

HOUSE BILL NO. HB0176

Guardians.

Sponsored by: Representative(s) Robinson, Alden, Jansen
and Ross and Senator(s) Decaria and Meier

A BILL

for

1 AN ACT relating to guardians; specifying who may be
2 appointed as a guardian for an incompetent person or a
3 minor; specifying the order of preference for appointments
4 of guardians; providing definitions; and providing for an
5 effective date.

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7 *Be It Enacted by the Legislature of the State of Wyoming:*

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9 **Section 1.** W.S. 3-1-101(a)(v), (vi), (ix) and by
10 creating new paragraphs (xvi) through (xviii) and 3-2-107
11 are amended to read:

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13 **3-1-101. Definitions.**

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15 (a) As used in this title, unless otherwise required
16 by the context or unless otherwise defined:

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(v) "Guardian" means ~~the~~ a person ~~appointed~~ who
has qualified as a guardian of a minor or incompetent
person pursuant to an appointment by the court to ~~have~~
~~eustody of the person of the ward~~ exercise the powers
granted by the court. The term includes a plenary,
limited, emergency and standby guardian, but does not
include a guardian ad litem;

(vi) "Guardian ad litem" means a person
appointed by the court to represent the best interests of a
~~proposed ward~~ respondent during the course of litigation;

(ix) "Incompetent person" means an individual
who, for reasons other than being a minor, is unable
unassisted to properly manage and take care of himself or
his property as a result of the infirmities of advanced
age, physical disability, disease, the use of alcohol or
controlled substances, mental illness, mental deficiency or
mental retardation;

(xvi) "Minor" means an unemancipated individual
under the age of majority as defined by W.S. 14-1-101(a);

1 (xvii) "Person" means an adult individual, or a
2 corporation, trust, partnership, limited liability company,
3 association, joint venture or any other legal commercial
4 entity with a guardianship program;

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6 (xviii) "Respondent" means an adult or minor
7 individual for whom a guardianship or conservatorship or
8 other protective order is sought.

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10 **3-2-107. Who may be appointed as guardian; preference**
11 **for appointment of guardians.**

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13 (a) The court may appoint any qualified person as
14 guardian of an incompetent person or a minor. The court
15 may not appoint a person to be a guardian of an incompetent
16 person or a minor if the person proposed to act as
17 guardian:

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19 (i) Provides, or is likely to provide during the
20 guardianship period, substantial services to the ward in a
21 professional or business capacity unrelated to the person's
22 authority as a guardian;

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1 (ii) Is, or is likely to become during the
2 guardianship period, a creditor of the ward, other than in
3 the capacity as guardian;

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5 (iii) Has, or is likely to have during the
6 guardianship period, interests that may conflict with those
7 of the ward; or

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9 (iv) Is employed by a person who would be
10 disqualified under paragraphs (i) through (iii) of this
11 subsection.

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13 (b) A person may be appointed as guardian of a
14 respondent, notwithstanding the provisions of subsection
15 (a) of this section that would otherwise disqualify the
16 person, if the person is the spouse, adult child, parent or
17 sibling of the respondent and the court determines that the
18 potential conflict of interest is insubstantial and that
19 the appointment would clearly be in the best interests of
20 the respondent.

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22 (c) Subject to subsection (e) of this section,
23 qualified persons have priority for appointment as guardian
24 of an incompetent person in the following order:

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(i) A person nominated by the respondent if at the time of the nomination the respondent has the capacity to make a reasonably intelligent choice;

(ii) The spouse of the respondent;

(iii) A nomination in the will of the respondent's deceased spouse;

(iv) The parent of the respondent;

(v) An adult child of the respondent;

(vi) A person named in the will of the respondent's deceased parent;

(vii) A relative of the respondent with whom the respondent has resided for more than six (6) months during the year preceding the filing of the petition;

(viii) A relative or friend who has demonstrated a sincere, longstanding interest in the welfare of the respondent;

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(ix) Any other person whose appointment would be
in the best interests of the respondent;

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(x) A person with a guardianship program for
incompetent persons.

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~~(a)(d) The order of preference~~ Subject to subsection
(e) of this section, qualified persons have priority for
~~the appointment of a~~ as guardian of a minor ~~is as follows~~
~~providing the persons are qualified and suitable~~ in the
following order:

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(i) The parent or parents of the minor;

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(ii) The person nominated as guardian in the
will of the custodial parent;

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(iii) The person requested by a minor who has
reached the age of fourteen (14) years;

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(iv) Any other person ~~who is willing to serve as~~
guardian whose appointment would be in the best interests
of the minor.

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2 (e) The court shall consider the priorities
3 established in subsections (c) and (d) of this section, but
4 shall not be bound by those priorities. The court shall
5 appoint the person who is best qualified and willing to
6 serve as guardian.

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8 **Section 2.** This act is effective July 1, 2004.

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(END)