

IN THE SENATE

SENATE BILL NO. 1233

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO GUARDIANS OF MINORS; AMENDING SECTION 15-5-210, IDAHO CODE, TO
2 REVISE PROVISIONS AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO
3 THE TERMINATION OF A GUARDIANSHIP; AND AMENDING SECTION 15-5-212, IDAHO
4 CODE, TO REVISE PROVISIONS RELATING TO CERTAIN RESIGNATION, REMOVAL,
5 MODIFICATION AND TERMINATION PROCEEDINGS AND TO MAKE TECHNICAL CORREC-
6 TIONS.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 15-5-210, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 15-5-210. TERMINATION OF APPOINTMENT OF GUARDIAN -- GENERAL. A
12 guardian's authority and responsibility terminates upon the death, resig-
13 nation or removal of the guardian, termination of the guardianship or upon
14 the minor's death, adoption, marriage or attainment of majority, but termi-
15 nation does not affect his liability for prior acts, nor his obligation to
16 account for funds and assets of his ward. Resignation of a guardian without
17 the appointment of a successor guardian does not terminate the guardianship
18 until it has been approved by the court. A testamentary appointment under an
19 informally probated will terminates if the will is later denied probate in
20 a formal proceeding.

21 SECTION 2. That Section 15-5-212, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 15-5-212. RESIGNATION, ~~OR~~ REMOVAL, MODIFICATION OR TERMINATION PRO-
24 CEEDINGS. (a~~1~~) Any person interested in the welfare of a ward, or the ward,
25 if fourteen (14) or more years of age, may petition for removal of a guardian
26 ~~on the ground that removal would be in the best interest of the ward or for~~
27 modification or termination of the guardianship. A guardian may petition
28 for permission to resign. A petition for removal or for permission to resign
29 may, but need not, include a request for appointment of a successor guardian.

30 (b~~2~~) After notice and hearing on a petition for removal or for permis-
31 sion to resign, the court may terminate the guardianship and make any further
32 order that may be appropriate.

33 (e~~3~~) If, at any time in the proceeding, the court determines that the
34 interests of the ward are, or may be, inadequately represented, it may ap-
35 point an attorney to represent the minor, giving consideration to the pref-
36 erence of the minor if the minor is fourteen (14) or more years of age.

37 (4) Any person who moves to terminate a guardianship governed by this
38 section has the burden of proving, by clear and convincing evidence, that:

1 (a) There has been a substantial and material change in the circum-
2 stances of the guardian, or one (1) or both parents of the minor, or the
3 minor since the establishment of the guardianship; and

4 (b) Termination of the guardianship would be in the best interests of
5 the minor.

6 (5) Any person who moves in a guardianship governed by this section
7 to remove a guardian or modify a guardianship has the burden of proving, by
8 clear and convincing evidence, that:

9 (a) There has been a substantial and material change in the circum-
10 stances of the guardian, or of one (1) or both parents of the minor, or
11 the person sought to be added as a co-guardian if appropriate, or the
12 minor since the establishment of the guardianship; and

13 (b) Removal of the guardian or modification of the guardianship would
14 be in the best interests of the minor.