

CHAPTER 226
FORMERLY
HOUSE BILL NO. 227

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO GUARDIANSHIPS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3901, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3901. Appointment of guardians for persons with disabilities.

(b) The Court of Chancery shall establish rules concerning the filing of petitions for appointment of guardians. The monetary thresholds referenced in subsections (k) and (l) of this section shall be established by rule, with the concurrence of the Court of Chancery and the Superior Court and the approval of the Supreme Court.

(k) (1) The Superior Court or Court of Common Pleas shall have the power to appoint a guardian for the ~~person or~~ property and approve settlement in connection with a single-transaction matter arising out of a tort claim of a person with a disability, except that no guardian need be appointed for a person under the age of 18: Upon entry of an order appointing a guardian and approving a settlement, jurisdiction of the matter shall be transferred to the Court of Chancery for administration pursuant to this chapter.

a. In matters involving settlement of a tort claim of an amount equal to or less than the monetary threshold established by rule pursuant to subsection (b) of this section, provided that the net settlement funds are deposited in a Uniform Transfer to Minor Act (“UTMA”) account for the benefit of the minor;

b. In matters involving settlement of a tort claim of a gross amount in excess of the monetary threshold established by rule pursuant to subsection (b) of this section, provided that:

1. The net settlement funds are placed in a court approved annuity or structured financial instrument for the benefit of the minor; or

2. No greater than the monetary threshold established by rule pursuant to subsection (b) of this section of the net settlement funds are deposited in a UTMA account, with the balance of the settlement funds placed in a court approved annuity or structured financial instrument for the benefit of the minor.

(2) However, for good cause shown, the Court, in the best interests of the minor, may appoint a guardian and transfer the matter to the Court of Chancery for the purpose of administering the estate of the minor so as to protect the estate and maximize benefits available to the minor, including public benefits.

(l) (1) The Court of Chancery may appoint a guardian with limited authority in cases where a person under the age of 18 holds or receives property and may establish rules regarding when such limited guardianship will terminate. In cases where the minor has or will receive personal property with a value equal to or less than the monetary threshold established by rule pursuant to subsection (b) of this section, a guardian need not be appointed if:

a. the funds are placed in an annuity or structured financial instrument for the benefit of the minor;

b. the funds are deposited into a UTMA account for the benefit of the minor; or

c. the personal property is registered or titled in the name of an adult followed in substance by the words “As custodian for [name of minor] under the Delaware Uniform Transfers to Minors Act.”.

(2) Nothing in paragraph (l)(1) of this section shall limit the Court’s power to appoint a guardian of the property of a minor if, for good cause shown, the Court determines that a guardian is necessary to protect the minor’s estate and maximize benefits available to the minor, including public benefits.

Approved May 08, 2014