

§5-405. Appointment and role of visitor

1. Visitor for minor respondent. If the respondent in a proceeding to appoint a conservator is a minor, the court may appoint a visitor to investigate a matter related to the petition or to inform the minor or a parent of the minor about the petition or a related matter.

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

2. Visitor for adult respondent. If the respondent in a proceeding to appoint a conservator is an adult, the court shall appoint a visitor unless the adult is represented by an attorney. The duties and reporting requirements of the visitor are limited to the relief requested in the petition. 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).]

3. Duties of visitor for adult respondent. A visitor appointed for an adult under subsection 2 shall interview the petitioner and the proposed conservator 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 conservator; [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 sought by the petitioner, including views about a proposed conservator, the conservator's proposed powers and duties and the scope and duration of the proposed conservatorship, and general financial preferences and values; [PL 2019, c. 417, Pt. A, §56 (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, §56 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

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

A. [PL 2019, c. 417, Pt. A, §56 (RP).]

B. Reviewing financial records of the respondent, if relevant to the visitor's recommendation under subsection 5, paragraph B; [PL 2019, c. 417, Pt. A, §56 (AMD).]

C. Stating whether the respondent's needs could be met by a less restrictive alternative, including a protective arrangement instead of conservatorship and, if so, identifying the less restrictive alternative; and [PL 2019, c. 417, Pt. A, §56 (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, §56 (AMD).]

[PL 2019, c. 417, Pt. A, §56 (AMD).]

5. Report. A visitor appointed for an adult under subsection 2 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 wants to challenge any aspect of the proceeding or to seek any limitation on the conservator's powers; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

A-1. A summary of the respondent's financial functioning, financial preferences and independent financial tasks the respondent can manage without assistance or with existing supports or could manage with the assistance of appropriate supportive services, technological assistance or supported decision making; [PL 2019, c. 417, Pt. A, §57 (NEW).]

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 recommendation:

(1) Regarding the appropriateness of conservatorship, or whether a protective arrangement instead of conservatorship or other less restrictive alternatives for meeting the respondent's needs are available;

(2) If a conservatorship is recommended, whether it should be full or limited; and

(3) If a limited conservatorship is recommended, the powers to be granted to the conservator and the property that should be placed under the conservator's control; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

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

E. A recommendation whether a further professional evaluation under section 5-407 is necessary; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

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

F-1. A statement whether the respondent wishes to attend the hearing under paragraph F 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, §58 (NEW).]

G. 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).]

H. 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, §§57, 58 (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, §§56-58 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

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