

Effective 5/7/2025

75-5-317 Guardianship proceedings for minor becoming an incapacitated adult.

(1) As used in this section:

- (a) "Physician" means an individual:
 - (i) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or
 - (ii) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- (b) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.
- (c) "Sole legal decision-making" means one parent or one individual having the legal right and responsibility to make major decisions for the minor child.

(2)

- (a) Notwithstanding the other provisions of this part, a person who may be a guardian of an incapacitated person under Section 75-5-301 may initiate guardianship proceedings pursuant to this Subsection (2) for a minor who is at least 17 years, six months old and who is alleged to be incapacitated and request that a guardianship order take effect immediately on the day the minor turns 18 years old.

(b)

- (i) The petitioner shall provide with the petition a written report of an evaluation of the minor by a physician or psychologist that meets the requirements of Subsection (2)(c).
- (ii) If the evaluation is conducted within six months after the date the petition is filed with the court, the petitioner may ask in the petition that the court accept this report in lieu of ordering any additional evaluation and the court may grant the request.
- (c) A written report filed pursuant to this section by a physician or psychologist acting within that person's scope of practice shall include the following information:
 - (i) a specific description of the physical, psychiatric, or psychological diagnosis of the person;
 - (ii) a comprehensive assessment listing any functional impairments of the alleged incapacitated person and an explanation of how and to what extent these functional impairments may prevent that person from receiving or evaluating information in making decisions or in communicating informed decisions, with or without assistance, regarding that person;
 - (iii) an analysis of the tasks of daily living the alleged incapacitated person is capable of performing independently or with assistance;
 - (iv) a list of the medications the alleged incapacitated person is receiving, the dosage of the medications, and a description of the effects each medication has on the person's behavior to the best of the declarant's knowledge;
 - (v) a prognosis for improvement in the alleged incapacitated person's condition and a recommendation for the most appropriate rehabilitation plan or care plan; and
 - (vi) other information the physician or psychologist considers appropriate.

(3)

- (a) Notwithstanding the priorities in Section 75-5-311, if the petition for appointment of a guardian for the incapacitated person is filed pursuant to Subsection (2) or within two years after the day the incapacitated person turns 18 years old, unless the court finds the appointment to be contrary to the incapacitated person's best interest:
 - (i) the court shall appoint as the incapacitated person's guardian any person who, by court order, had sole legal decision-making of the incapacitated person when the incapacitated person attained 17 years, six months old; or
 - (ii) if two individuals had joint legal decision-making of the incapacitated person when the incapacitated person attained 17 years, six months old, the court shall appoint both individuals as the incapacitated person's coguardians.

- (b) If under Subsection (3)(a) the court finds the appointment of an individual described in Subsection (3)(a) is contrary to the incapacitated person's best interest or if the individual is unwilling to be appointed or serve as a guardian, the court may apply the priorities in Section 75-5-311 in appointing a guardian.
- (4)
 - (a) The court may appoint more than one person as the incapacitated person's coguardians if the appointment is required by Subsection (3) or the court finds that the appointment is in the incapacitated person's best interest.
 - (b) If the court appoints coguardians, the coguardians shall share legal decision-making for the incapacitated person and neither coguardian's rights or responsibilities are superior except as otherwise ordered by the court.

Amended by Chapter 543, 2025 General Session