

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 16

An Act to amend and reenact §§ 64.2-2002 and 64.2-2005 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 64.2-2000.1, relating to guardianship and conservatorship; identifying information; separate confidential addendum.

[H 2383]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 64.2-2002 and 64.2-2005 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 64.2-2000.1 as follows:

§ 64.2-2000.1. Identifying information; separate confidential addendum.

Any petition, pleading, motion, order, or report filed under this chapter, including any transcripts, shall not contain any financial information relating to the financial resources of the respondent, including the respondent's anticipated annual gross income, other receipts, or debts, nor any other financial information that provides identifying account numbers for any asset, liability, account, or credit card of the respondent. Such information shall be contained in a separate confidential addendum filed by (i) a guardian ad litem appointed pursuant to § 64.2-2003, (ii) an attorney, or (iii) a party.

Such separate confidential addendum shall be used to distribute the information only as required by law. Such addendum shall otherwise be made available only to the parties, including any adult individual or entity that becomes a party by filing a pleading with the circuit court in which the guardianship or conservatorship case is pending; their attorneys; the guardian ad litem appointed pursuant to § 64.2-2003 to represent the respondent; the commissioner of accounts or assistant commissioner of accounts for the circuit court that has jurisdiction over the guardianship or conservatorship; and such other persons as the court in its discretion may allow for good cause shown. The attorney, party, or guardian ad litem who prepares or submits a petition, pleading, motion, order, or report shall ensure that any information protected pursuant to this section is removed prior to filing with the clerk and that any separate confidential addendum is incorporated by reference into the petition, pleading, motion, order, or report.

§ 64.2-2002. Who may file petition; contents.

A. Any person, including a community services board and any other local or state governmental agency, 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;

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, *contained in a separate confidential addendum, pursuant to § 64.2-2000.1*;

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.

§ 64.2-2005. Evaluation report; filed in separate confidential addendum.

A. A report evaluating the condition of the respondent shall be filed, ~~under seal,~~ with the court *in a separate confidential addendum* and provided, *within a reasonable time prior to the hearing on the petition*, to the guardian ad litem, the respondent, and ~~all adult individuals and all entities to whom notice is required under subsection C of § 64.2-2004~~ *within a reasonable time prior to the hearing on the petition* any other person or entity that becomes a party to the action. The report shall be prepared by one or more licensed physicians or psychologists or licensed professionals skilled in the assessment and treatment of the physical or mental conditions of the respondent as alleged in the petition. If a report is not available, the court may proceed to hold the hearing without the report for good cause shown, absent any objection by the guardian ad litem, or may order a report and delay the hearing until the report is prepared, filed, and provided.

B. The report shall evaluate the condition of the respondent and shall contain, to the best information and belief of its signatory:

1. A description of the nature, type, and extent of the respondent's incapacity, including the respondent's specific functional impairments;

2. A diagnosis or assessment of the respondent's mental and physical condition, including a statement as to whether the individual is on any medications that may affect his actions or demeanor, and, where appropriate and consistent with the scope of the evaluator's license, an evaluation of the respondent's ability to learn self-care skills, adaptive behavior, and social skills and a prognosis for improvement;

3. The date or dates of the examinations, evaluations, and assessments upon which the report is based; and

4. The signature of the person conducting the evaluation and the nature of the professional license held by that person.

C. In the absence of bad faith or malicious intent, a person performing the evaluation shall be immune from civil liability for any breach of patient confidentiality made in furtherance of his duties under this section.

D. A report prepared pursuant to this section shall be admissible as evidence in open court of the facts stated in the report and the results of the examination or evaluation referred to in the report, unless counsel for the respondent or the guardian ad litem objects.