

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## HOUSE ENROLLED ACT No. 1169

AN ACT to amend the Indiana Code concerning probate.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 29-3-1-15.5, AS ADDED BY P.L.11-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15.5. "Volunteer advocate for incapacitated adults" means an individual who:

- (1) is a volunteer;
- (2) has completed a ~~limited~~ guardian training program approved by a court;
- (3) is supervised by a ~~community~~ volunteer advocates for **incapacitated adults program that is appointed by a court to serve as a guardian for an incapacitated person who is at least eighteen (18) years of age; and**
- (~~4~~) **is appointed by a court to serve as a limited guardian for an incapacitated person or protected person who is at least eighteen (18) years of age; and**
- (~~5~~) **(4) provides reports and makes recommendations to a court.**

SECTION 2. IC 29-3-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. "Volunteer advocate for seniors" means an individual who:

- (1) is a volunteer;
- (2) has completed a ~~limited~~ guardian training program approved by a court;
- (3) is supervised by a ~~community~~ volunteer advocates for seniors

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program that is appointed by a court to serve as a guardian for an incapacitated person who is at least fifty-five (55) years of age; and

(4) is appointed by a court to serve as a limited guardian for an incapacitated person or protected person who is at least fifty-five (55) years of age; and

(5) (4) provides reports and makes recommendations to a court.

SECTION 3. IC 29-3-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17. "Volunteer advocates for incapacitated adults program" means:**

- (1) an Indiana nonprofit or municipal corporation;
- (2) a program of an Indiana nonprofit or municipal corporation; or
- (3) a program operated by a county or court;

that is appointed by a court to serve as a guardian for an incapacitated person who is at least eighteen (18) years of age and trains and supervises volunteers in a court approved guardian program for incapacitated adults.

SECTION 4. IC 29-3-1-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. "Volunteer advocates for seniors program" means:**

- (1) an Indiana nonprofit or municipal corporation;
- (2) a program of an Indiana nonprofit or municipal corporation; or
- (3) a program operated by a county or court;

that is appointed by a court to serve as a guardian for an incapacitated person who is at least fifty-five (55) years of age and trains and supervises volunteers in a court approved guardian program for incapacitated persons who are at least fifty-five (55) years of age.

SECTION 5. IC 29-3-8.5-1, AS AMENDED BY P.L.11-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1. A court in a proceeding under this article may appoint a volunteer ~~advocate~~ advocates for seniors program or a volunteer ~~advocate~~ advocates for incapacitated adults program.**

SECTION 6. IC 29-3-8.5-2, AS AMENDED BY P.L.11-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2. A volunteer ~~advocate~~ advocates for seniors program or a volunteer ~~advocate~~ advocates for incapacitated adults program shall submit to the court:**

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- (1) a progress report ~~fifteen (15)~~ **thirty (30)** days after the date of appointment describing:
  - (A) the matters required by the court; and
  - (B) the:**
    - (i) current physical and mental condition;**
    - (ii) residential placement; and**
    - (iii) property, and any property related issues; of the senior or the incapacitated adult;**
- (2) a ~~final~~ **progress** report sixty (60) days after the date of appointment:
  - (A) describing the matters required by the court; and
  - (B) making recommendations to the court as to whether a need exists for continued representation of the incapacitated or protected person: **that includes a verified inventory describing the property, and any property related issues, of the incapacitated adult or senior;**
- (3) a progress report or final report ninety (90) days after the date of appointment:**
  - (A) describing the matters required by the court; and
  - (B) making recommendations to the court as to whether the need continues to exist for the appointment of a guardian of the incapacitated adult or senior;
- (4) an annual progress report on the anniversary date of the appointment if the appointment of the volunteer advocate is continued by the court for more than one (1) year:**
  - (A) describing the matters required by the court;
  - (B) describing the:**
    - (i) current physical and mental condition;**
    - (ii) residential placement; and**
    - (iii) property, and any property related issues; of the senior or the incapacitated adult; and**
    - (C) making recommendations to the court as to whether the need continues to exist for the appointment of a guardian of the incapacitated adult or senior; and
- (5) upon the death of the incapacitated person, a final report and financial accounting:**
  - (A) describing the incapacitated person's:
    - (i) final physical and mental condition;**
    - (ii) cause of death;**
    - (iii) last residential placement; and**
    - (iv) final burial arrangements;**
  - (B) stating the actions taken by the program regarding the:**

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- (i) **person's care and custody; and**
- (ii) **preservation of the person's property;**
- (C) making recommendations to the court to close the guardianship of the person; and**
- (D) containing all other matters required by the court.**

SECTION 7. IC 29-3-8.5-3, AS AMENDED BY P.L.11-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a) A volunteer ~~advocate~~ advocates for seniors program or a volunteer ~~advocate~~ advocates for incapacitated adults program shall:**

- (1) serve as a ~~limited~~ guardian to represent and protect the **best** interests of an incapacitated ~~or protected~~ person **or senior including the person's property;**
- (2) investigate and gather information regarding the health, welfare, and financial circumstances of the incapacitated ~~or protected~~ person **or senior**, as directed by a court;
- (3) facilitate and authorize health care, social welfare, and residential placement services as needed by the incapacitated ~~or protected~~ person **or senior;**
- (4) advocate for the rights of the incapacitated ~~or protected~~ person **or senior;**
- (5) facilitate legal representation for the incapacitated ~~or protected~~ person **or senior; and**
- (6) provide the court with the required reports under section 2 of this chapter; and**
- ~~(6)~~ (7) perform any other ~~duty~~ **responsibilities** required by ~~a~~ **the** court.

