

SENATE BILL 867

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 34,
relative to guardianship.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 34-1-107(a), is amended by deleting the subsection and substituting instead the following:

(1)

(A) The court may appoint a guardian ad litem in any proceeding and, except as provided in this section, shall appoint a guardian ad litem on:

(i) Filing of a petition for appointment of a fiduciary;

(ii) Filing of a petition for a guardianship to continue past a minor reaching eighteen (18) years of age; and

(iii) Filing of a petition or other pleading to terminate or modify a conservatorship.

(B) The court may appoint a guardian ad litem, but is not required to do so in actions to:

(i) Add a co-conservator;

(ii) Appoint a successor conservator; or

(iii) Promote a stand-by conservator into conservator status.

(2) The court may waive the appointment of a guardian ad litem if the court determines:

(A) The waiver is in the best interests of the minor or person with a disability;

(B) Exceptional circumstances exist to justify the waiver, which are supported by specific evidence that is reflected in the court's order; and

(C) The respondent is represented by counsel who has made an appearance for the respondent.

SECTION 2. Tennessee Code Annotated, Section 34-1-107(d)(2)(D), is amended by adding the following as a new subdivision and redesignating the current subdivision (d)(2)(D)(ii) and subsequent subdivisions appropriately:

(ii) Whether appointment of a fiduciary would satisfy the requirements set forth in § 34-1-127;

SECTION 3. Tennessee Code Annotated, Section 34-1-107(d)(4)(B), is amended by adding the following as a new subdivision and redesignating the current subdivision (d)(4)(B)(ii) and subsequent subdivisions appropriately:

(ii) Obtaining the proposed fiduciary's fingerprint sample to be used in obtaining and reviewing state and national criminal history background checks;

SECTION 4. Tennessee Code Annotated, Section 34-1-107(d), is amended by adding the following as a new subdivision and redesignating the current subdivision (d)(4) and subsequent subdivisions appropriately:

(4) In a proceeding for the appointment of a conservator, the guardian ad litem shall investigate the appropriateness of the proposed fiduciary. In evaluating the appropriateness of the proposed fiduciary, the guardian ad litem may take such actions as directed by the court and as the guardian ad litem deems necessary, which may include, but are not limited to:

(i) Obtaining and reviewing the proposed fiduciary's credit report; and

(ii) Obtaining the proposed fiduciary's fingerprint sample to be used in obtaining and reviewing state and national criminal history background checks.

SECTION 5. Tennessee Code Annotated, Title 34, Chapter 3, is amended by adding the following new section:

(a) Any individual appointed to serve as a conservator must complete educational training on conservatorships, unless the court enters an order stating that the individual does not require the training because the individual has previously completed the training.

(b) A conservator must complete the required educational training within thirty (30) days of appointment. Upon completion, the appointed conservator shall provide an affidavit of completion to the court, certifying that the educational training has been completed. If the court does not receive an affidavit of completion within thirty (30) days of appointment of a conservator, the court may discharge the conservator pursuant to § 34-3-108 for failure to perform the duties and obligations of a conservator.

(c) Subsections (a) and (b) of this section shall not apply to public guardians under chapter 7 of this title.

(d) A consortium of organizations including the Tennessee commission on aging and disability, the Tennessee council on developmental disabilities, the Arc of Tennessee, and Disability Rights Tennessee shall develop the education program for conservators and shall update the program materials as necessary. The educational training may include the following:

(1) Written materials;

(2) Recorded information, whether audio, visual, digital, or any combination thereof; or

(3) A combination of the above.

SECTION 6. This act shall take effect January 1, 2020, the public welfare requiring it, and shall apply to conservatorship petitions or motions filed on or after that date.