

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1340*
Judiciary II Committee Substitute Adopted 6/6/00

Short Title: Guardianship Revisions.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE STATUS OF A GUARDIAN OF THE PERSON OF A
3 JUVENILE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 7B-600 reads as rewritten:

6 "**§ 7B-600. Appointment of guardian.**

7 (a) In any case when no parent appears in a hearing with the juvenile or when the
8 court finds it would be in the best interests of the juvenile, the court may appoint a
9 guardian of the person for the juvenile. The guardian shall operate under the supervision
10 of the court with or without bond and shall file only such reports as the court shall
11 require. The guardian shall have the care, custody, and control of the juvenile or may
12 arrange a suitable placement for the juvenile and may represent the juvenile in legal
13 actions before any court. The guardian may consent to certain actions on the part of the
14 juvenile in place of the parent including (i) marriage, (ii) enlisting in the armed forces,
15 and (iii) enrollment in school. The guardian may also consent to any necessary remedial,
16 psychological, medical, or surgical treatment for the juvenile. The authority of the
17 guardian shall continue until the guardianship is terminated by court order, until the
18 juvenile is emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until
19 the juvenile reaches the age of majority.

1 (b) In any case where the court has determined that the appointment of a relative
2 or other suitable person as guardian of the person for a juvenile is in the best interest of
3 the juvenile and has also made findings in accordance with G.S. 7B-907 that
4 guardianship is the permanent plan for the juvenile, the court may not terminate the
5 guardianship or order that the juvenile be reintegrated into a parent's home unless the
6 court finds that the relationship between the guardian and the juvenile is no longer in the
7 juvenile's best interest, or finds that the guardian is unfit, that the guardian has neglected
8 a guardian's duties, or that the guardian is unwilling or unable to continue assuming a
9 guardian's duties. If a party files a motion or petition pursuant to G.S. 7B-906(b)(4), 7B-
10 906(b)(5), or 7B-1000, the court may, prior to conducting a review hearing, do one or
11 more of the following:

- 12 (1) Order the county department of social services to conduct an
13 investigation and file a written report of the investigation regarding the
14 performance of the guardian of the person for the juvenile and give
15 testimony concerning its investigation.
- 16 (2) Utilize the community resources in behavioral sciences and other
17 professions in the investigation and study of the guardian's fitness or
18 ability to continue assuming a guardian's duties and consider their
19 recommendations for the disposition of the motion or petition.
- 20 (3) Ensure that a guardian ad litem has been appointed for the juvenile in
21 accordance with G.S. 7B-601 and has been notified of the pending
22 motion or petition.
- 23 (4) Take any other action necessary in order to make a determination in a
24 particular case."

25 Section 2. G.S. 7B-906(b) reads as rewritten:

26 "(b) Notwithstanding other provisions of this Article, the court may
27 waive the holding of review hearings required by subsection (a) of this section, may
28 require written reports to the court by the agency or person holding custody in lieu of
29 review hearings, or order that review hearings be held less often than every six months, if
30 the court finds by clear, cogent, and convincing evidence that:

- 31 (1) The juvenile has resided with a relative or has been in the custody of
32 another suitable person for a period of at least one year;
- 33 (2) The placement is stable and continuation of the placement is in the
34 juvenile's best interests;
- 35 (3) Neither the juvenile's best interests nor the rights of any party require
36 that review hearings be held every six months;
- 37 (4) All parties are aware that the matter may be brought before the court for
38 review at any time by the filing of a motion for review or on the court's
39 own motion; and
- 40 (5) The court order has designated the relative or other suitable person as
41 the juvenile's permanent caretaker or guardian of the person.

42 The court may not waive or refuse to conduct a review hearing if a party
43 files a motion seeking the review. However, if a guardian of the person

1 has been appointed for the juvenile and the court has also made finding
2 in accordance with G.S. 7B-907 that guardianship is the permanent plan
3 for the juvenile, the court shall proceed in accordance with G.S. 7B-
4 600(b)."

5 Section 3. G.S. 7B-1000(a) reads as rewritten:

6 "(a) Upon motion in the cause or petition, and after notice, the court may conduct a
7 review hearing to determine whether the order of the court is in the best interests of the
8 juvenile, and the court may modify or vacate the order in light of changes in
9 circumstances or the needs of the juvenile. Notwithstanding the provision of this
10 subsection, if a guardian of the person has been appointed for the juvenile and the court
11 has also made findings in accordance with G.S. 7B-907 that guardianship is the
12 permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-
13 600(b)."

14 Section 4. This act becomes effective October 1, 2000.