

IC 29-3-12

Chapter 12. Termination of Guardianships and Protective Orders

IC 29-3-12-1

Conditions for termination of guardianship; effect of termination on guardianship powers

Sec. 1. (a) Except as provided in section 6 or 7 of this chapter, the court shall terminate the guardianship of a minor upon:

- (1) the minor's attaining eighteen (18) years of age; or
- (2) the minor's death.

The court may terminate the guardianship of a minor upon the minor's adoption or marriage.

(b) The court shall terminate the guardianship of an incapacitated person upon:

- (1) adjudication by the court that the protected person is no longer an incapacitated person; or
- (2) the death of the protected person.

(c) The court may terminate any guardianship if:

- (1) the guardianship property does not exceed the value of three thousand five hundred dollars (\$3,500);
- (2) the guardianship property is reduced to three thousand five hundred dollars (\$3,500);
- (3) the domicile or physical presence of the protected person is changed to another state and a guardian has been appointed for the protected person and the protected person's property in that state; or
- (4) the guardianship is no longer necessary for any other reason.

(d) When a guardianship terminates otherwise than by the death of the protected person, the powers of the guardian cease, except that the guardian may pay the claims and expenses of administration that are approved by the court and exercise other powers that are necessary to complete the performance of the guardian's trust, including payment and delivery of the remaining property for which the guardian is responsible:

- (1) to the protected person;
- (2) in the case of an unmarried minor, to a person having care and custody of the minor with whom the minor resides;
- (3) to a trust approved by the court, including a trust created by the guardian, in which:
 - (A) the protected person is the sole beneficiary of the trust; and
 - (B) the terms of the trust satisfy the requirements of Section 2503(c) of the Internal Revenue Code and the regulations under that Section;
- (4) to a custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5); or
- (5) to another responsible person as the court orders.

(e) When a guardianship terminates by reason of the death of the protected person, the powers of the guardian cease, except that the

guardian may pay the expenses of administration that are approved by the court and exercise other powers that are necessary to complete the performance of the guardian's trust and may deliver the remaining property for which the guardian is responsible to the protected person's personal representative or to a person who presents the guardian with an affidavit under IC 29-1-8-1 or IC 29-2-1-2. If approved by the court, the guardian may pay directly the following:

- (1) Reasonable funeral and burial expenses of the protected person.
- (2) Reasonable expenses of the protected person's last illness.
- (3) The protected person's federal and state taxes.
- (4) Any statutory allowances payable to the protected person's surviving spouse or surviving children.
- (5) Any other obligations of the protected person.

As added by P.L.169-1988, SEC.1. Amended by P.L.264-1989, SEC.12; P.L.95-2007, SEC.14; P.L.48-2012, SEC.9; P.L.115-2012, SEC.1.

IC 29-3-12-2

Mandatory termination of protective order

Sec. 2. The court shall terminate a protective order if:

- (1) the protective order has expired by its terms; or
- (2) the protective order is no longer necessary for any other reason.

As added by P.L.169-1988, SEC.1.

IC 29-3-12-3

Minimum period to maintain incapacitated person status; petition to terminate guardianship or protective order; penalty

Sec. 3. An order adjudicating a person as an incapacitated person may specify a minimum period, not exceeding one (1) year, during which a petition for an adjudication that the protected person is no longer an incapacitated person may not be filed without court approval. Subject to that restriction, the protected person or any other person may petition for an order that the protected person is no longer an incapacitated person and for termination of the guardianship or protective order. A request for an order may also be made informally to the court. Any person who knowingly interferes with transmission of the request is guilty of contempt of court.

As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.80.

IC 29-3-12-4

Removal, resignation, or death of guardian; final accounting; appointment of successor; effect of removal on validity of guardian's acts

Sec. 4. (a) The court may remove a guardian on its own motion or on petition of the protected person or any person interested in the guardianship, after notice and hearing, on the same grounds and in the same manner as is provided under IC 29-1-10-6 for the removal

of a personal representative. The court may accept the resignation of a guardian. Upon the death of the guardian, the guardian's personal representative shall submit a final account of guardianship to the court in accordance with IC 29-3-9-6. Upon the resignation or removal of the guardian, the guardian shall give a final accounting to the court.

(b) If the appointment of a successor guardian is required, the court shall appoint a qualified successor guardian to succeed to the title, powers, and duties of the predecessor guardian unless otherwise ordered by the court.

(c) The removal or resignation of a guardian after letters are duly issued to the guardian does not by itself invalidate the guardian's acts and omissions prior to removal. A final order under IC 29-3-9-6 protects the successor guardian and the successor guardian's surety to the same extent that it protects the successor guardian's predecessor and surety.

As added by P.L.169-1988, SEC.1. Amended by P.L.264-1989, SEC.13.

IC 29-3-12-5

Termination of authority and responsibility of guardian; effect on liability of guardian; court approval

Sec. 5. The authority and responsibility of a guardian terminate at the time that the court designates or upon the death, resignation, or removal of the guardian or upon the termination of the guardianship. The termination for any reason of the authority and responsibility of the guardian does not affect the liability of the guardian for prior acts or the obligation to account for the guardian's conduct of the guardian's trust. Resignation of a guardian does not terminate the appointment of the guardian until the guardian's resignation and final account have been approved by the court.

As added by P.L.169-1988, SEC.1.

IC 29-3-12-6

Guardianship extends beyond age 18 if minor is incapacitated or receives certain DCS assistance

Sec. 6. (a) If a protected person:

(1) is a minor; and

(2) has been adjudicated an incapacitated person;

the court may not terminate the guardianship of the protected person when the protected person attains eighteen (18) years of age.

(b) If a protected person is:

(1) a minor; and

(2) a recipient or beneficiary of financial assistance provided by the department of child services through a guardianship described in IC 31-9-2-17.8(1)(E);

the court may not terminate the guardianship of the protected person when the protected person attains eighteen (18) years of age.

As added by P.L.115-2012, SEC.2.

IC 29-3-12-7

Petition to extend guardianship past age 18

Sec. 7. (a) This section applies to the guardianship of a minor who has not been adjudicated an incapacitated person.

(b) A protected person who is at least seventeen (17) years of age and the guardian of the protected person may jointly petition the court to extend the duration of the guardianship beyond the date on which the protected person attains eighteen (18) years of age to the earlier of the following:

(1) A termination date, if any, set forth in the petition.

(2) The date the protected person attains twenty-two (22) years of age.

(c) A petition submitted under subsection (b) must be verified.

(d) The court, after notice and hearing, may extend a guardianship under this section if the court finds that extending the guardianship is in the best interests of the protected person. The extension of a guardianship under this section does not place the protected person under a legal disability.

As added by P.L.115-2012, SEC.3.