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H.B. 686
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Schmidt

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SUMMARY

- Authorizes a parent or legal custodian of an incompetent adult child to apply for or nominate a person for guardianship at any time after the child reaches 17 years and 6 months of age.
- Requires, when a person with a disability is the subject of a pending proceeding or a court order to allocate parental rights and responsibilities, for that court to retain jurisdiction while a guardianship proceeding is pending.
- Requires that court to generally maintain existing orders regarding the allocation of parental rights and responsibilities and any existing health care coverage or public assistance benefits while the probate proceeding is pending.
- Authorizes that court to appoint a guardian ad litem for the person with a disability while the probate proceeding is pending and specifies the guardian ad litem's duties and billing allocation.
- Entitles the bill the "Parker Kahle Act."

DETAILED ANALYSIS

Guardianship of incompetent adult child

Application

The bill, entitled the "Parker Kahle Act,"¹ allows a parent or legal custodian of an incompetent adult child to apply for guardianship at any time after the child reaches 17 years and 6 months of age. The applicant must notify the probate court if the child is the subject of a

¹ Section 3.

pending proceeding or a court order to allocate parental rights and responsibilities. If so, the applicant must serve a copy of the guardianship hearing notice on the court with jurisdiction over that proceeding or court order.²

Continuing law defines an “incompetent” as either of the following:

- Any person who is so mentally impaired, as a result of a mental or physical illness or disability, as a result of intellectual disability, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person’s self or property or fails to provide for the person’s family or other persons for whom the person is charged by law to provide;
- Any person confined to a correctional institution within Ohio.³

Nomination

Under the bill, the nomination of a person to be the guardian of the nominator’s incompetent adult child may be filed at any time after the child reaches 17 years and 6 months of age. The nominator of a person to be the guardian of the nominator’s minor or incompetent adult children may file a guardianship nomination at the probate court of the county where the minor or incompetent adult children reside.⁴

Court fee

The bill requires the probate judge to charge and collect, if possible, \$10 for the deposit of a guardianship nomination. Continuing law prohibits a probate judge from collecting the fee in specified circumstances.⁵

Allocation of parental rights and responsibilities

Court with jurisdiction

Under the bill, when a person with a disability is the subject of a pending proceeding or a court order to allocate parental rights and responsibilities and has reached 18 years of age, that court is to retain jurisdiction of the allocation or parental rights and responsibilities for the care of the person until a probate court issues a final order appointing a guardian. Additionally, that court must do the following until the probate court issues a final order appointing a guardian for the person with a disability:

- Address and issue any necessary final appealable orders prior to transferring or terminating jurisdiction of the parental rights and responsibilities for care of the person;

² R.C. 2111.03.

³ R.C. 2111.01(D), not in the bill.

⁴ R.C. 2111.121.

⁵ R.C. 2101.16(A)(26), with conforming changes in R.C. 2101.162, 2111.51, and 2111.031; R.C. 2101.164, not in the bill.

- Except as provided in continuing law regarding the temporary allocation and modification of parental rights and responsibilities when a parent receives military orders, require any existing order allocating parental rights and responsibilities for the care of, or parenting time rights or visitation and companionship rights with, the person to remain in effect;
- Prohibit either parent from canceling or making changes to any existing health care coverage or public assistance benefits for the person.

The bill defines a “person with a disability” as a person with a mental or physical disability, whose disability began before the person reached 18 years old, and whose disability makes the person incapable of supporting or maintaining oneself.⁶

Guardian ad litem appointment

The bill allows the court with jurisdiction to appoint a guardian ad litem for the person with a disability until the probate court issues a final order appointing a guardian for the person. If a guardian ad litem is appointed, the guardian ad litem must do the following:

- Conduct an investigation without bias against the gender of the parent or the person with a disability;
- Thoroughly review all case filings, including any previous reports by a guardian ad litem.

The guardian ad litem must bill for costs based on the time spent reviewing or discussing information relevant to the case. If the court requires a deposit for the guardian ad litem, the costs must be capped at the amount the court assigns for the deposit, unless a party requests and accepts responsibility of payment for additional time with the guardian ad litem. The court must allocate payment by each party for the guardian ad litem in proportion to the time spent with each parent. Upon approving the final order for payment, the court must order the entity holding the deposit to refund any remaining deposit funds.⁷

HISTORY

Action	Date
Introduced	02-10-26

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⁶ R.C. 3109.044(A) to (D); R.C. 3119.10, not in the bill.

⁷ R.C. 3109.044(E).