387.740 Emergency powers of court -- Petition and hearing on emergency appointment.

(1) The court may exercise the powers of a limited guardian or limited conservator or may appoint an individual or agency to exercise such powers if, during the pendency of a proceeding for a determination of partial disability or disability or an appeal therefrom, it appears that there is danger of serious impairment to the health or safety of the respondent or damage or dissipation to his property if immediate action is not taken.

(2) Prior to a hearing on the need for an emergency appointment of a limited guardian or limited conservator, a petition shall be filed which sets forth the following:

(a) The name, age, and address of the respondent;

(b) The danger alleged to be imminent;

(c) The type of appointment and the protection and assistance requested;

(d) The facts and reasons supporting the request;

(e) The name, address, and qualifications of the proposed limited guardian or limited conservator, if any;

(f) The name, address, and interest of the petitioner;

(g) The names and addresses of the respondent's next of kin, if known;

(h) The name and address of the individual or facility, if any, having custody of the respondent; and

(i) The date of filing of the petition for determination of disability or partial disability.

(3) Within one (1) week of the filing of a petition pursuant to this section, the court shall conduct a hearing at which the respondent shall be entitled to counsel. Notice of the time and place of the hearing shall be given not less than forty-eight (48) hours prior to the hearing to all persons named in the petition and to the county attorney.

(4) The burden shall be on the Commonwealth to prove by clear and convincing evidence the need for the emergency appointment of a limited guardian or conservator.

(5) If the court exercises the powers of a limited guardian or limited conservator or appoints another to do so in an emergency situation as set forth in subsection (1) of this section, the court shall state on the record findings of fact as to the danger determined to be imminent, the sources relied on in arriving at such determination, the type of assistance to be provided, and the powers and duties of the emergency guardian or conservator. The authority of the guardian or conservator shall expire upon resolution of the appeal or action.

Effective: July 1, 1982

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