
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1928 Session of
2021

INTRODUCED BY DAY, T. DAVIS, DeLUCA, GUENST, HILL-EVANS, KINSEY,
LEWIS DELROSSO, ROTHMAN AND ZABEL, SEPTEMBER 28, 2021

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
SEPTEMBER 28, 2021

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, in incapacitated persons,
3 further providing for petition and hearing and independent
4 evaluation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5511(a) of Title 20 of the Pennsylvania
8 Consolidated Statutes is amended and the section is amended by
9 adding a subsection to read:

10 § 5511. Petition and hearing; independent evaluation.

11 (a) Resident.--The court, upon petition and hearing and upon
12 the presentation of clear and convincing evidence, may find a
13 person domiciled in the Commonwealth to be incapacitated and
14 appoint a guardian or guardians of his person or estate. The
15 petitioner may be any person interested in the alleged
16 incapacitated person's welfare. The court may dismiss a
17 proceeding where it determines that the proceeding has not been
18 instituted to aid or benefit the alleged incapacitated person or

1 that the petition is incomplete or fails to provide sufficient
2 facts to proceed. Written notice of the petition and hearing
3 shall be given in large type and in simple language to the
4 alleged incapacitated person. The notice shall indicate the
5 purpose and seriousness of the proceeding and the rights that
6 can be lost as a result of the proceeding. It shall include the
7 date, time and place of the hearing and an explanation of all
8 rights[, including the right to request the appointment of
9 counsel and to have counsel appointed if the court deems it
10 appropriate and the right to have such counsel paid for if it
11 cannot be afforded]. The Supreme Court shall establish a uniform
12 citation for this purpose. A copy of the petition shall be
13 attached. Personal service shall be made on the alleged
14 incapacitated person, and the contents and terms of the petition
15 shall be explained to the maximum extent possible in language
16 and terms the individual is most likely to understand. Service
17 shall be no less than 20 days in advance of the hearing. In
18 addition, notice of the petition and hearing shall be given in
19 such manner as the court shall direct to all persons residing
20 within the Commonwealth who are sui juris and would be entitled
21 to share in the estate of the alleged incapacitated person if he
22 died intestate at that time, to the person or institution
23 providing residential services to the alleged incapacitated
24 person and to such other parties as the court may direct,
25 including other service providers. The hearing may be closed to
26 the public and without a jury unless the alleged incapacitated
27 person or his counsel objects. The hearing shall be closed and
28 with or without a jury if the person alleged to be incapacitated
29 or his counsel so requests. The hearing may be held at the
30 residence of the alleged incapacitated person. The alleged

1 incapacitated person shall be present at the hearing unless:

2 (1) the court is satisfied, upon the deposition or
3 testimony of or sworn statement by a physician or licensed
4 psychologist, that his physical or mental condition would be
5 harmed by his presence; or

6 (2) it is impossible for him to be present because of
7 his absence from the Commonwealth. It shall not be necessary
8 for the alleged incapacitated person to be represented by a
9 guardian ad litem in the proceeding.

10 [Petitioner shall be required to notify the court at least seven
11 days prior to the hearing if counsel has not been retained by or
12 on behalf of the alleged incapacitated person. In appropriate
13 cases, counsel shall be appointed to represent the alleged
14 incapacitated person in any matter for which counsel has not
15 been retained by or on behalf of that individual.]

16 (a.1) Appointment of counsel.--The following shall apply:

17 (1) If the petitioner under subsection (a) is aware that
18 the alleged incapacitated person is represented by counsel,
19 the petitioner shall advise the court that the alleged
20 incapacitated person is represented by counsel at the time of
21 filing the petition or as soon as the petitioner becomes
22 aware of the representation.

23 (2) The court shall appoint counsel to represent the
24 alleged incapacitated person in any matter for which counsel
25 has not been retained by the alleged incapacitated person,
26 including in all proceedings under subsection (a) and in any
27 subsequent proceedings to modify or terminate the
28 guardianship.

29 (3) Counsel for an alleged incapacitated person shall,
30 as far as reasonably possible, maintain a normal client-

1 attorney relationship with the client. Counsel shall advocate
2 for the client's expressed wishes and consistent with the
3 client's instructions, to the extent the client is able to
4 express wishes and provide instructions. Counsel shall comply
5 with the Rules of Professional Conduct governing the
6 attorney-client relationship.

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8 Section 2. This act shall take effect in 60 days.