

FIRST REGULAR SESSION

# SENATE BILL NO. 452

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR JUSTUS.

Read 1st time February 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1325S.011

## AN ACT

To repeal sections 475.030, 475.045, and 487.080, RSMo, and to enact in lieu thereof three new sections relating to the appointment of a guardian for a minor.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 475.030, 475.045, and 487.080, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 475.030,  
3 475.045, and 487.080, to read as follows:

475.030. 1. Letters of guardianship of the person may be granted for any  
2 person adjudged incapacitated. Letters of conservatorship of the estate may be  
3 granted for any person adjudged to be disabled.

4 2. Letters of conservatorship of the estate of a minor shall be granted for  
5 that part of the estate of the minor which is not derived from a living parent who  
6 is acting as natural guardian.

7 3. Letters of conservatorship for the entire estate of a minor may be  
8 granted in the following cases:

9 (1) Where the minor has no parent living; or

10 (2) Where there is a natural guardian of the minor and where the court  
11 finds that the best interests of the minor require letters of conservatorship for all  
12 of his estate.

13 4. Letters of guardianship of the person of a minor may be granted in the  
14 following cases:

15 (1) Where a minor has no parent living;

16 (2) Where the parents or the sole surviving parent of a minor are  
17 unwilling, unable or adjudged unfit to assume the duties of guardianship **and**  
18 **the granting of guardianship is in the best interest of the minor;**

19 (3) Where the parents or the sole surviving parent have had their

20 parental rights terminated under chapter 211.

475.045. 1. Except in cases where they fail or refuse to give required  
2 security or are adjudged unfit for the duties of guardianship or conservatorship,  
3 or waive their rights to be appointed, the following persons, if otherwise qualified,  
4 shall be appointed as guardians or conservators of minors:

5 (1) The parent or parents of the minor, except as provided in section  
6 475.030;

7 (2) If any minor over the age of fourteen years has no qualified parent  
8 living, a person nominated by the minor, unless the court finds appointment  
9 contrary to the best interests of the minor;

10 (3) Where both parents of a minor are dead, any person appointed under  
11 this section or section 475.046 by the will of the last surviving parent, who has  
12 not been adjudged unfit or incompetent for the duties of guardian or conservator.

13 2. Unfitness of any of the persons mentioned in subsection 1 for the duties  
14 of guardianship or conservatorship may be adjudged by the court after due notice  
15 and hearing.

16 3. If no appointment is made under subsection 1 of this section, the court  
17 shall appoint as guardian or conservator of a minor the most suitable person who  
18 is willing to serve and whose appointment serves the best interests of the child  
19 to a stable and permanent placement.

20 **4. In all proceedings for guardianship, the court shall give**  
21 **primary consideration to what is in the best interest of the minor,**  
22 **including but not limited to the minor's physical, mental, and emotional**  
23 **needs.**

487.080. 1. Except as provided in section 487.130 and, notwithstanding  
2 any other provision of law to the contrary, the family court shall have exclusive  
3 original jurisdiction to hear and determine the following matters:

4 (1) All actions or proceedings governed by chapter 452 including but not  
5 limited to dissolution of marriage, legal separation, separate maintenance, child  
6 custody and modification actions;

7 (2) Actions for annulment of marriage;

8 (3) Adoption actions and all actions and proceedings conducted pursuant  
9 to the provisions of chapter 453;

10 (4) Juvenile proceedings and all actions as provided for in chapter 211;

11 (5) Actions to establish the parent and child relationship, except actions  
12 to establish a person as an heir, devisee or trust beneficiary, and all actions

13 provided for in chapter 210;

14 (6) Actions for determination of support duties and for enforcement of  
15 support, including actions under the uniform reciprocal enforcement of support  
16 act and actions provided for in chapter 454. Family court personnel shall not  
17 duplicate any functions performed by the division of child support enforcement  
18 or local prosecuting attorney but shall cooperate with the division of child support  
19 enforcement or the local prosecuting attorney;

20 (7) Adult abuse and child protection actions and all actions provided for  
21 in chapter 455;

22 (8) Change of name actions;

23 (9) Marriage license waiting period waivers under chapter 451.

24 **2. The family court may have original jurisdiction to hear and**  
25 **determine the appointment of a guardian, in accordance with the**  
26 **provisions of chapter 475, when the appointment is not the result of a**  
27 **will, or a testamentary appointment.**

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Bill

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