

57 conduct other investigations or observations as directed by the court, and submit a report in  
58 writing to the court.

59 (5) (a) The person alleged to be incapacitated shall be present at the hearing in person  
60 and see or hear all evidence bearing upon the person's condition. If the person seeking the  
61 guardianship requests a waiver of presence of the person alleged to be incapacitated, the court  
62 shall order an investigation by a court visitor, the costs of which shall be paid by the person  
63 seeking the guardianship.

64 (b) The investigation by a court visitor is not required if there is clear and convincing  
65 evidence from a physician that the person alleged to be incapacitated has:

66 (i) fourth stage Alzheimer's Disease;

67 (ii) extended comatosis; or

68 (iii) (A) an intellectual disability; and

69 (B) an intelligence quotient score under ~~20~~  $\rightarrow$  [20 to]  $\leftarrow$  ~~25~~ 25.

70 (c) The person alleged to be incapacitated is entitled to be represented by counsel, to  
71 present evidence, to cross-examine witnesses, including the court-appointed physician and the  
72 visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if  
73 the person alleged to be incapacitated or the person's counsel so requests.

74 (d) Counsel for the person alleged to be incapacitated, as defined in Subsection  
75 75-1-201(22), is not required if:

76 (i) the person is the biological or adopted child of the petitioner;

77 (ii) the value of the person's entire estate does not exceed \$20,000 as established by an  
78 affidavit of the petitioner in accordance with Section 75-3-1201;

79 (iii) the person appears in court with the petitioner;

80 (iv) the person is given the opportunity to communicate, to the extent possible, the  
81 person's acceptance of the appointment of petitioner; and

82 (v) the court is satisfied that counsel is not necessary in order to protect the interests of  
83 the person.