

House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

CHAPTER 56  
**HOUSE BILL 2181**

AN ACT

AMENDING SECTIONS 14-5303 AND 14-5304; RELATING TO PERSONS UNDER DISABILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-5303, Arizona Revised Statutes, is amended to  
3 read:

4 14-5303. Procedure for court appointment of a guardian of an  
5 alleged incapacitated person

6 A. The alleged incapacitated person or any person interested in that  
7 person's affairs or welfare may petition for the appointment of a guardian  
8 or for any other appropriate protective order.

9 B. The petition shall state, to the extent known:

10 1. The interest of the petitioner.

11 2. The name, age, residence and address of the alleged incapacitated  
12 person.

13 3. The name, address and priority for appointment of the person whose  
14 appointment is sought.

15 4. The name and address of the conservator, if any, of the alleged  
16 incapacitated person.

17 5. The name and address of the nearest relative of the alleged  
18 incapacitated person known to the petitioner.

19 6. A general statement of the property of the alleged incapacitated  
20 person, with an estimate of its value and including any compensation,  
21 insurance, pension or allowance to which the person is entitled.

22 7. The reason why appointment of a guardian or any other protective  
23 order is necessary.

24 8. THE TYPE OF GUARDIANSHIP REQUESTED. IF A GENERAL GUARDIANSHIP IS  
25 REQUESTED, THE PETITION MUST STATE THAT OTHER ALTERNATIVES HAVE BEEN EXPLORED  
26 AND WHY A LIMITED GUARDIANSHIP IS NOT APPROPRIATE. IF A LIMITED GUARDIANSHIP  
27 IS REQUESTED, THE PETITION ALSO MUST STATE WHAT SPECIFIC POWERS ARE  
28 REQUESTED.

29 C. Upon ON the filing of a petition, the court shall set a hearing  
30 date on the issues of incapacity. Unless the alleged incapacitated person is  
31 represented by independent counsel, the court shall appoint an attorney to  
32 represent that person in the proceeding. The alleged incapacitated  
33 person shall be interviewed by an investigator appointed by the court and  
34 shall be examined by a physician, psychologist or registered nurse appointed  
35 by the court. The investigator and the person conducting the  
36 examination shall submit their reports in writing to the court. In  
37 addition to information required under subsection ~~C~~ D of this section, the  
38 court may direct that either report include other information the court deems  
39 appropriate. The investigator also shall interview the person seeking  
40 appointment as guardian, visit the present place of abode of the alleged  
41 incapacitated person and the place where it is proposed that THE person will  
42 be detained or reside if the requested appointment is made and submit a  
43 report in writing to the court. The alleged incapacitated person is entitled  
44 to be present at the hearing and to see or hear all evidence bearing on that  
45 person's condition. The alleged incapacitated person is entitled to be

1 represented by counsel, to present evidence, to cross-examine witnesses,  
2 including the court-appointed examiner and investigator, and to trial by  
3 jury. The court may determine the issue at a closed hearing if the alleged  
4 incapacitated person or that person's counsel so requests.

5 D. A report filed pursuant to this section by a physician,  
6 psychologist or registered nurse acting within that person's scope of  
7 practice shall include the following information:

8 1. A specific description of the physical, psychiatric or  
9 psychological diagnosis of the person.

10 2. A comprehensive assessment listing any functional impairments of  
11 the alleged incapacitated person and an explanation of how and to what extent  
12 these functional impairments may prevent that person from receiving or  
13 evaluating information in making decisions or in communicating informed  
14 decisions regarding that person.

15 3. An analysis of the tasks of daily living the alleged incapacitated  
16 person is capable of performing without direction or with minimal direction.

17 4. A list of all medications the alleged incapacitated person is  
18 receiving, the dosage of the medications and a description of the effects  
19 each medication has on the person's behavior to the best of the declarant's  
20 knowledge.

21 5. A prognosis for improvement in the alleged incapacitated person's  
22 condition and a recommendation for the most appropriate rehabilitation plan  
23 or care plan.

24 6. Other information the physician, psychologist or registered nurse  
25 deems appropriate.

26 Sec. 2. Section 14-5304, Arizona Revised Statutes, is amended to read:  
27 14-5304. Findings; order of appointment; limitations; filing

28 A. IN EXERCISING ITS APPOINTMENT AUTHORITY PURSUANT TO THIS CHAPTER,  
29 THE COURT SHALL ENCOURAGE THE DEVELOPMENT OF MAXIMUM SELF-RELIANCE AND  
30 INDEPENDENCE OF THE INCAPACITATED PERSON.

31 ~~A.~~ B. The court may appoint a GENERAL OR LIMITED guardian as  
32 requested if it is satisfied by clear and convincing evidence that:

33 1. The person for whom a guardian is sought is incapacitated ~~and that~~.

34 2. The appointment is necessary to provide for the demonstrated needs  
35 of the incapacitated person.

36 3. THE PERSON'S NEEDS CANNOT BE MET BY LESS RESTRICTIVE MEANS,  
37 INCLUDING THE USE OF APPROPRIATE TECHNOLOGICAL ASSISTANCE.

38 ~~B.~~ C. In conformity with the evidence regarding the extent of the  
39 ward's incapacity, the court may APPOINT A LIMITED GUARDIAN AND specify time  
40 limits on the guardianship and limitations on the guardian's powers.

41 ~~C.~~ D. The guardian shall file an acceptance of appointment with the  
42 appointing court.

~~APPROVED BY THE GOVERNOR APRIL, 14, 2003.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2003.~~

Passed the House February 24, 2003,

Passed the Senate April 8, 2003,

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

1 Nays, 0 Not Voting

Jake Flake  
Speaker of the House

Ken Bennett  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmine Billeps  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

9 day of April, 2003

at 2:30 o'clock P M.

Sandra Chavez  
Secretary to the Governor

Approved this 14 day of

April, 2003,

at 9<sup>00</sup> o'clock A. M.

J. N. ...  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of April, 2003

at 10:55 o'clock A M.

Janice K. Brewer  
Secretary of State

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