

252A.101 HEARING.

Subdivision 1. **General.** Except as otherwise provided in this section, sections 524.5-101 to 524.5-502 apply to public guardianship hearings.

Subd. 2. **Waiver of presence.** The proposed ward may waive the right to be present at the hearing only if the proposed ward has met with counsel and specifically waived the right to appear.

Subd. 3. **Medical care.** If, at the time of the hearing, the proposed ward has been under medical care, the ward has the same rights regarding limitation on the use of drugs, medication, or other treatment before the hearing that are available under section 252A.04, subdivision 2.

Subd. 4. **County attorney.** The county attorney shall appear and represent the petitioner upon the request of the court or the petitioner. The petitioner must be notified of the right to request that the county attorney appear. The attorney general may appear and represent the commissioner in any proceedings brought under this chapter.

Subd. 5. **Findings.** (a) In all cases the court shall make specific written findings of fact, conclusions of law, and direct entry of an appropriate judgment or order. The court shall order the appointment of the commissioner as guardian or conservator if it finds that:

(1) the proposed ward or conservatee is a developmentally disabled person as defined in section 252A.02, subdivision 2;

(2) the proposed ward or conservatee is incapable of exercising specific legal rights, which must be enumerated in its findings;

(3) the proposed ward or conservatee is in need of the supervision and protection of a guardian or conservator; and

(4) no appropriate alternatives to public guardianship or public conservatorship exist that are less restrictive of the person's civil rights and liberties, such as appointing a guardian or conservator under sections 524.5-101 to 524.5-502.

(b) The court shall grant the specific powers that are necessary for the commissioner to act as public guardian or conservator on behalf of the ward or conservatee.

Subd. 6. **Notice of order; appeal.** A copy of the order shall be served by mail upon the ward or conservatee and the ward's counsel. The order must be accompanied by a notice that advises the ward or conservatee of the right to appeal the guardianship or conservatorship appointment within 30 days.

Subd. 7. **Letters of guardianship.** Letters of guardianship or conservatorship must be issued by the court and contain:

- (1) the name, address, and telephone number of the ward or conservatee; and
- (2) the powers to be exercised on behalf of the ward or conservatee.

The letters must be served by mail upon the ward or conservatee, the ward's counsel, the commissioner, and the local agency.

Subd. 8. **Dismissal.** If upon the completion of the hearing and consideration of the record, the court finds that the proposed ward is not developmentally disabled or is developmentally disabled but not in need of the supervision and protection of a conservator or guardian, it shall dismiss the application and shall notify the proposed ward, the ward's counsel, and the petitioner.

History: 1987 c 185 art 1 s 21; 1Sp1993 c 1 art 3 s 16; 2005 c 10 art 4 s 10,11; 2005 c 56 s 1