

HOUSE BILL NO. HB0287

Emergency guardian.

Sponsored by: Representative(s) Robinson, Alden, Iekel and  
Warren and Senator(s) Meier and Sessions

A BILL

for

1 AN ACT relating to guardians and wards; authorizing the  
2 appointment of emergency guardians as specified; providing  
3 procedures for appointment; specifying and limiting powers  
4 of an emergency guardian; authorizing the removal of an  
5 emergency guardian as specified; and providing for an  
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 3-2-106 by creating new subsections  
11 (d) through (h) are amended to read:

12

13 **3-2-106. Appointment of a temporary or emergency**  
14 **guardian.**

15

1       (d) If the court finds that compliance with the  
2 procedures specified in this chapter will likely result in  
3 substantial harm to the proposed ward's health, safety or  
4 welfare, and that no other person appears to have authority  
5 and willingness to act in the circumstances, the court, on  
6 petition by a person interested in the proposed ward's  
7 welfare, may appoint an emergency guardian. Immediately  
8 upon receipt of the petition for an emergency guardianship,  
9 the court shall appoint a guardian ad litem to represent  
10 the proposed ward's best interests in the proceeding.  
11 Except as otherwise provided in subsection (e) of this  
12 section, reasonable notice of the time and place of a  
13 hearing on the petition shall be given to the proposed ward  
14 and any other persons as the court directs.

15  
16       (e) An emergency guardian may be appointed without  
17 notice to the proposed ward or the guardian ad litem only  
18 if the court finds by a preponderance of the evidence from  
19 affidavit or testimony that the proposed ward will be  
20 substantially harmed before a hearing on the appointment  
21 can be held. If the court appoints an emergency guardian  
22 immediately, without notice to the proposed ward or the  
23 guardian ad litem, the proposed ward and guardian ad litem  
24 shall be given notice of the appointment within forty-eight

1 (48) hours after the appointment. The court shall hold a  
2 hearing on the appropriateness of the appointment within  
3 seventy-two (72) hours after the appointment. Emergency  
4 guardians appointed without notice and hearing shall have  
5 authority to make medical and medically related decisions  
6 only, except emergency guardians shall not have authority  
7 with respect to a person who has been made a ward pursuant  
8 to this subsection or subsection (d) of this section to:

9  
10 (i) Execute a durable power of attorney for  
11 healthcare for the ward pursuant to W.S. 3-5-202;

12  
13 (ii) Execute a living will for the ward pursuant  
14 to W.S. 35-22-102;

15  
16 (iii) Execute a cardiopulmonary resuscitation  
17 directive for the ward pursuant to W.S. 35-22-201 through  
18 35-22-208;

19  
20 (iv) Commit or admit the ward to a mental health  
21 facility; or

22  
23 (v) Direct the withdrawal of life sustaining  
24 procedures being used on the ward.

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2 (f) Appointment of an emergency guardian, with or  
3 without notice, is not a determination of the proposed  
4 ward's incapacity.

5

6 (g) At the seventy-two (72) hour hearing to determine  
7 the appropriateness of the appointment of an emergency  
8 guardian required by subsection (e) of this section, the  
9 court may appoint a temporary guardian pursuant to  
10 subsection (a) of this section. The court may remove an  
11 emergency guardian at any time.

12

13 (h) Except as provided in subsections (d) through (g)  
14 of this section, all other provisions of this chapter  
15 concerning guardians apply to an emergency guardian.

16

17 **Section 2.** This act is effective July 1, 2003.

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19

(END)