

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 157

Introduced by DeBoer, 10.

Read first time January 09, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to temporary guardians; to amend section
- 2 30-2626, Reissue Revised Statutes of Nebraska; to authorize
- 3 appointment of temporary guardians for certain limited purposes; to
- 4 exempt such guardians from caseload ratios; and to repeal the
- 5 original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-2626, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 30-2626 (a) If a person alleged to be incapacitated has no guardian
4 and an emergency exists, the court may, pending notice and hearing: ~~7~~

5 ~~(i) Exercise~~ exercise the power of a guardian or enter an ex parte
6 order appointing a temporary guardian to address the emergency. The order
7 and letters of temporary guardianship shall specify the powers and duties
8 of the temporary guardian, limiting the powers and duties to those
9 necessary to address the emergency; ~~or -~~

10 (ii) Enter an ex parte order appointing a temporary guardian for the
11 limited purpose of assisting the person in applying for private or
12 government benefits to which such person may be entitled. The limited
13 temporary guardian may access personal and financial records of the
14 person as necessary to apply for such benefits. The order and letters of
15 limited temporary guardianship shall specify the powers and duties of the
16 temporary guardian, limiting the powers and duties to those necessary to
17 apply for private or government benefits to which the person may be
18 entitled.

19 (b) When the court takes action to exercise the powers of a guardian
20 or to appoint a temporary guardian under subsection (a) of this section,
21 an expedited hearing shall be held if requested by the person alleged to
22 be incapacitated, or by any interested person, if the request is filed
23 more than ten business days prior to the date set for the hearing on the
24 petition for appointment of the guardian. If an expedited hearing is to
25 be held, the hearing shall be held within ten business days after the
26 request is received. At the hearing on the temporary appointment, the
27 petitioner shall have the burden of showing by a preponderance of the
28 evidence that temporary guardianship continues to be necessary to address
29 the emergency situation. Unless the person alleged to be incapacitated
30 has counsel of his or her own choice, the court may appoint an attorney
31 to represent the person alleged to be incapacitated at the hearing as

1 provided in section 30-2619.

2 (c) If an expedited hearing is requested, notice shall be served as
3 provided in section 30-2625. The notice shall specify that a temporary
4 guardian has been appointed and shall be given at least twenty-four hours
5 prior to the expedited hearing.

6 (d) At the expedited hearing, the court may render a judgment
7 authorizing the temporary guardianship to continue beyond the original
8 ten-day period. The judgment shall prescribe the specific powers and
9 duties of the temporary guardian in the letters of temporary guardianship
10 and shall be effective for a single ninety-day period. For good cause
11 shown, the court may extend the temporary guardianship for successive
12 ninety-day periods.

13 (e) The temporary guardianship shall terminate at the end of the
14 ninety-day period in which the temporary guardianship is valid or at any
15 time prior thereto if the court deems the circumstances leading to the
16 order for temporary guardianship no longer exist or if an order has been
17 entered as a result of a hearing pursuant to section 30-2619 which has
18 been held during the ninety-day period.

19 (f) If the court denies the request for the ex parte order, the
20 court may, in its discretion, enter an order for an expedited hearing
21 pursuant to subsections (b) through (e) of this section.

22 (g) If the petitioner requests the entry of an order of temporary
23 guardianship pursuant to subsection (a) of this section without
24 requesting an ex parte order, the court may hold an expedited hearing
25 pursuant to subsections (b) through (e) of this section.

26 (h) If an appointed guardian is not effectively performing his or
27 her duties and the court further finds that the welfare of the
28 incapacitated person requires immediate action, it may, pending notice
29 and hearing in accordance with section 30-2220, appoint a temporary
30 guardian for the incapacitated person for a specified period not to
31 exceed ninety days. For good cause shown, the court may extend the

1 temporary guardianship for successive ninety-day periods. A temporary
2 guardian appointed pursuant to this subsection has only the powers and
3 duties specified in the previously appointed guardian's letters of
4 guardianship, and the authority of any permanent guardian previously
5 appointed by the court is suspended so long as a temporary guardian has
6 authority.

7 (i) A temporary guardian may be removed at any time. A temporary
8 guardian shall make any report the court requires, except that a
9 temporary guardian shall not be required to provide the check or report
10 under section 30-2602.02. In other respects the provisions of the
11 Nebraska Probate Code concerning guardians apply to temporary guardians.

12 (j) The court may appoint the Public Guardian as the temporary
13 guardian pursuant to the Public Guardianship Act. If the court appoints
14 the Public Guardian as the temporary guardian for the limited purpose of
15 assisting a person in applying for private or government benefits to
16 which the person may be entitled pursuant to subdivision (a)(ii) of this
17 section, such appointment is not subject to the caseload ratio set forth
18 in subsection (2) of section 30-4115.

19 Sec. 2. Original section 30-2626, Reissue Revised Statutes of
20 Nebraska, is repealed.