
HOUSE BILL No. 1178

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-3; IC 34-30-2.

Synopsis: Volunteer advocates for seniors and guardians. Permits a court to appoint a volunteer advocate for seniors ("volunteer") to represent and protect for a limited period the interests of an incapacitated or protected person who is at least 55 years of age. Requires a volunteer to report to the court and make recommendations regarding the incapacitated or protected person. Allows a volunteer to subpoena witnesses and present evidence to a court. Provides civil immunity for a volunteer, a volunteer advocate for seniors program, and a guardian.

Effective: July 1, 2004.

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January 13, 2004, read first time and referred to Committee on Judiciary.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1178



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-3-1-16 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 16. "Volunteer advocate for seniors" means an
4 individual who:**

- 5 (1) is a volunteer;
- 6 (2) has completed a limited guardian training program
- 7 approved by a court;
- 8 (3) is supervised by a community volunteer advocates for
- 9 seniors program;
- 10 (4) is appointed by a court to serve as a limited guardian for
- 11 an incapacitated person or protected person who is at least
- 12 fifty-five (55) years of age; and
- 13 (5) provides reports and makes recommendations to a court.

14 SECTION 2. IC 29-3-8.5 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2004]:

17 **Chapter 8.5. Volunteer Advocates for Seniors**



1 **Sec. 1. A court in a proceeding under this article may appoint a**
2 **volunteer advocate for seniors.**

3 **Sec. 2. A volunteer advocate for seniors shall submit to the**
4 **court:**

5 **(1) a progress report fifteen (15) days after the date of**
6 **appointment describing the matters required by the court;**
7 **and**

8 **(2) a final report sixty (60) days after the date of appointment:**
9 **(A) describing the matters required by the court; and**
10 **(B) making recommendations to the court as to whether a**
11 **need exists for continued representation of the**
12 **incapacitated or protected person.**

13 **Sec. 3. A volunteer advocate for seniors shall:**

14 **(1) serve as a limited guardian to represent and protect the**
15 **interests of an incapacitated or protected person who is at**
16 **least fifty-five (55) years of age;**

17 **(2) investigate and gather information regarding the health,**
18 **welfare and financial circumstances of the incapacitated or**
19 **protected person, as directed by a court;**

20 **(3) facilitate and authorize health care, social welfare, and**
21 **residential placement services as needed by the incapacitated**
22 **or protected person;**

23 **(4) advocate for the rights of the incapacitated or protected**
24 **person;**

25 **(5) facilitate legal representation for the incapacitated or**
26 **protected person; and**

27 **(6) perform any other duty required by a court.**

28 **Sec. 4. A volunteer advocate for seniors may:**

29 **(1) consent to medical and other professional care and**
30 **treatment for the incapacitated or protected person's health**
31 **and welfare;**

32 **(2) secure the appointment of a guardian or coguardian in**
33 **another state;**

34 **(3) take custody of the incapacitated or protected person and**
35 **establish the person's place of abode within Indiana or**
36 **another state in accordance with IC 29-3-9-2;**

37 **(4) institute proceedings or take other appropriate action to**
38 **compel the performance by any person of a duty to support**
39 **the incapacitated or protected person's health or welfare; and**

40 **(5) delegate to the incapacitated or protected person certain**
41 **responsibilities for decisions affecting the person's business**
42 **affairs and well-being.**

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1 **Sec. 5. If a court appoints an individual to serve as a volunteer**
2 **advocate for seniors, the appointment shall be for a period of sixty**
3 **(60) days. After the initial sixty (60) day period, the court may**
4 **extend the appointment for a period as determined by the court to**
5 **be necessary to protect the interests of the incapacitated or**
6 **protected person.**

7 **Sec. 6. A volunteer advocate for seniors is considered an officer**
8 **of the court for the purpose of representing the interests of an**
9 **incapacitated or protected person.**

10 **Sec. 7. The court may appoint an attorney to represent a**
11 **volunteer advocate for seniors.**

12 **Sec. 8. A volunteer advocate for seniors may subpoena witnesses**
13 **and present evidence regarding:**

- 14 (1) **the supervision of the incapacitated or protected person;**
- 15 **or**
- 16 (2) **any investigation or report required by the court.**

17 **Sec. 9. Except for gross misconduct:**

- 18 (1) **a volunteer advocate for seniors program that;**
- 19 (2) **an employee of a volunteer advocates for seniors program**
20 **who; or**
- 21 (3) **a volunteer for a volunteer advocates for seniors program**
22 **who;**

23 **performs duties in good faith is immune from any civil liability**
24 **resulting from the program's, employee's, or volunteer's**
25 **performance.**

26 SECTION 3. IC 29-3-9-2 IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2004]: **Sec. 2. A guardian (other than a**
28 **temporary guardian) or volunteer advocate for seniors appointed**
29 **under IC 29-3-8.5 may, with the approval of and under such**
30 **conditions as may be imposed by the court after notice and hearing,**
31 **change the physical presence of the protected person to another place**
32 **in Indiana or to another state if the court finds that such a change is in**
33 **the best interests of the protected person. Upon such a change, the**
34 **guardianship may be limited or terminated by the court.**

35 SECTION 4. IC 29-3-11-4 IS ADDED TO THE INDIANA CODE
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2004]: **Sec. 4. Except as provided in section 2 of this chapter and**
38 **except for gross misconduct, a guardian appointed under this**
39 **article is immune from any civil liability resulting from the**
40 **guardian's performance.**

41 SECTION 5. IC 34-30-2-125.5 IS ADDED TO THE INDIANA
42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2004]: **Sec. 125.5. IC 29-3-8.5-9 (Concerning**
2 **a volunteer advocate for seniors).**

3 SECTION 6. IC 34-30-2-126.5 IS ADDED TO THE INDIANA
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2004]: **Sec. 126.5. IC 29-3-11-4 (Concerning**
6 **a guardian appointed under IC 29-3-5).**

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