Missouri Revised Statutes

Chapter 475
Probate Code--Guardianship

←475.050 (/mostatutes/stathtml/47500000501.html)

Section 475.055.1

475.060→ (/mostatutes/stathtml/47500000601.html)

August 28, 2016

Qualifications of guardians or conservators.

475.055. 1. Except as herein otherwise provided:

(1) Any adult person may be appointed guardian of the person or conservator of the estate, or both, of a minor or incapacitated or disabled person, except that a parent shall not be denied appointment as guardian of the person of a minor for the reason that the parent is a minor;

(2) Any charitable organization organized and incorporated as a not-for-profit corporation under the laws of this state prior to January 1, 1902, shall be qualified to continue to serve as guardian of the person of any ward for whom such charitable organization has been appointed guardian of the person prior to September 28, 1983, or to be appointed guardian of the person or persons adjudicated incapacitated subsequent to September 28, 1983;

(3) Any social service agency located within a county of the first classification or within a city not within a county except any county of the first classification without a charter form of government with a population of one hundred thousand or more inhabitants which contains all or part of a city with a population of three hundred fifty thousand or more inhabitants, which is found capable by the court of providing an active and suitable program of guardianship for the incapacitated person, taking into consideration the nature of such person's disability and the nature of such organization's services, may be appointed as guardian of the person; however, no social service agency shall be appointed as guardian of the person under this subdivision unless it employs a licensed professional found by the court to have sufficient expertise to meet the needs of the ward, and it is found by the court that such professional shall have primary responsibility for providing guardianship services to the incapacitated person for which such social service agency is appointed guardian. The court shall not appoint as guardian of the person under this subdivision a social service agency which is providing residential services to the ward;

(4) Any corporation authorized to do business in this state and empowered by its charter so to act or any national banking association authorized so to act in this state may be appointed conservator of the estate of a minor or disabled person. No corporation other than a social service agency may be appointed to serve as guardian of the incapacitated person.

2. No person or corporation, other than the public administrator of the county, shall be appointed guardian or conservator unless the appointee has filed a consent to act. Except as otherwise provided by this section, no person or corporation licensed as a facility by the Missouri department of mental health or the Missouri department of social services, nor any administrator, owner, operator, manager or employee of such a facility shall be appointed guardian of the person or conservator of the estate of any resident of that facility, unless related within the fourth degree of consanguinity or affinity to the resident. No full-time judge of any court of this state and no clerk, deputy clerk or division clerk shall be appointed as guardian of the person or conservator of the estate, but a judge, clerk, deputy clerk or division clerk may serve as a guardian or conservator for a ward or protectee who is a spouse or is within the third degree of relationship by consanguinity or affinity as calculated according to civil law. No natural person under eighteen years of age, other than as provided in subsection 1 of this section, no incapacitated or disabled person, and no habitual drunkard shall be appointed guardian of the person or conservator of the estate. No person whose letters of guardianship or conservatorship are revoked shall be appointed guardian or conservator within two years after the revocation. No one shall be appointed guardian of the person or conservator of the estate unless qualified to perform the duties of said office or offices.

3. A person becomes a guardian or conservator of a minor or incapacitated or disabled person upon issuance of letters of guardianship or conservatorship by the court. A person so appointed need not reside within this state in order to accept or serve as guardian or conservator, unless the court finds that such person, taking into consideration his place of residence, is unable to effectively perform the duties of guardian or conservator as provided by this code. The guardianship or conservatorship status continues until terminated, without regard to the location from time to time, whether within or outside of this state, of the guardian and ward or conservator and protectee.

4. Subsections 3 and 4 of section 473.117 (/mostatutes/stathtml/47300001171.html), section 473.689 (/mostatutes/stathtml/47300006891.html), and section 475.338 (/mostatutes/stathtml/47500003381.html) are applicable to nonresident guardians and conservators.

5. If a social service agency is appointed to act as guardian under this section, any other eligible person listed in subdivision (3) of subsection 1 of section 475.050 (/mostatutes/stathtml/47500000501.html) may petition the court to have the social service agency removed as guardian. The court shall grant the petition if it finds that the petitioner is qualified and will act in the best interests of the disabled or incapacitated person. The removal of a social service agency under such circumstances does not require evidence that the agency committed acts of misfeasance warranting the agency's removal pursuant to section 475.110 (/mostatutes/stathtml/47500001101.html).

6. A social service agency acting as a guardian pursuant to subdivision (4) of subsection 1 of this section may only authorize the withholding or withdrawal of artificially provided nutrition or hydration as prescribed under section 404.820 (/mostatutes/stathtml/40400008201.html).

(L. 1955 p. 385 § 292, A.L. 1957 p. 829, A.L. 1978 H.B. 1634, A.L. 1979 H.B. 95, A.L. 1983 S.B. 44 & 45, A.L. 1987 H.B. 637, A.L. 1994 S.B. 734)

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