

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on an emergency basis, due to congressional review, Chapter 3 of Title 13 of the District of Columbia Official Code to provide that publication may be substituted for personal service of process for appointments of a vulnerable youth guardian in certain circumstances; and to amend Chapter 23 of Title 16 of the District of Columbia Official Code to authorize the Family Division of the Superior Court to appoint, modify, and terminate a new class of legal guardianship for vulnerable youth.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Vulnerable Youth Guardianship Protection Congressional Review Emergency Amendment Act of 2023”.

Sec. 2. Section 13-336(b) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (7) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(b) Paragraph (8) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (9) is added to read as follows:

“(9) actions for the appointment of a vulnerable youth guardian under Subchapter VI of Chapter 23 of Title 16 of the District of Columbia Official Code.”.

Sec. 3. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the following at the end:

“Subchapter VI. Vulnerable Youth Guardian.

“§ 16-2399.01. Definitions.

“§ 16-2399.02. Guardianship petition.

“§ 16-2399.03. Parties.

“§ 16-2399.04. Timing and notice.

“§ 16-2399.05. Conduct of hearings.

“§ 16-2399.06. Adjudicatory hearings.

“§ 16-2399.07. Order appointing a guardian of a vulnerable youth.

“§ 16-2399.08. Effect of guardianship order

“§ 16-2399.09. Additional available remedies.”.

(b) A new Subchapter VI is added to read as follows:

“Subchapter VI. Vulnerable Youth Guardian.

“§ 16-2399.01. Definitions.

“For purposes of this subchapter, the term:

“(1) “Guardian” means a person designated by the court pursuant to this subchapter as the guardian of a vulnerable youth.

“(2) “Guardianship order” means the court document that establishes legal guardianship and enumerates the guardian’s rights and responsibilities concerning the care and custody of the vulnerable youth.

“(3) “Noncitizen” means a person who is not a United States citizen.

“(4) “Proposed guardian” means a person seeking to be appointed guardian of a vulnerable youth. The term “proposed guardian” includes a business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity, whether or not a citizen or domiciliary of the District of Columbia and whether or not organized under the laws of the District of Columbia.

“(5) “Similar basis” means conditions that have an effect on a vulnerable youth comparable to abuse, neglect, or abandonment, including the death of a parent.

“(6) “Vulnerable youth” means an unmarried noncitizen who is at least 18 but younger than 21 years old.

“§ 16-2399.02. Guardianship petition.

“(a) A vulnerable youth or proposed guardian may file a petition with the Family Division of the Superior Court to appoint a guardian under this subchapter. The petition shall name the proposed guardian and describe why:

“(1) The appointment is in the best interests of the vulnerable youth;

“(2) Reunification of the vulnerable youth with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under District law; and

“(3) It is not in the best interests of the vulnerable youth to be returned to the vulnerable youth’s or vulnerable youth’s previous parents’ country of nationality or country of last habitual residence.

“(b) The court shall determine whether it is in the vulnerable youth’s best interests that a guardian be appointed by considering the following factors:

“(1) The vulnerable youth’s need for continuity of care and caretakers, and for timely integration into a stable home, taking into account the differences in the development and the concept of time of youth of different ages and nationalities;

“(2) The physical, mental, and emotional health of all individuals involved to the degree that each affects the welfare of the vulnerable youth, the decisive consideration in regard to this factor being the physical, mental, and emotional needs of the vulnerable youth;

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“(3) Access to stability, safety, supports or services to remedy the impacts of prior abuse, abandonment, neglect, or a similar basis under District law;

“(4) The quality of the interaction and interrelationship of the vulnerable youth with his or her parents, siblings, relatives, and caretakers, including the proposed guardian; and

“(5) The vulnerable youth’s opinion of their own best interest.

“§ 16-2399.03. Parties.

“Parties to a guardianship proceeding shall be the vulnerable youth, the proposed guardian, and the vulnerable youth’s parents. The court may, at its discretion, on its own motion, or in response to a motion for joinder or intervention, join additional parties to a guardianship proceeding.

“§ 16-2399.04 Timing and notice.

