relatives of the respondent, including stepchildren. If a total of three such persons cannot be identified and located, the petitioner shall certify that fact in the petition, and the court shall set forth such finding in the final order;

4. The name, place of residence or location, and post office address of the individual or facility, if any, that is responsible for or has assumed responsibility for the respondent's care or custody;

5. The name, place of residence or location, and post office address of any agent designated under a durable power of attorney or an advance directive of which the respondent is the principal, and any guardian, committee, or conservator currently acting, whether in this state or elsewhere, and the petitioner shall attach a copy of any such durable power of attorney, advance directive, or order appointing the guardian, committee, or conservator, if available;

6. The type of guardianship or conservatorship requested and a brief description of the nature and extent of the respondent's alleged incapacity;

7. When the petition requests appointment of a guardian, a brief description of the services currently being provided for the respondent's health, care, safety, or rehabilitation and, where appropriate, a recommendation as to living arrangements and treatment plan;

8. If the appointment of a limited guardian is requested, the specific areas of protection and assistance to be included in the order of appointment and, if the appointment of a limited conservator is requested, the specific areas of management and assistance to be included in the order of appointment;

9. The name and post office address of any proposed guardian or conservator or any guardian or conservator nominated by the respondent and that person's relationship to the respondent;

10. The native language of the respondent and any necessary alternative mode of communication;

11. A statement of the financial resources of the respondent that shall, to the extent known, list the approximate value of the respondent's property and the respondent's anticipated annual gross income, other receipts, and debts;

12. A statement of whether the petitioner believes that the respondent's attendance at the hearing would be detrimental to the respondent's health, care, or safety; and

13. A request for appointment of a guardian ad litem.

§ 64.2-2014. Clerk to index findings of incapacity or restoration; notice of findings.

A. A copy of the court's findings that a person is incapacitated or has been restored to capacity, or a copy of any order appointing a conservator or guardian pursuant to § 64.2-2115, shall be filed by the judge with the clerk of the circuit court for the county or city where the hearing took place as soon as practicable, but no later than the close of business on the next business day following the completion of the hearing. The clerk shall properly index the findings in the index to deed books by reference to the order book and page whereon the order is spread and shall immediately notify the Commissioner of Behavioral Health and Developmental Services in accordance with § 64.2-2028, the commissioner of

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60 accounts in order to ensure compliance by a conservator with the duties imposed pursuant to  
61 §§ 64.2-2021, 64.2-2022, 64.2-2023, and 64.2-2026, and the Commissioner of Elections with the  
62 information required by § 24.2-410. If a guardian is appointed, the clerk shall forward a copy of the  
63 court order to the local department of social services of the jurisdiction where the person then resides  
64 and to the Department of Medical Assistance Services. If a guardianship is terminated or otherwise  
65 modified, the clerk shall forward a copy of the court order to the local department of social services to  
66 which the original order of appointment was forwarded, to the local department of social services in the  
67 jurisdiction where the person then resides, if different from the department to which the original order  
68 was forwarded, and to the Department of Medical Assistance Services.

69 B. The clerk shall, as soon as practicable, but no later than the close of business on the following  
70 business day, certify and forward upon receipt to the Central Criminal Records Exchange, on a form  
71 provided by the Exchange, *(i) the respondent's name, date of birth, place of residence or location, post*  
72 *office address, and the sealed filing of the social security number, (ii) if the petition filed pursuant to*  
73 *§ 64.2-2002 included a statement that the respondent may pose a threat of harm to himself or to others,*  
74 *the sealed filing of such respondent's sex, height, weight, hair color, eye color, and state of birth, (iii) a*  
75 *copy of any order adjudicating a person incapacitated under this article, (iv) any order appointing a*  
76 *conservator or guardian pursuant to § 64.2-2115, and (v) any order of restoration of capacity under*  
77 *§ 64.2-2012. Except as provided in subdivision A 1 of § 19.2-389, the copy of the form and the order*  
78 *shall be kept confidential in a separate file and used only to determine a person's eligibility to possess,*  
79 *purchase, or transfer a firearm.*