
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2209 Session of
2020

INTRODUCED BY GILLEN, JAMES, COX, SIMMONS, MILLARD AND STEPHENS,
JANUARY 13, 2020

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
JANUARY 13, 2020

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(f) 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 * * *

12 (f) Who may be appointed guardian.--~~[The]~~ A court may
13 appoint a guardian as follows:

14 (1) Subject to the provisions of paragraph (2), the
15 court may appoint as guardian any of the following persons:

16 (i) a qualified individual[,];

17 (ii) a corporate fiduciary[,];

18 (iii) a nonprofit corporation[,];

1 (iv) a guardianship support agency under Subchapter
2 F (relating to guardianship support); or

3 (v) a county agency.

4 (2) (i) In the case of residents of State facilities,
5 the court may also appoint, only as guardian of the
6 estate, the guardian office at the appropriate State
7 facility.

8 (ii) The court shall not appoint a person or entity
9 providing residential services for a fee to the
10 incapacitated person or any other person whose interests
11 conflict with those of the incapacitated person except
12 where it is clearly demonstrated that no guardianship
13 support agency or other alternative exists. Any family
14 relationship to such individual shall not, by itself, be
15 considered as an interest adverse to the alleged
16 incapacitated person.

17 (iii) If appropriate, the court shall give
18 preference to a nominee of the incapacitated person.

19 (g) Court-appointed guardian background check.--The
20 following shall apply:

21 (1) A guardian or prospective guardian under subsection
22 (f) shall submit all of the following to the court:

23 (i) A report of Federal criminal history record
24 information.

25 (ii) A report of criminal history record information
26 from the Pennsylvania State Police as provided under 18
27 Pa.C.S. Ch. 91 (relating to criminal history record
28 information) or a statement from the Pennsylvania State
29 Police that the Pennsylvania State Police central
30 repository contains no information relating to the

1 individual. The criminal history record information shall
2 be limited to information which is disseminated under 18
3 Pa.C.S. § 9121(b) (2) (relating to general regulations).

4 (iii) Validation of the guardian's or prospective
5 guardian's eligibility to legally work in the United
6 States.

7 (2) For the purpose of complying with paragraph (1), a
8 guardian or prospective guardian shall provide fingerprints
9 to the Pennsylvania State Police, its agent or an agent
10 approved for fingerprinting by the Federal Government. The
11 fingerprints may be used by the Pennsylvania State Police to
12 conduct a criminal background check and shall be forwarded to
13 the Federal Bureau of Investigation for a national criminal
14 background check.

15 (3) Information relating to a guardian or prospective
16 guardian submitted to or obtained by a court under paragraph
17 (1) shall be interpreted and used only to determine the
18 guardian's or prospective guardian's qualifications under
19 subsection (f) (2).

20 (4) The court may receive and retain information under
21 this section that is otherwise protected under 18 Pa.C.S. Ch.
22 91, subject to any requirements related to redaction as
23 specified under 18 Pa.C.S. § 9121(b) (2).

24 (5) If the guardian or prospective guardian under
25 paragraph (1) is an attorney, the court may accept a
26 certificate of good standing with disciplinary information
27 issued by the Supreme Court of Pennsylvania in place of the
28 requirements of paragraph (1).

29 (6) A court-appointed guardian under subsection (f)
30 shall resubmit the background check information required

1 under paragraph (1) every three years.

2 (7) A guardian or prospective guardian under subsection
3 (f) shall pay for the costs associated with the requirements
4 of paragraph (1).

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