**(b) A volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program has the duties of the guardian of a minor listed in IC 29-3-8-1 and IC 29-3-8-3.**

SECTION 8. IC 29-3-8.5-4, AS AMENDED BY P.L.11-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. **(a) A volunteer ~~advocate~~ advocates for seniors program or a volunteer ~~advocate~~ advocates for incapacitated adults program may:**

- (1) consent to medical and other professional care and treatment for the incapacitated ~~or protected~~ person's **or senior's** health and welfare;
- (2) secure the appointment of a guardian or coguardian in another state;
- (3) take custody of the incapacitated ~~or protected~~ person **or senior** and establish the **incapacitated** person's ~~place of abode~~ **or**

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**senior's residence** within Indiana or another state in accordance with IC 29-3-9-2;

(4) institute proceedings or take other appropriate action to compel the performance by any person of a duty to support the incapacitated ~~or protected~~ person's **or senior's** health or welfare; and

**(5) protect and preserve the property of the incapacitated person or senior and preserve any property in excess of the incapacitated person's or senior's current needs; and**

~~(5)~~ **(6)** delegate to the incapacitated ~~or protected~~ person **or senior** certain responsibilities for decisions affecting the **incapacitated person's or senior's** business affairs and well-being.

**(b) A volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program may exercise the powers of a guardian of a minor listed in IC 29-3-8-2 and IC 29-3-8-4.**

SECTION 9. IC 29-3-8.5-5, AS AMENDED BY P.L.11-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. **(a)** If a court appoints ~~an individual to serve as~~ a volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program**, the **initial** appointment shall be for a period of ~~sixty (60)~~ **ninety (90)** days.

**(b)** After the initial ~~sixty (60)~~ **ninety (90)** day period, the court may, upon petition by the volunteer **advocates for seniors program** or **volunteer advocates for incapacitated adults program** or upon the court's own motion, extend the appointment for a period as determined by the court to be necessary to protect the **best interests and property** of the incapacitated ~~or protected~~ person **or senior**.

SECTION 10. IC 29-3-8.5-6, AS AMENDED BY P.L.11-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. A volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program** is considered an officer of the court for the purpose of representing the interests of an incapacitated ~~or protected~~ person **or senior**.

SECTION 11. IC 29-3-8.5-9, AS AMENDED BY P.L.11-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. A volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program** under this chapter is not authorized to consent to or refuse health care (as defined in IC 16-36-1-1) for an individual if:

- (1) a spouse, a parent, an adult child, or an adult sibling of the

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individual or the individual's religious superior, if the individual is a member of a religious order, is available, capable, and suitable to consent to or refuse the health care on behalf of the individual; or

(2) the individual has previously:

- (A) appointed a health care representative under IC 16-36-1;
- (B) authorized health care under IC 16-36-1.5, IC 16-36-4, or IC 16-36-5;
- (C) executed a power of attorney under IC 30-5-4; or
- (D) had a guardian appointed by the court under IC 29-3.

SECTION 12. IC 29-3-8.5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9.5. IC 29-3-8-5 through IC 29-3-8-8 apply to a volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program under this chapter.**

SECTION 13. IC 29-3-8.5-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program may petition the court for reasonable compensation for services provided or for expenditures made in good faith on behalf of the incapacitated adult or senior.**

**(b) A court may grant reasonable compensation or expenditure reimbursement to a volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program upon the court's own motion.**

SECTION 14. IC 29-3-8.5-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) Courts with probate jurisdiction that are located in adjacent counties may establish joint or multiple county volunteer advocates for seniors programs or volunteer advocates for incapacitated adults programs.**

**(b) Courts with probate jurisdiction may contract with an Indiana nonprofit or municipal corporation to provide volunteer advocates for seniors programs or volunteer advocates for incapacitated adults programs.**

SECTION 15. IC 29-3-8.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) A volunteer advocates for seniors program or volunteer advocates for incapacitated adults program that is a program of an Indiana nonprofit corporation**

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must establish policies and procedures to avoid a conflict of interest if the nonprofit corporation is also a provider of other necessary services to the incapacitated individual.

(b) A volunteer advocates for seniors program or volunteer advocates for incapacitated adults program to which subsection (a) applies shall advise the court of the policies and procedures established to avoid a conflict of interest in the petition to the court for guardianship of the incapacitated individual.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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