



SPONSOR: Sen. Hoffner & Sen. Poore & Rep. Griffith
Sen. Hocker; Reps. Dorsey Walker, K. Johnson

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 321

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO RIGHTS OF ADULTS UNDER GUARDIANSHIP.

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

1 Section 1. Amend Chapter 39, Title 12 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3911. Rights of a person with a disability under guardianship.

4 (a) People with disabilities under guardianships pursuant to this chapter and Chapter 39A of this title shall have the
5 following rights in accordance with their developmental levels, unless modified by court order:

6 (1) To have a guardianship that encourages the development or maintenance of maximum self-reliance
7 and independence of the person with a disability under a guardianship with the eventual goal, if possible, of self-
8 sufficiency.

9 (2) To be treated with respect, consideration, and recognition of their dignity and individuality.

10 (3) To financial self-determination for all public benefits after essential living expenses and health needs
11 are met and to have access to a monthly personal allowance.

12 (4) To participate in decision making about and receive timely and appropriate health care and medical
13 treatment that does not violate known preferences or conscientious, religious, or moral beliefs.

14 (5) To exercise full control of all aspects of life not specifically granted by the court to the guardian.

15 (6) To control their personal environment based on their preferences.

16 (7) To complain or raise concerns regarding the guardian or guardianship to the court, including living
17 arrangements, retaliation by the guardian, conflicts of interest between the guardian and service providers, or a
18 violation of any rights under this section.

19 (8) To participate in social, religious, and recreational activities, training, employment, education,
20 habilitation, and rehabilitation in the most integrated setting.

21 (9) To vote in a public election, travel, marry, and procreate, unless restricted by the court.

22 (10) To unimpeded, private, and uncensored communication and visitation with persons of their choice,
23 except that if the guardian determines that certain communication or visitation causes substantial harm to the
24 person with a disability, the guardian may limit, supervise, or restrict communication or visitation, but only to the
25 extent necessary to protect the person with a disability from substantial harm, and subject to a hearing to remove
26 any restrictions on communication or visitation imposed by the guardian under this subsection at the request of the
27 person with a disability.

28 (11) To contact the Adult Protective Services to report abuse, neglect, exploitation, or violation of
29 personal rights without fear of punishment, interference, coercion, or retaliation.

30 (12) To personal privacy.

31 (13) To be represented by an attorney in any proceeding or for the purpose of petitioning the court for any
32 reasonable issue.

33 (14) To freedom of sexual expression and gender identity being respected.

34 (b) Any person with a disability aggrieved by a violation of this section may motion the Court of Chancery,
35 through an attorney or court appointed advocate for appropriate equitable relief.

SYNOPSIS

This Act codifies rights afforded to persons with disabilities that are under guardianships pursuant to Chapters 39 and 39A in Title 12 of the Delaware Code. This Act also grants persons with disabilities the ability to motion the Court of Chancery for equitable relief for any violations of these rights.

Author: Senator Hoffner