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HOUSE BILL NO. 1212

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 7, 2022)

(Patron Prior to Substitute—Delegate Glass)

*A BILL to amend and reenact § 64.2-2004 of the Code of Virginia, relating to guardianship and conservatorship; notice of hearing.***Be it enacted by the General Assembly of Virginia:****1. That § 64.2-2004 of the Code of Virginia is amended and reenacted as follows:****§ 64.2-2004. Notice of hearing; jurisdictional.**

A. Upon the filing of the petition, the court shall promptly set a date, time, and location for a hearing. The respondent shall be given reasonable notice of the hearing. The respondent may not waive notice, and a failure to properly notify the respondent shall be jurisdictional.

B. A respondent, whether or not he resides in the Commonwealth, shall be personally served with the notice of the hearing, a copy of the petition, and a copy of the order appointing a guardian ad litem pursuant to § 64.2-2003. A certification, in the guardian ad litem's report required by subsection B of § 64.2-2003, that the guardian ad litem personally served the respondent with the notice, a copy of the petition, and a copy of the order appointing a guardian ad litem shall constitute valid personal service for purposes of this section.

C. A copy of the notice, together with a copy of the petition, shall be mailed by first-class mail by the petitioner at least ~~seven~~ 10 days before the hearing to all adult individuals and to all entities whose names and post office addresses appear in the petition. The court, for good cause shown, may waive the advance notice required by this subsection. If the advance notice is waived, the petitioner shall promptly mail by first-class mail a copy of the petition and any order entered to those individuals and entities.

D. Any adult individual or entity whose name and post office addresses appear in the petition may become a party to the proceeding by filing a pleading in accordance with Rule 1:4 of the Rules of the Supreme Court of Virginia. Such individual or entity shall mail his pleadings, via first-class mail to the petitioner, any counsel of record, the guardian ad litem, and to all other adult individuals and entities whose names and post office addresses appear in the petition. Such pleading may also be sent via electronic mail or facsimile to all counsel of record and the guardian ad litem, as well as those other adult individuals and entities whose email addresses or facsimile numbers are known to the person filing the pleading. If a cross-petition is filed, the petitioner shall file a response to such cross-petition.

E. The notice to the respondent shall include a brief statement in at least 14-point type of the purpose of the proceedings and shall inform the respondent of the right to be represented by counsel pursuant to § 64.2-2006 and to a hearing pursuant to § 64.2-2007. Additionally, the notice shall include the following statement in conspicuous, bold print.

WARNING TO THE RESPONDENT

AT THE HEARING YOU MAY LOSE MANY OF YOUR RIGHTS. A GUARDIAN MAY BE APPOINTED TO MAKE PERSONAL DECISIONS FOR YOU. A CONSERVATOR MAY BE APPOINTED TO MAKE DECISIONS CONCERNING YOUR PROPERTY AND FINANCES. THE APPOINTMENT MAY AFFECT CONTROL OF HOW YOU SPEND YOUR MONEY, HOW YOUR PROPERTY IS MANAGED AND CONTROLLED, WHO MAKES YOUR MEDICAL DECISIONS, WHERE YOU LIVE, WHETHER YOU ARE ALLOWED TO VOTE, AND OTHER IMPORTANT RIGHTS.

NOTIFICATION TO OTHERS

ANY ADULT INDIVIDUAL OR ENTITY WHOSE NAME AND POST OFFICE ADDRESSES APPEAR IN THE PETITION FOR APPOINTMENT MAY BECOME A PARTY TO THIS ACTION BY FILING A PLEADING WITH THE CIRCUIT COURT IN WHICH THIS CASE IS PENDING. THAT PLEADING MUST BE MAILED TO THE PETITIONER, ANY COUNSEL OF RECORD, THE GUARDIAN AD LITEM, AND TO ALL OTHER ADULT INDIVIDUALS AND ENTITIES WHOSE NAMES AND POST OFFICE ADDRESSES APPEAR IN THE PETITION. IN ADDITION, SUCH PLEADING MAY BE SENT BY MAIL OR FAX TO ANY SUCH OTHER ADULT INDIVIDUAL OR ENTITY FOR WHOM SUCH EMAIL ADDRESS OR FAX NUMBER IS KNOWN.

~~E.~~ F. The petitioner shall file with the clerk of the circuit court a statement of compliance with subsections B, C, and ~~D~~ E. Certification of personal service made by the guardian ad litem as required by subsection B may satisfy this requirement as to compliance with subsection B.