

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/23/17

A Bill

HOUSE BILL 1475

By: Representative K. Hendren

For An Act To Be Entitled

*AN ACT TO AMEND THE LAW CONCERNING THE APPOINTMENT OF
GUARDIANS BY ESTABLISHING A BILL OF RIGHTS FOR WARDS;
AND FOR OTHER PURPOSES.*

Subtitle

*TO AMEND THE LAW CONCERNING THE
APPOINTMENT OF GUARDIANS BY ESTABLISHING
A BILL OF RIGHTS FOR WARDS.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 28, Chapter 65, Subchapter 1, is amended to add an additional section to read as follows:

28-65-110. Rights and entitlements of wards.

(a) Except as limited by a court-ordered guardianship or by law, a ward has all the rights, benefits, responsibilities, and privileges granted by the Arkansas Constitution, the United States Constitution, and state and federal law.

(b) Unless limited by the court or by law, a ward is entitled to:

(1) Have a copy of the guardianship order and guardianship letters concerning the ward;

(2) Be provided with the contact information for the probate court that issues a guardianship order and guardianship letter concerning the ward;

(3) A guardianship that encourages the development of the ward and the maintenance of maximum self-reliance, independence, and self-sufficiency by the ward;



(4) Be treated with respect, consideration, and recognition of his or her dignity and individuality;

(5)(A) Reside and receive support services in the most integrated setting.

(B) The most integrated setting includes without limitation a home-based setting or community-based setting as provided under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.;

(6) The consideration of his or her current and previously expressed personal preferences, desires, and opinions on matters that include without limitation medical treatment, psychiatric treatment, religious beliefs, and living arrangements;

(7) A monthly personal allowance and financial self-determination for public benefits after the ward's essential living expenses and health expenses are paid;

(8) Receive timely and appropriate health care and medical treatment that does not violate rights granted to the ward under the Arkansas Constitution, the United States Constitution, and state and federal law;

(9) Exercise complete control of all aspects of his or her rights that are not specifically granted by the court to the guardian;

(10) Control his or her personal environment based on his or her personal preference;

(11) Raise concerns to the court concerning his or her guardianship, living arrangements, retaliation by a guardian, conflicts of interest between a guardian and service providers, the violation of a right provided to the ward under this section, or any other matter;

(12) Receive notice of a court proceeding concerning the guardianship of the ward that is provided in:

(A) A manner that is accessible to the ward;

(B) The ward's preferred mode of communication; and

(C) The ward's native language;

(13) An opportunity to appear before the court and express his or her preferences and concerns regarding the continuance, modification, or termination of the guardianship of the ward;

(14) Have a court investigator, guardian ad litem, or attorney ad litem appointed by the court to investigate a complaint received by the court from the ward or another person about the guardianship of the ward;

(15) Participate in social, religious, recreational activities, training, employment, education, habilitation, and rehabilitation of the ward's choice in the most integrated setting;

(16) Self-determination in the substantial maintenance, disposition, and management of the ward's real property and personal property after the ward's essential living expenses and health expenses are paid;

(17) Receive notice of and object to the substantial maintenance, disposition, and management of the clothing, furniture, vehicles, and other personal effects of the ward;

(18) Personal privacy and confidentiality in the personal matters of the ward subject to state law and federal law;

(19)(A) Unimpeded, private, and uncensored communication and visitation with a person chosen by the ward unless the ward's communication or visitation with the person is determined by the court to be detrimental to the mental health and physical well-being of the ward.

(B) A guardian may limit, supervise, or restrict communication or visitation between the ward and a person if:

(i) Limiting, supervising, or restricting communication or visitation between the ward and the person is necessary to protect the mental health and physical well-being of the ward;

(ii) The guardian obtains the approval of the court;
and

(iii) The ward has an opportunity to be heard by the court on the limitation, supervision, or restriction of the ward's communication or visitation with the person;

(20) Counsel who will represent the interests of the ward with regard to capacity restoration, guardianship modification, guardianship appointment, and other rights available to a ward under this chapter;

(21) Vote in a public election, marry, and retain a license to operate a motor vehicle unless restricted by the court;

(22) Personal visits from the guardian or the guardian's designee at least one (1) time every (3) months unless otherwise ordered by the court;

(23) Be provided with the name, address, phone number, and purpose of Disability Rights Arkansas, an organization whose mission is to protect the rights of, and advocate for, persons with disabilities, and to

communicate and meet with representatives of the organization;

(24) Be provided with the name, address, phone number, and purpose of an independent living center, area agency on aging, aging and disability resource center, and local mental health and intellectual and developmental disability center, and to communicate and meet with representatives of these organizations and agencies;

(25) Be provided with the name, address, phone number, and purpose of the Administrative Office of the Courts and the procedure for filing a complaint against a guardian;

(26) Contact the Department of Human Services to report abuse, neglect, exploitation, or violations of the rights of the ward without fear of punishment, interference, coercion, or retaliation; and

(27) Have the guardian of the ward, on appointment and on annual renewal of the guardianship, explain the rights delineated in this section to the ward in:

(A) The ward's native language;

(B) The ward's preferred mode of communication; and

(C) A manner accessible to the ward.

(c) This section does not supersede or abrogate other remedies existing in law.

/s/K. Hendren