



Idaho Statutes

TITLE 15 UNIFORM PROBATE CODE

CHAPTER 5 PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY

PART 6. BOARDS OF COMMUNITY GUARDIAN

15-5-601. DESIGNATION OF BOARDS OF COMMUNITY GUARDIAN. (a) After making a determination that there exists a need within a county for a guardian for those persons in need of guardianship and for whom there is no person or corporation qualified and willing to act in such capacity, the board of county commissioners may create and budget for, within the county, a board of community guardian. The board of county commissioners of one or more counties within a judicial district may jointly create and budget for a board of community guardian within that district.

History:

[15-5-601, added 1982, ch. 285, sec. 14, p. 731; am. 1987, ch. 320, sec. 1, p. 673; am. 1992, ch. 22, sec. 1, p. 71.]



Idaho Statutes

TITLE 15 UNIFORM PROBATE CODE

CHAPTER 5 PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY

PART 6. BOARDS OF COMMUNITY GUARDIAN

15-5-602. BOARD STRUCTURE -- POWERS AND DUTIES. (a) Any board of community guardian which is created within a county or counties in a judicial district shall operate under the laws of the state of Idaho, including the Idaho guardianship, conservatorship and trust laws.

(b) A board of community guardian shall consist of not fewer than seven (7) or more than eleven (11) members who are representatives of community interests involving persons needing guardians or conservators as defined by [chapter 5, title 15](#), Idaho Code. Members shall be appointed by the board of county commissioners that created the board of community guardian under section [15-5-601](#), Idaho Code.

(1) The terms of the members of the board shall be for four (4) years and shall be staggered. A number of members equaling or most closely exceeding one-half (1/2) shall initially be appointed for three (3) years. Any vacancy created by resignation or expiration of term shall be filled in the same manner as the original appointment;

(2) A member will continue to serve on the board until that person's successor is appointed;

(3) The board shall meet not less than once each quarter;

(4) No person shall be a member of a board who is also an employee of the district court or the clerk of the district court;

(5) A board member having previously provided or currently providing services to a ward shall disclose such to the board and abstain from any decision or action taken concerning that particular ward;

(6) Board members and officers shall serve without pay;

(7) Each board shall elect its own chairman and other officers.

(c) A board, in those instances when a guardian and/or conservator is required and no qualified family member or other qualified person has volunteered to serve, may:

(1) Locate a qualified person to serve as guardian and/or conservator; or

(2) Petition the court to be appointed guardian and/or conservator.

(d) The board shall have all the powers and duties where applicable by court order, as provided under section [15-5-312](#), Idaho Code, and/or sections [15-5-408](#) and [15-5-424](#), Idaho Code, and in addition thereto shall:

(1) Locate and recommend to the court, where necessary, that a visitor be appointed as provided in section [15-5-503](#) [[15-5-303](#)], Idaho Code;

(2) Have access to all confidential records, including abuse registry reports that may be maintained by state or private agencies or institutions, which records concern a person for whom the board acts as guardian and/or conservator. The name of the person reporting the alleged abuse shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code;

(3) Review and monitor the services provided by public and private agencies to any incapacitated person for whom the board acts as guardian and/or conservator and determine the continued need for those services;

(4) Assess a fee for services developed pursuant to this part;

(5) Have the power, subject to the approval of the board of county commissioners, to adopt such rules as are necessary to carry out the duties and responsibilities of the board.

(e) When a board serves as guardian or conservator, it shall be compensated as other guardians or conservators pursuant to Idaho law. If, at the time the board is appointed as guardian and/or conservator, the incapacitated person for whom the board is to act has no funds, the court may waive the payment of fees.

(f) When a board serves as guardian and/or conservator there is created, at the time of filing of the order of appointment, a lien in favor of the board against any real property owned by the ward or protected person, enforceable only upon the termination of the guardianship and/or conservatorship, for all fees which were incurred throughout the duration of the services and which were not paid prior to termination. All fees incurred throughout the duration of the services and which were not paid prior to the termination of services shall relate back to the effective date of the lien. The board must record a notice of said lien within thirty (30) days of filing of the order of appointment. Such liens shall be recorded in every county where property subject to the lien is located. The notice shall contain at least the following information: full court heading of the action in which the appointment was made; the effective date of the lien; the name and address of the board; and any limitations or terms regarding the fees covered by the lien contained in the order of appointment. The court may postpone or arrange for gradual repayment of the fees if the court finds that the immediate repayment would create a hardship on the person.

(g) No member of a board of community guardian, any employees, or any visitor appointed at the request of such board pursuant to [section 15-5-303](#), Idaho Code, shall be liable for civil damages by reason of authorizing medical treatment or surgery for the person for whom the board is appointed, if the board member, employee or visitor, after medical consultation with the person's physician, acts in good faith, is not negligent, and acts within the limits established for the guardian and/or conservator by the court. No such person shall be liable, by reason of his authorization, for injury to the person for whom the guardian and/or conservator has been appointed which injury results from the negligence or other acts of a third person, if the court has authorized the giving of medical consent by the board or the individual members of the board. No such person shall be liable in the performance of acts done in good faith within the scope of his authority as long as the act is not of a wanton or grossly negligent nature. The board of community guardian shall be deemed to be a governmental entity for the purposes of application of the Idaho tort claims act.

History:

[15-5-602, added 1982, ch. 285, sec. 14, p. 732; am. 1987, ch. 320, sec. 2, p. 673; am. 1990, ch. 213, sec. 8, p. 492; am. 1993, ch. 24, sec. 1, p. 83; am. 2001, ch. 97, sec. 1, p. 245; am. 2012, ch. 54, sec. 1, p. 152; am. 2015, ch. 141, sec. 11, p. 382.]



Idaho Statutes

TITLE 15 UNIFORM PROBATE CODE

CHAPTER 5 PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY

PART 6. BOARDS OF COMMUNITY GUARDIAN

15-5-603. ANNUAL REPORT. (a) Each board shall report annually in writing to the board of county commissioners and, in the case of a multi-county board, to each participating county, its activities for the preceding year, which report shall contain:

- (1) A fiscal report which adequately reflects the financial operation of the board;
- (2) The number of volunteer guardians obtained by the board;
- (3) The number of incapacitated persons for whom the board is acting as guardian;
- (4) Recommendations for improving guardianship services in the circuit;
- (5) Such other matters as may be determined advisable by the board or the board of county commissioners.

The report shall be filed no later than April 1 of each year and shall cover the preceding calendar year.

(b) The board of county commissioners shall review each report and shall determine whether to dissolve or continue the board of community guardian in the county. Where there is a multi-county board of community guardian, the boards of county commissioners of all concerned counties must concur in a decision to dissolve the board of community guardian.

History:

[15-5-603, added 1982, ch. 285, sec. 14, p. 733; am. 1987, ch. 320, sec. 3, p. 675.]