CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 32

Citations Affected: IC 29-3-12.

Synopsis: Guardianships. Conference committee report for ESB 32. 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. **(This conference committee report: Fixes a conflict between this bill and SB 286.)**

Effective: July 1, 2012.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 32 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 29-3-12-1, AS AMENDED BY SEA 286-2012, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) ~~Unless the protected person has been adjudicated an incapacitated person or is a recipient or beneficiary of financial assistance provided by the department of child services through a guardianship described in IC 31-9-2-17.8(1)(E),~~ **Except as provided in section 6 or 7 of this chapter,** the court shall terminate the guardianship of a minor upon:

(1) the minor's attaining eighteen (18) years of age; or

(2) the minor's death.

The court may terminate the guardianship of a minor upon the minor's adoption or marriage.

(b) The court shall terminate the guardianship of an incapacitated person upon:

(1) adjudication by the court that the protected person is no longer an incapacitated person; or

(2) the death of the protected person.

(c) The court may terminate any guardianship if:

(1) the guardianship property does not exceed the value of three thousand five hundred dollars ($3,500);

(2) the guardianship property is reduced to three thousand five

hundred dollars ($3,500);

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

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

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

(1) to the protected person;

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

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

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

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

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

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

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

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

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

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

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

(b) If a protected person is:

(1) a minor; and

(2) a recipient or beneficiary of financial assistance provided by the department of child services through a guardianship described in IC 31-9-2-17.8(1)(E);

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.

(Reference is to ESB 32 as printed February 14, 2012.)

Conference Committee Report
on
Engrossed Senate Bill 32

Signed by:

Senator Bray Chairperson	Representative Foley
Senator Broden	Representative Pryor
Senate Conferees	**House Conferees**