

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature Second Regular Session - 2012

IN THE SENATE

SENATE BILL NO. 1233

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO GUARDIANS OF MINORS; AMENDING SECTION 15-5-210, IDAHO CODE, TO  
REVISE PROVISIONS AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO  
THE TERMINATION OF A GUARDIANSHIP; AND AMENDING SECTION 15-5-212, IDAHO  
CODE, TO REVISE PROVISIONS RELATING TO CERTAIN RESIGNATION, REMOVAL,  
MODIFICATION AND TERMINATION PROCEEDINGS AND TO MAKE TECHNICAL CORREC-  
TIONS.

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

SECTION 1. That Section 15-5-210, Idaho Code, be, and the same is hereby  
amended to read as follows:

15-5-210. TERMINATION OF APPOINTMENT OF GUARDIAN -- GENERAL. A  
guardian's authority and responsibility terminates upon the death, resig-  
nation or removal of the guardian, termination of the guardianship or upon  
the minor's death, adoption, marriage or attainment of majority, but termi-  
nation does not affect his liability for prior acts, nor his obligation to  
account for funds and assets of his ward. Resignation of a guardian without  
the appointment of a successor guardian does not terminate the guardianship  
until it has been approved by the court. A testamentary appointment under an  
informally probated will terminates if the will is later denied probate in  
a formal proceeding.

SECTION 2. That Section 15-5-212, Idaho Code, be, and the same is hereby  
amended to read as follows:

15-5-212. RESIGNATION, ~~OR~~ REMOVAL, MODIFICATION OR TERMINATION PRO-  
CEEDINGS. (a~~1~~) Any person interested in the welfare of a ward, or the ward,  
if fourteen (14) or more years of age, may petition for removal of a guardian  
~~on the ground that removal would be in the best interest of the ward or for~~  
modification or termination of the guardianship. A guardian may petition  
for permission to resign. A petition for removal or for permission to resign  
may, but need not, include a request for appointment of a successor guardian.

(b~~2~~) After notice and hearing on a petition for removal or for permis-  
sion to resign, the court may terminate the guardianship and make any further  
order that may be appropriate.

(c~~3~~) If, at any time in the proceeding, the court determines that the  
interests of the ward are, or may be, inadequately represented, it may ap-  
point an attorney to represent the minor, giving consideration to the pref-  
erence of the minor if the minor is fourteen (14) or more years of age.

(4) Any person who moves to terminate a guardianship governed by this  
section has the burden of proving, by clear and convincing evidence, that:

1        (a) There has been a substantial and material change in the circum-  
2        stances of the guardian, or one (1) or both parents of the minor, or the  
3        minor since the establishment of the guardianship; and

4        (b) Termination of the guardianship would be in the best interests of  
5        the minor.

6        (5) Any person who moves in a guardianship governed by this section  
7        to remove a guardian or modify a guardianship has the burden of proving, by  
8        clear and convincing evidence, that:

9        (a) There has been a substantial and material change in the circum-  
10       stances of the guardian, or of one (1) or both parents of the minor, or  
11       the person sought to be added as a co-guardian if appropriate, or the  
12       minor since the establishment of the guardianship; and

13       (b) Removal of the guardian or modification of the guardianship would  
14       be in the best interests of the minor.