

LD8576152

## HOUSE BILL NO. 1920

Offered January 20, 1995

A BILL to amend the Code of Virginia by adding a section numbered § 37.1-132.1, relating to alternate procedure for temporary guardianship orders.

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Patron—Murphy

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered § 37.1-132.1 as follows:**

§ 37.1-132.1. Alternate procedure for temporary guardianship order.

A. Notwithstanding the requirements of § 37.1-132, if a person alleged to be incapable of taking care of himself, or his estate, is a patient in any hospital, nursing facility or nursing home, convalescent home, state hospital for the mentally ill or other similar institution, a petition for the appointment of a temporary guardian for such person may be prosecuted before a special justice appointed by the circuit court in accordance with § 37.1-88 for the jurisdiction in which such person is located.

B. Such petition shall be governed by the same procedures, and any guardian appointed under this section shall have the same rights and duties as a guardian appointed under § 37.1-132, except as follows:

1. The guardian's rights and duties over the person, property, estate and income of the incapacitated person under this section shall extend only insofar as reasonably necessary to provide for the incapacitated person's discharge from, admission to, or continued care in, a suitable home, which may include the person's own home, or any hospital, nursing facility, nursing home, group home, private home, licensed home for adults, convalescent home, state hospital for the mentally ill or other similar institution.

2. Any guardianship conferred under this section shall expire 130 days following the appointment of the guardian, unless extended by a circuit court in a proceeding conducted pursuant to § 37.1-128.1 or § 37.1-132.

3. Unless required by the special justice, the petitioner shall not be required to provide notice to any person other than the person who is the subject of the guardianship proceeding.

4. The person alleged to be incapacitated shall not be entitled to jury trial under this section.

5. Any hearing under this section shall be conducted within the time required for hearing upon a civil temporary detention order issued pursuant to § 37.1-67.3, and the hearing shall be conducted in the presence of the alleged incapacitated person.

6. Any person for whom a temporary guardian is appointed under this section may appeal the order within thirty days to the circuit court which appointed the special justice who conducted the hearing, or to any circuit court in which an original petition for guardianship under § 37.1-132 may properly be filed. The circuit court shall hear the matter de novo, and may suspend the judgment of the special justice or require that bond, either secured or unsecured, be given to protect the estate of the appellant pending the appeal.

C. The special justice conducting the hearing shall be entitled to a fee of \$100. The guardian ad litem shall be entitled to a fee of \$100. Such fees shall be paid from the same fund which provides for payment for hearings pursuant to §§ 37.1-67.1 through 37.1-67.4.

INTRODUCED

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