“(a) When a petition for guardianship is filed, the court shall promptly set a time for an adjudicatory hearing, as soon as administratively feasible, and shall cause notice thereof to be given to all parties and their attorneys.

“(b) When it is appropriate to the proper disposition of the case, the court may direct the service of a summons upon other persons.

“(c) If personal service under this section cannot be effected, then notice shall be made constructively pursuant to rules of the Superior Court of the District of Columbia.

“16-2399.05. Conduct of the hearings.

“(a) All hearings and proceedings conducted pursuant to this subchapter shall be held by a judge, without a jury.

“(b) All hearings and proceedings conducted pursuant to this subchapter shall be recorded by appropriate means.

“16-2399.06. Adjudicatory hearings.

“(a) The court shall begin the adjudicatory hearing by determining whether all parties are present and whether proper notice of the hearing has been given.

“(b) All parties have the right to present evidence and cross-examine witnesses.

“(c) The court shall hear evidence presented by the parties and the burden of proof shall rest upon the proposed guardian or vulnerable youth.

“(d) Every party shall have the right to present evidence, to be heard on his or her own behalf, and to cross-examine witnesses called by another party.

“(e) All evidence which is relevant, material, and competent to the issues before the court shall be admitted.

“(f) Notwithstanding the provisions of §§ 14-306 and 14-307, neither the spouse or domestic partner privilege nor the physician/client or mental health professional/client privilege shall be a ground for excluding evidence in any proceeding brought under this subchapter.

“(g) The court may enter, modify, or terminate a guardianship order after considering all of the evidence presented, and after making a determination based upon a preponderance of the evidence that creation, modification, or termination of the guardianship order is in the vulnerable

youth's best interests. If the court does not find that sufficient grounds exist to create, modify, or terminate a guardianship order, the petition may be dismissed.

“§ 16-2399.07. Order appointing a guardian of a vulnerable youth.

“(a) After consideration of all the relevant, material, and competent evidence, the court shall issue an order establishing a guardianship if the court finds that the guardianship is in the vulnerable youth's best interests.

“(b) After the guardianship is established, upon request by the proposed guardian or the vulnerable youth, the court shall, if the court finds that the allegations in the petition pursuant to §16-2399.02(a) are supported by a preponderance of the evidence, enter a guardianship order containing the following judicial determinations supported by relevant statutory citations and findings of fact:

“(1) Where the identity is known, the specific identity of the parent or parents;

“(2) That the vulnerable youth is dependent on the court and has been placed under the care and custody of an individual or entity appointed by the court through the appointment of a guardian;

“(3) That reunification of the vulnerable youth with one or both parents is not viable due to abuse, abandonment, neglect, or similar basis under District law; and

“(4) That it is not in the best interest of the vulnerable youth to be returned to the vulnerable youth or vulnerable youth's parents' country of nationality or last habitual residence.

“(c) The court may, upon motion of a party, modify or terminate a guardianship order when the modification or termination of the guardianship order is in the vulnerable youth's best interests.

“(d) The entry of a guardianship order under this subchapter shall not impinge on the vulnerable youth's fundamental rights to make their own medical, educational, financial, or other such decisions.

“(e) A guardianship order entered under this subchapter shall automatically terminate when the youth reaches age 21.

“§ 16-2399.08 Effect of guardianship order.

“(a) Unless the court specifies other rights and responsibilities, the guardian shall have the following rights and responsibilities concerning the vulnerable youth:

“(1) The guardian shall ensure that the legal rights of the vulnerable youth are not violated;

“(2) The guardian shall provide care and support to the vulnerable youth to promote the youth's stability and wellness; and

“(3) The guardianship will promote the physical, mental, and emotional health of the vulnerable youth.

“(b) The guardian is not liable to third persons by reason of the relationship for acts of the vulnerable youth.

“§ 16-2409. Additional available remedies.

“Nothing in this subchapter shall be construed to prevent:

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“(1) A proposed guardian or vulnerable youth from seeking any other remedy or protections available under District law; or

“(2) The court from issuing judicial determinations similar to those in §16-2399.07(b) in any other proceeding concerning a noncitizen under age 18.”.

**Sec. 4. Fiscal impact statement.**

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

**Sec. 6. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia