

§5-304. Appointment of visitor

1. Appointment of visitor. On receipt of a petition for appointment of a guardian for a respondent who is an adult under section 5-302, the court shall appoint a visitor. The visitor must be an individual having training or experience in the type of abilities, limitations and needs alleged in the petition. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Interview with respondent. A visitor appointed under subsection 1 shall interview the petitioner and the proposed guardian and shall interview the respondent in person and, in a manner the respondent is best able to understand:

A. Explain to the respondent the substance of the petition, the nature, purpose and effect of the proceeding, the respondent's rights at the hearing and the general powers and duties of a guardian; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Determine the respondent's views about the appointment, including views about a proposed guardian, the guardian's proposed powers and duties and the scope and duration of the proposed guardianship, and general preferences and values; [PL 2019, c. 417, Pt. A, §23 (AMD).]

C. Inform the respondent of the respondent's right to employ and consult with an attorney at the respondent's expense and the right to request a court-appointed attorney; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Inform the respondent that all costs and expenses of the proceeding, including the respondent's attorney's fees, may be paid from the respondent's assets. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2019, c. 417, Pt. A, §23 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Additional duties. In addition to the duties imposed by subsection 2, the visitor shall perform any duties that the court directs, which may include:

A. [PL 2019, c. 417, Pt. A, §24 (RP).]

B. Visiting the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the appointment is made; [PL 2019, c. 417, Pt. A, §24 (AMD).]

C. Obtaining information from any physician or other person known to have treated, advised or assessed the respondent's relevant physical or mental condition; and [PL 2019, c. 417, Pt. A, §24 (AMD).]

D. Investigating the allegations in the petition and any other matter relating to the petition as the court directs. [PL 2019, c. 417, Pt. A, §24 (AMD).]

[PL 2019, c. 417, Pt. A, §24 (AMD).]

4. Report of visitor. A visitor under this section shall file a report in a record with the court at least 10 days before any hearing on the petition. The report must include:

A. Whether or not the respondent wishes to contest any aspect of the proceedings or to seek any limitation on the proposed guardian's powers; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. A recommendation whether an attorney should be appointed to represent the respondent; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. A summary of the respondent's medical conditions, cognitive functioning, everyday functioning, preferences and values and a summary of self-care and independent living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance or supported decision making and cannot manage; [PL 2019, c. 417, Pt. A, §25 (AMD).]

D. Recommendations regarding the appropriateness of guardianship, including whether a protective arrangement instead of guardianship or other less restrictive alternatives for meeting the respondent's needs are available and, if a guardianship is recommended, whether it should be full or limited and, if a limited guardianship, the powers to be granted to the guardian; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. A statement of the qualifications of the proposed guardian and whether the respondent approves or disapproves of the proposed guardian; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. A statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to residence; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. A recommendation whether a further professional evaluation under section 5-306 is necessary; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. A statement whether the respondent is able to attend a hearing at the location court proceedings typically are conducted; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

H-1. A statement whether the respondent wishes to attend the hearing under paragraph H after being informed of the right to attend the hearing, the purposes of the hearing and the potential consequences of failing to attend; [PL 2019, c. 417, Pt. A, §26 (NEW).]

I. A statement whether the respondent is able to participate in a hearing and that identifies any technology or other form of support that would enhance the respondent's ability to participate; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

J. Any other matter as the court directs. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2019, c. 417, Pt. A, §§25, 26 (AMD); 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, §§23-26 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

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