

ORIGINAL HOUSE
BILL NO. 0287

ENROLLED ACT NO. 104, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

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

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

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

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

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

(e) An emergency guardian may be appointed without notice to the proposed ward or the guardian ad litem only if the court finds by a preponderance of the evidence from affidavit or testimony that the proposed ward will be substantially harmed before a hearing on the appointment

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can be held. If the court appoints an emergency guardian immediately, without notice to the proposed ward or the guardian ad litem, the proposed ward and guardian ad litem shall be given notice of the appointment within forty-eight (48) hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment within seventy-two (72) hours after the appointment. Emergency guardians appointed without notice and hearing shall have authority to make medical and medically related decisions only, except emergency guardians shall not have authority with respect to a person who has been made a ward pursuant to this subsection or subsection (d) of this section to:

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

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

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

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

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

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

(g) At the seventy-two (72) hour hearing to determine the appropriateness of the appointment of an emergency guardian required by subsection (e) of this section, the

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court may appoint a temporary guardian pursuant to subsection (a) of this section. The court may remove an emergency guardian at any time.

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

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk