



February 14, 2012

**ENGROSSED
SENATE BILL No. 32**

DIGEST OF SB 32 (Updated February 13, 2012 1:15 pm - DI 107)

Citations Affected: IC 29-3.

Synopsis: Guardianships. Allows a minor who has not been adjudicated an incapacitated person and the minor's guardian to jointly petition the court to extend the guardianship beyond the date the minor attains 18 years of age. Requires the petition to be verified. Authorizes the court to extend the guardianship, but not beyond the date on which the protected person attains 22 years of age, if the court finds that extending the guardianship is in the best interests of the protected person. Specifies that the extension of the guardianship does not place the person under a legal disability.

Effective: July 1, 2012.

Bray, Broden, Randolph
(HOUSE SPONSOR — FOLEY)

January 4, 2012, read first time and referred to Committee on Judiciary.
January 12, 2012, amended, reported favorably — Do Pass.
January 17, 2012, read second time, ordered engrossed.
January 18, 2012, engrossed.
January 23, 2012, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

January 31, 2012, read first time and referred to Committee on Judiciary.
February 14, 2012, amended, reported — Do Pass.

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February 14, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 32

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

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

- 1 SECTION 1. IC 29-3-12-1, AS AMENDED BY P.L.95-2007,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 1. (a) ~~Unless the protected person has been~~
4 ~~adjudicated an incapacitated person,~~ **Except as provided in section 6**
5 **or 7 of this chapter,** the court shall terminate the guardianship of a
6 minor upon:
7 (1) the minor's attaining eighteen (18) years of age; or
8 (2) the minor's death.
9 The court may terminate the guardianship of a minor upon the minor's
10 adoption or marriage.
11 (b) The court shall terminate the guardianship of an incapacitated
12 person upon:
13 (1) adjudication by the court that the protected person is no longer
14 an incapacitated person; or
15 (2) the death of the protected person.
16 (c) The court may terminate any guardianship if:
17 (1) the guardianship property does not exceed the value of three

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1 thousand five hundred dollars (\$3,500);

2 (2) the guardianship property is reduced to three thousand five
3 hundred dollars (\$3,500);

4 (3) the domicile or physical presence of the protected person is
5 changed to another state and a guardian has been appointed for
6 the protected person and the protected person's property in that
7 state; or

8 (4) the guardianship is no longer necessary for any other reason.

9 (d) When a guardianship terminates otherwise than by the death of
10 the protected person, the powers of the guardian cease, except that the
11 guardian may pay the claims and expenses of administration that are
12 approved by the court and exercise other powers that are necessary to
13 complete the performance of the guardian's trust, including payment
14 and delivery of the remaining property for which the guardian is
15 responsible: ~~to~~

16 (1) ~~to~~ the protected person;

17 (2) in the case of an unmarried minor, to a person having care and
18 custody of the minor with whom the minor resides;

19 (3) ~~to~~ a trust approved by the court, including a trust created by
20 the guardian, in which:

21 (A) the protected person is the sole beneficiary of the trust;
22 and

23 (B) the terms of the trust satisfy the requirements of Section
24 2503(c) of the Internal Revenue Code and the regulations
25 under that Section;

26 (4) ~~to~~ a custodian under the Uniform Transfers to Minors Act
27 (IC 30-2-8.5); or

28 (5) ~~to~~ another responsible person as the court orders.

29 (e) When a guardianship terminates by reason of the death of the
30 protected person, the powers of the guardian cease, except that the
31 guardian may pay the expenses of administration that are approved by
32 the court and exercise other powers that are necessary to complete the
33 performance of the guardian's trust and may deliver the remaining
34 property for which the guardian is responsible to the protected person's
35 personal representative or to a person who presents the guardian with
36 an affidavit under IC 29-1-8-1 or IC 29-2-1-2. If approved by the court,
37 the guardian may pay directly the following:

38 (1) Reasonable funeral and burial expenses of the protected
39 person.

40 (2) Reasonable expenses of the protected person's last illness.

41 (3) The protected person's federal and state taxes.

42 (4) Any statutory allowances payable to the protected person's

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surviving spouse or surviving children.

(5) Any other obligations of the protected person.

SECTION 2. IC 29-3-12-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 6. If a protected person:**

(1) is a minor; and

(2) has been adjudicated an incapacitated person;

the court may not terminate the guardianship of the protected person when the protected person attains eighteen (18) years of age.

SECTION 3. IC 29-3-12-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 7. (a) This section applies to the guardianship of a minor who has not been adjudicated an incapacitated person.**

(b) A protected person who is at least seventeen (17) years of age and the guardian of the protected person may jointly petition the court to extend the duration of the guardianship beyond the date on which the protected person attains eighteen (18) years of age to the earlier of the following:

(1) A termination date, if any, set forth in the petition.

(2) The date the protected person attains twenty-two (22) years of age.

(c) A petition submitted under subsection (b) must be verified.

(d) The court, after notice and hearing, may extend a guardianship under this section if the court finds that extending the guardianship is in the best interests of the protected person. The extension of a guardianship under this section does not place the protected person under a legal disability.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 32, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 22, delete "signed in" and insert "**verified.**".

Page 3, delete lines 23 through 24.

Page 3, line 27, after "person." insert "**The extension of a guardianship under this section does not place the protected person under a legal disability.**".

and when so amended that said bill do pass.

(Reference is to SB 32 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 32, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 15, after "responsible" insert ":".

Page 2, line 15 strike "to:".

Page 2, line 16, after "(1)" insert "**to**".

Page 2, line 19, after "(3)" insert "**to**".

Page 2, line 26, after "(4)" insert "**to**".

Page 2, line 28, after "(5)" insert "**to**".

Page 3, line 15, delete "The guardian of a" and insert "A".

Page 3, line 16, after "age" insert "**and the guardian of the protected person**".

Page 3, line 16, after "may" insert "**jointly**".

and when so amended that said bill do pass.

(Reference is to SB 32 as printed January 13, 2012.)

FOLEY, Chair

Committee Vote: yeas 11, nays 0.

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