

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1642 Testamentary guardian.

Sec. 642.

(1) The surviving parent of a minor with a developmental disability for whom a guardian has not been appointed may by will appoint a testamentary guardian. The testamentary appointment becomes effective without, but subject to, probate immediately upon the death of the parent. A testamentary guardian possesses the powers of a parent, and shall serve subject to the court's power to reduce the scope of guardianship authority or to dismiss a guardian. The appointment shall terminate when the minor attains 18 years of age, or the guardian is dismissed, whichever occurs first. Upon assuming office, the testamentary guardian shall notify the court in which the decedent's will is to be probated.

(2) A parent who has been appointed guardian of his or her minor or adult child with a developmental disability may by will, except in the event that a standby guardian has been designated, appoint a testamentary guardian. The testamentary appointment becomes effective without, but subject to, probate immediately upon the death of the initially appointed guardian. The testamentary guardian possesses the powers of the initially appointed guardian, shall be entitled to receive upon request a copy of a court order creating or modifying the initial guardianship, and shall serve subject to the power of the court that appointed the initial guardian to reduce the scope of guardianship authority or to dismiss a guardian. In the event that the court probating decedent's will does not have jurisdiction over the testamentary guardian except if the court finds the will to be invalid, the appointment shall be nullified. Upon assuming office, the testamentary guardian shall notify the probate court that appointed the initial guardian and the probate court in which the will is subject to probate.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996