

§5-310. Order of appointment

1. Order contents. A court order appointing a guardian for an adult must:

A. Include a finding that clear and convincing evidence has established that the basis for an appointment of a guardian, as required under section 5-301, has been met; and [PL 2019, c. 417, Pt. A, §35 (AMD).]

B. Include a finding that clear and convincing evidence established that the respondent was given proper notice of the hearing on the petition. [PL 2019, c. 417, Pt. A, §35 (AMD).]

C. [PL 2019, c. 417, Pt. A, §35 (RP).]

D. [PL 2019, c. 417, Pt. A, §35 (RP).]

[PL 2019, c. 417, Pt. A, §35 (AMD).]

2. Rights retained. An adult subject to guardianship retains the following rights:

A. The right to vote, unless the court orders otherwise. A court order removing the right to vote must include a finding that the adult cannot communicate, with or without support, a specific desire to participate in the voting process; [PL 2021, c. 500, §1 (NEW).]

B. The right to marry, unless the court orders otherwise. A court order removing the right to marry or placing conditions on the right to marry must include findings that support the removal of the right to marry or support conditions on the right to marry; and [PL 2021, c. 500, §1 (NEW).]

C. The right to retain an attorney for any reason and to communicate freely with counsel, the court, an ombudsman or any advocate for the adult subject to guardianship, including an advocate of the adult subject to guardianship's choosing or a person authorized by law to advocate for the adult subject to guardianship. A person may not interfere with the right of an adult subject to guardianship to retain an attorney or communicate as described in this paragraph. [PL 2021, c. 500, §1 (NEW).]

[PL 2021, c. 500, §1 (RPR).]

3. Basis for full guardianship. A court order establishing a full guardianship for an adult clearly must state the basis for granting a full guardianship and include specific findings that support the conclusion that a limited guardianship would not meet the functional needs of the adult subject to guardianship.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Limited guardianship; powers granted to guardian. A court order establishing a limited guardianship for an adult must state clearly the powers granted to the guardian.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Notice; access to reports and plans. The court shall, as part of any order establishing a guardianship for an adult, identify any person that subsequently is entitled to:

A. Notice of the rights of the adult subject to guardianship; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Notice of a change in the primary dwelling of the adult subject to guardianship; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Notice that the guardian has delegated:

(1) The power to manage the care of the adult subject to guardianship;

(2) The power to make decisions about where the adult subject to guardianship lives;

(3) The power to make major medical decisions on behalf of the adult subject to guardianship;

(4) Any power that requires court approval under section 5-315; or

- (5) Substantially all powers of the guardian. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
- D. Notice that the guardian will be unable to perform the guardian's duties for more than one month; [PL 2019, c. 417, Pt. A, §36 (AMD).]
- E. A copy of the guardian's report and plan; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
- F. Access to court records pertaining to the guardianship; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
- G. Notice of the death or significant change in the condition of the adult subject to guardianship; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
- H. Notice that the court has limited or modified the powers of the guardian; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
- I. Notice of the guardian's removal. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
- [PL 2019, c. 417, Pt. A, §36 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Entitled to notice; exceptions. A spouse, a domestic partner and the adult children of the adult subject to guardianship are entitled to notice under subsection 5 unless the court determines notice would be contrary to the preferences or prior directions of the adult subject to guardianship or not in the best interest of the adult.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §§35, 36 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 500, §1 (AMD).

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