

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1340*

Short Title: Guardianship Revisions.

(Public)

Sponsors: Senators Wellons, Martin of Guilford; and Carpenter.

Referred to: Judiciary II.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE STATUS OF A GUARDIAN OF THE PERSON OF A JUVENILE.

The General Assembly of North Carolina enacts:

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

"§ 7B-600. Appointment of guardian.

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

1 (b) In any case where the court has appointed a relative or other suitable person as
2 guardian of the person for a juvenile and has also made findings in accordance with G.S.
3 7B-907 that guardianship is the permanent plan for the juvenile, the court may not
4 terminate the guardianship or order that the juvenile be reintegrated into a parent's home
5 unless the court finds that the guardian is unfit, or has neglected a guardian's duties, or is
6 unwilling or unable to continue assuming a guardian's duties. If a party files a motion or
7 petition pursuant to G.S. 7B-906(b)(4), 7B-906(b)(5), or 7B-1000, the court may, prior to
8 conducting a review hearing, do one or more of the following:

9 (1) Order the county department of social services to conduct an
10 investigation and file a written report of the investigation regarding the
11 performance of the guardian of the person for the juvenile and give
12 testimony concerning its investigation.

13 (2) Utilize the community resources in behavioral sciences and other
14 professions in the investigation and study of the guardian's fitness or
15 ability to continue assuming a guardian's duties and consider their
16 recommendations for the disposition of the motion or petition.

17 (3) Ensure that a guardian ad litem has been appointed for the juvenile in
18 accordance with G.S. 7B-601 and has been notified of the pending
19 motion or petition.

20 (4) Take any other action necessary in order to make a determination in a
21 particular case."

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

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

28 (1) The juvenile has resided with a relative or has been in the custody of
29 another suitable person for a period of at least one year;

30 (2) The placement is stable and continuation of the placement is in the
31 juvenile's best interests;

32 (3) Neither the juvenile's best interests nor the rights of any party require
33 that review hearings be held every six months;

34 (4) All parties are aware that the matter may be brought before the court for
35 review at any time by the filing of a motion for review or on the court's
36 own motion; and

37 (5) The court order has designated the relative or other suitable person as
38 the juvenile's permanent caretaker or guardian of the person.

39 The court may not waive or refuse to conduct a review hearing if a party
40 files a motion seeking the review. However, if a guardian of the person
41 has been appointed for the juvenile and the court has also made finding
42 in accordance with G.S. 7B-907 that guardianship is the permanent plan

1 for the juvenile, the court shall proceed in accordance with G.S. 7B-
2 600(b)."

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

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

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